Unified Development Ordinance

ADOPTED: DECEMBER 16, 2013
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1.01 Short Title

1.01.01 This Ordinance shall be known and may be cited as the Town of Boone Unified Development Ordinance or “UDO.”

1.02 Authority

1.02.01 This Ordinance is adopted pursuant to the authority contained in the North Carolina Constitution and the North Carolina General Statutes.

1.03 Purpose

1.03.01 Purposes of this Ordinance are to:

A. Promote the health, safety, and general welfare within the Town of Boone and its environs; and
B. Strive to implement the policies and goals contained within officially adopted plans, including the Comprehensive Plan, and other related plans; and

C. Ensure adequate light, air, privacy, and access to property.

(Ord. PL01298-020218, 04-19-2018)

1.04 Goals

1.04.01 Goals of this Ordinance are to:

A. Preserve and protect areas and landmarks of historic significance; and

B. Protect water quality; and

C. Protect designated water supply watersheds; and

D. Prevent degradation of natural drainage areas; and

E. Strive to minimize public and private losses due to flood conditions within Special Flood Hazard Areas; and

F. Strive to minimize public and private losses due to slope failure caused by land disturbance of steep and very steep slopes; and

G. Preserve and protect the scenic beauty and natural environment of the Town’s hillside areas; and

H. Preserve and protect the overall quality of life for residents and visitors; and

I. Preserve and protect the character of established residential neighborhoods; and

J. Maintain economically vibrant as well as attractive business and commercial areas; and

K. Encourage signage that maintains, enhances, and is compatible with the beauty and unique character of the Town; and

L. Facilitate the creation of an attractive environment; and

M. Retain and expand the Town’s employment base; and

N. Facilitate safe and efficient movement of motorists, pedestrians and cyclists; and

O. Encourage public transit; and

P. Encourage walkability and bikeability; and

Q. Support public health through provision of convenient exercise opportunities; and

R. Maintain orderly and compatible land-use and development patterns; and

S. Encourage environmentally responsible development practices; and

T. Promote rehabilitation and reuse of older buildings; and

U. Maintain a range of housing choices and options; and

V. Establish clear and efficient development review and approval procedures; and
W. Protect community property values; and
X. Protect and balance private property rights; and
Y. Bring about eventual improvement or elimination of nonconformities in order to preserve the integrity of this Ordinance and the character of the Town of Boone and its extraterritorial jurisdiction.

1.05 Jurisdiction

1.05.01 This ordinance shall be effective throughout the town’s planning jurisdiction. The town’s planning jurisdiction comprises the area within the corporate boundaries of the Town of Boone as depicted on the official zoning map of the Town of Boone, which is incorporated by reference herein.

1.05.02 A copy of a map showing the boundaries of the Town's planning jurisdiction shall be available for public inspection in the Planning and Inspections Department.

1.05.03 Split Jurisdiction. If a parcel of land lies within the planning and development regulation jurisdiction of the Town of Boone and Watauga County, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Ordinance for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Watauga County Register of Deeds within 14 days of the adoption of the last required resolution.

1.05.04 Pending Jurisdiction. After consideration of a change in jurisdiction has been formally proposed, the Town of Boone may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction to the Town of Boone. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

(Ord. PL00147-010417, 02-16-2017; Ord. PL04727-050721, 07-01-2021)

1.06 Effective Date

1.06.01 The provisions of this Ordinance are hereby adopted and effective, as amended, on this date July 1, 2021.

(Ord. PL04727-050721, 07-01-2021)
1.07 Relationship to Existing Zoning, Subdivision, Soil Erosion and Sedimentation Control Ordinances

1.07.01 To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town's zoning, subdivision, or soil erosion and sedimentation control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted Zoning Ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the Zoning Ordinance.

1.08 Relation to Comprehensive Plan and Other Officially Adopted Plans

1.08.01 It is the intention of the Town of Boone to administer this Ordinance in accordance with the town’s current, adopted comprehensive plan and other officially adopted plans. This plan sets forth the goals and polices which serve as the basic policy guide for development in The Town of Boone.

1.08.02 The goal of the Council is to implement officially adopted plans; however, it recognizes that this is a process that requires continued study and analysis and may occur in stages. While the Council reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted plans, the Council hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with such plans.

(Ord. PL01298-020218, 04-19-2018; Ord. PL04727-050721, 07-01-2021)

1.09 No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions

1.09.01 Except as authorized by Article 7 Nonconformities of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.


1.10.01 No development may be undertaken pursuant to this Ordinance until the applicant has demonstrated compliance with all applicable Town Code provisions, including but not limited to the North Carolina State Building Code: Fire Prevention Code, as it may be amended from time to time, with all optional sections which have been adopted by the Town, and the Town’s Water and Sewer Use Code, all of which are incorporated by reference herein. NOTE: Any applicant for development approvals is hereby advised, but not required, to directly confer with all pertinent Town departments before submitting any proposed development application so as to avoid the unnecessary expenditure of funds to plan a development which although generally compliant with the specific provisions of this Ordinance, is prohibited by another such code; see Section 4.04.
1.11 Fees

1.11.01 Reasonable fees sufficient to cover the costs of administration, inspection, publication of notices and similar matters may be charged to applicants for zoning permits, zoning permit extensions, special use permits, subdivision plat approval, zoning amendments, variances, interpretations and other administrative mechanisms. The amount of fees charged shall be approved by Council.

1.11.02 Fees established in accordance with Subsection 1.11.01 shall be paid upon submission of the application.

1.11.03 Only the Town Manager or Council has the authority to waive fees according to adopted criteria.

1.12 Severability

1.12.01 The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is invalidated by any court of competent jurisdiction such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance to the extent that their purposes may still be served.

1.13 Notices

1.13.01 The Administrator shall give written notice of any decision to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

1.13.02 Unless otherwise prescribed herein, delivery of a notice on a party shall be accomplished as follows:

A. Natural Person:

1. By electronic notice to the person; or

2. By delivering the notice to the person or by leaving a copy thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or

3. By delivering the notice to a person of suitable age and discretion, in a management position, owned or operated by the natural person; or

4. By delivering a copy of the notice to an agent authorized by appointment or by law to be served or to accept service of process; or

5. By mailing a copy of the notice, by regular, certified or registered mail, with or without return receipt requested, addressed to the party to be served at the address designated in the records of the Watauga County Tax Administration.
unless the Administrator has actual and direct knowledge that the party resides at a different address, in which case the notice shall be addressed accordingly; or

6. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the notice, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt. As used in this Ordinance, "delivery receipt" includes an electronic or facsimile receipt.

B. Domestic or Foreign Corporation:

1. By electronic notice to the officer, director, or managing agent of the corporation; or

2. By delivering a copy of the notice to an officer, director, or managing agent of the corporation or by leaving copies thereof in the office of such officer, director, or managing agent with the person who is apparently in charge of the office; or

3. By delivering a copy of the notice to an agent authorized by appointment or by law to be served or to accept service of process; or

4. By mailing a copy of the notice, by regular, registered or certified mail, with or without return receipt requested, addressed to the officer, director or agent to be served at the address designated in the records of the Watauga County Tax Administration, if any, unless the Administrator has actual and direct knowledge that the party receives mail at a different address, in which case the notice shall be addressed accordingly.

   a. If no address is on file with the Watauga County Tax Administration, the Administrator may direct the notice to the address of the principal place of business listed with the North Carolina Secretary of State and if none is listed, at a contact address listed on the company’s website.

   or

5. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the notice, addressed to the officer, director, or agent to be served, delivering to the addressee, and obtaining a delivery receipt. As used in this Ordinance, "delivery receipt" includes an electronic or facsimile receipt.

C. Partnerships:

1. By electronic notice to any general partner or to any attorney-in-fact or agent; or

2. By delivering a copy of the notice to any general partner, or to any attorney-in-fact or agent; or

3. By mailing a copy of the notice, regular, registered or certified mail, with or without return receipt requested, addressed to any general partner, or to any attorney-in-fact or agent to be served at the address designated in the records of the Watauga County Tax Administration, if any, unless the Administrator has actual
and direct knowledge that the party receives mail at a different address, in which case the notice shall be addressed accordingly.

a. If no address is on file with the Watauga County Tax Administration, the Administrator may direct the notice to the address of the principal place of business listed with the North Carolina Secretary of State and if none is listed, at a contact address listed on the company’s website.

or

4. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the notice, addressed to any general partner or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its behalf, delivering to the addressee, and obtaining a delivery receipt. As used in this Ordinance, "delivery receipt" includes an electronic or facsimile receipt; or

5. By leaving copies thereof in the office of such general partner, attorney-in-fact or agent with the person who is apparently in charge of the office.

D. Other Unincorporated Associations and Their Officers:

1. By electronic notice to an officer, director, managing agent or member of the governing body of the unincorporated association, organization or society; or

2. By delivering a copy of the notice to an officer, director, managing agent or member of the governing body of the unincorporated association, organization or society, or by leaving copies thereof in the office of such officer, director, managing agent or member of the governing body with the person who is apparently in charge of the office; or

3. By delivering a copy of the notice to an agent authorized by appointment or by law to be served or to accept service of process; or

4. By mailing a copy of the notice, regular, registered or certified mail, with or without return receipt requested, addressed to the officer, director, agent or member of the governing body to be served at the address designated in the records of the Watauga County Tax Administration, if any, unless the Administrator has actual and direct knowledge that the party receives mail at a different address, in which case the notice shall be addressed accordingly.

a. If no address is on file with the Watauga County Tax Administration, the Administrator may direct the notice to the address of the principal place of business listed with the North Carolina Secretary of State and if none is listed, at a contact address listed on the company’s website.

or
5. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the notice, addressed to the officer, director, agent, or member of the governing body to be served as specified in this Ordinance, delivering to the addressee, and obtaining a delivery receipt. As used in this sub-subdivision, "delivery receipt" includes an electronic or facsimile receipt.

E. Service by publication on party that cannot otherwise be served: A party that cannot with due diligence be served by personal delivery, United States mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) may be served by publication. Service of notice by publication shall consist of publishing a notice once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in Watauga County.

1.14 Computation of Time

1.14.01 Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day.

A. If the last day is a Saturday, Sunday, legal holiday or other day that the Town Offices are closed, that day shall be excluded.

B. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays, shall be excluded.

1.14.02 Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

1.14.03 Except for appeals to the Board of Adjustment or protest petitions, any materials received after 3:00 p.m. will be considered to have been received the next business day.

1.15 Rules of Language and Construction

1.15.01 For the purposes of interpreting the general language and sentence construction of this Ordinance, the following rules of construction apply unless the context clearly indicates otherwise

A. Meaning of Words: Words defined in this Ordinance must be interpreted as defined. Words that are not defined are given their ordinary and common meaning.

B. Tenses and Usage

1. Words used in the singular include the plural. The reverse is also true.

2. Words used in the present tense include the future tense. The reverse is also true.

3. The terms “must,” “will,” “shall” and “may not” are mandatory.
4. When used with numbers, “up to x,” “not more than x” and “a maximum of x” all include “x.”

5. Words importing the masculine gender include the feminine and neuter. The reverse is also true.

1.16 Minimum Requirements

1.16.01 In the interpretation and application of this Ordinance, unless otherwise stated, all provisions are considered to be minimum requirements.

1.17 Literal Interpretations

1.17.01 The language of this Ordinance must be read and interpreted literally.

1.18 References

1.18.01 Any reference to an article, section, or paragraph means an article, section, or paragraph of this Ordinance, unless otherwise expressly stated.

1.18.02 The term “Council” as used alone, shall refer to the Boone Town Council.

1.18.03 The term “Board” as used alone, shall refer to the Board of Adjustment.

1.18.04 The term “Commission” as used alone, shall refer to the Planning Commission.

1.19 Provisions Included in "This Ordinance"

1.19.01 All references to compliance with “this Ordinance” are inclusive of all provisions in this Ordinance unless otherwise expressly excluded.

1.20 Headings and Illustrations

1.20.01 Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this Ordinance. In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, or illustration, the text governs.

1.21 Current Versions and Citations

1.21.01 All references to other Town, County, State, or Federal regulations in this Ordinance are intended to be references to the most current versions and citations for those regulations, unless otherwise expressly stated. When the referenced regulations have been repealed and not replaced by other regulations, requirements for compliance are no longer in effect.

1.22 Lists and Examples

1.22.01 Unless otherwise expressly stated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.
1.23 Calculations and Rounding

1.23.01 Unless otherwise expressly stated in this Ordinance, all calculations that result in a part or fraction of a whole number must be rounded as follows:

A. Any fractional result of less than 0.5 must be rounded down to the next (lower) consecutive whole number; and

B. Any fractional result of 0.5 or more must be rounded up to the next consecutive (higher) whole number.

1.24 Determination of Value; Project Cost

1.24.01 The value of a development shall be presumed to be the development’s tax value unless rebutted by a certified appraisal of current value or recent, actual purchase price.

A. An appraisal may be acceptable if it is completed within two (2) years prior to submittal and evaluates the development in its “as is” condition.

B. A purchase price is recent if transacted within two (2) years.

1.24.02 Project costs are any monetary expenditures incurred or estimated to be incurred in order to complete the project for the development at issue.

A. Project cost does not include:
   1. The price of the land, or
   2. Furniture, or
   3. Inventory items related to the operation of a business.

(Ord. PL04727-050721, 07-01-2021)

1.25 Conflict with Private Agreements and Controls

1.25.01 This Ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or development approvals adopted or issued pursuant to law. The Town has no responsibility for monitoring or enforcing private agreements.

1.26 Annexation

1.26.01 If any portion of the territory subject to county jurisdiction is annexed by the Town in accordance with NCGS 160A, Article 4A, county regulations and powers of enforcement remain in effect until:
   A. The Town has adopted regulations for the annexed or extraterritorial area; or
   B. A period of sixty (60) days has elapsed following the effective date of annexation.

(Ord. PL04727-050721, 07-01-2021)
1.27  **Corrections of Scrivener Errors and Changed Reference Citations**

1.27.01 Without further approval by Town Council being required and provided that any such correction clearly does not change the meaning of the Ordinance, the Planning Director is authorized to correct the following in the Ordinance: typographical, spelling, grammatical, or numerical reference errors; errors in section or page numbering; corrections to conform to changes in citations for internal or external references; and other similar, non-substantive corrections.

(Ord. PL03449-123119, 02-20-2020)

1.28  **Building Design Elements**

1.28.01 "Building design elements" as used within this Ordinance means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

1.28.02 Any regulation relating to building design elements adopted under this Ordinance may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

A. The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.

B. The structures are located in an area designated as a historic district on the National Register of Historic Places.

C. The structures are individually designated as local, State, or national historic landmarks.

D. The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

E. Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.

F. Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

1.28.03 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or
development approval, nor may any such regulations be applied indirectly as part of a
review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment
for consistency with an adopted comprehensive plan or other applicable officially adopted
plan.

(Ord. PL04727-050721, 07-01-2021)
2.01 Board of Adjustment

The Board is a quasi-judicial body that acts on specified appeals, variances, major subdivision preliminary plat approval and special-use permit requests. Except for major subdivision preliminary plat approval, a decision by the Board constitutes the final decision of the Town.

2.01.02 Appointment and Terms of Board of Adjustment

A. Membership. There shall be a Board of Adjustment consisting of five (5) regular members and three (3) alternate members. Alternates shall serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a regular member. When serving in place of a regular member, an alternate member shall have all the powers and duties of a regular member.

B. Appointments, Avoidance of Conflicts of Interest. Members of the Board shall be appointed by the Town Council following the procedures set forth in Chapter 35 of the Municipal Code. In making appointments, the Town Council shall consider the employment of current Board members and their spouses, and shall strive to create such employment diversity upon the Board so as to minimize the likelihood that a conflict of interest with regard to a particular case will prevent the Board from assembling a quorum. Therefore, in order to be appointed to the Board, an applicant must provide the Town with information concerning their employment and that of their spouse, if any.

C. Residency Requirement. Members of the Board of Adjustment must be residents of the Town of Boone, but a member who moves outside the town limits may continue to serve on a case in which they participated prior to moving outside the town limits until that case is completed.

2.01.03 Meetings of the Board of Adjustment

A. Procedure: The Board shall conduct its meetings in accordance with its duly adopted Rules of Procedure so long as they are not inconsistent with the provisions of this Ordinance or State law. The Rules of Procedure may address any of the following:

1. Scheduling and order of cases before the Board; and
2. Representation; and
3. Intervention of a person other than the applicant or appellant who has a special and substantial interest in the outcome of the case to fully participate as a party in the hearing; and
4. Pre-hearing procedures; and
5. Hearing procedures; and
6. Admissibility of evidence; and
7. Decision-making procedures; and
8. Length of meetings; and
9. Special meetings; and
10. Meeting decorum pursuant to Subsection 6.01.07(B); and
11. Such other matters as may be needed for the effective and proper functioning of the Board.

2.01.04 Board of Adjustment Chair and Vice-Chair

A. In or about July of each year, the Board will accept and review applications from the current membership for Chair and Vice-Chair positions and forward a recommendation on these positions to Town Council. Upon receipt of the Board’s recommendations, Council shall review the submitted applications and the Board recommendations before designating the Chair and the Vice-Chair. The members so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms by the Town Council.

1. The Board shall designate the Chair and Vice-Chair of any subcommittee.

B. If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

C. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

2.01.05 Powers and Duties of the Board of Adjustment

A. The Board is a quasi-judicial body that shall hear and decide:

1. Appeals from any order, decision, requirement, interpretation, or determination made by the Administrator, as provided in Article 6 Board of Adjustment Hearings.
2. Applications for special-use permits, as provided in Article 6 Board of Adjustment Hearings.
3. Applications for variances, as provided in Article 6 Board of Adjustment Hearings.
4. Applications for major subdivision preliminary plat approval, as provided in Article 6 Board of Adjustment Hearings.

5. Appeals of the grant or denial of an application for a Certificate of Appropriateness by the Historic Preservation Commission.

6. Any other matter the Board is required to act upon by any other Town Ordinance or State law.

(Ord. PL00147-010417, 02-16-2017; Ord. PL01809-082218, 10-16-2018; Ord. PL04195-090820, 12-17-2020; Ord. PL04727-050721, 07-01-2021)

2.02 Planning Commission

2.02.01 The Planning Commission is an advisory board that makes recommendations to Council on future growth and development issues that affect the Town and advises Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604. In addition to or as part of its regular meeting schedule, the Planning Commission shall attend public hearings on proposed zoning text and map amendments scheduled by the Town Council.

2.02.02 Membership. The Planning Commission shall consist of seven (7) members.

2.02.03 Planning Commission Chair and Vice-Chair

A. In or about July of each year, the Commission shall accept and review applications from the current membership for Chair and Vice-Chair positions and forward a recommendation on these positions to Council. Upon receipt of the Commission’s recommendations, Council shall review the submitted applications and the Planning Commission recommendations before designating the Chair and the Vice-Chair. The members so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

1. The Commission shall designate the Chair and Vice-Chair of any subcommittee.

B. If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

C. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

2.02.04 Powers and Duties of the Planning Commission

A. The Planning Commission may:

1. Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
2. Facilitate and coordinate citizen engagement and participation in the planning process.

3. Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

4. Advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604. The Planning Commission shall not, however, have the power to “initiate” changes to this Ordinance, as the term “initiate” is used in, Section 9.02; and

5. Exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.

6. Review and either approve or deny proposed minor subdivision requests when a portion of the land to be subdivided lies within a Designated Water Supply Watershed District, based upon application of Articles 5 and 29 of this Ordinance; and

7. Perform any other related duties that the Council may direct.

2.02.05 Advisory Committees

A. From time to time the Council may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider the thoroughfare plan, bikeway plans, community appearance plans, housing plans, economic development plans, etc. Such advisory committees shall be created and operate, unless otherwise designated by the Council, according to the procedures established under Municipal Code §§ 30.51, and 35.01, et seq.

B. Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered, and they shall be invited to lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations of the Planning Commission to the Council shall be made by the Planning Commission itself.

C. Nothing in this Section shall prevent the Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Council.

(Ord. PL00147-010417, 02-16-2017; Ord. PL001809-082218, 10-16-2018; Ord. PL04195-090820, 12-17-2020; Ord. PL04727-050721, 07-01-2021)
2.03 **Community Appearance Commission**

2.03.01 The Community Appearance Commission is an advisory board that makes recommendations to Council on visual appearance, community beautification, and landscape development that affect the Town.

2.03.02 **Membership.** There shall be a Community Appearance Commission consisting of seven (7) members. To the extent qualified persons can be found, the majority of members shall have special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely related field.

2.03.03 **Community Appearance Commission Chair and Vice-Chair**

A. Unless the Town Council designates the Chair and Vice-Chair of the Community Appearance Commission, the Commission shall choose its own Chair and Vice-Chair. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.

1. The Community Appearance Commission shall designate the Chair and Vice-Chair of any subcommittees.

B. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

C. If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

2.03.04 **Powers and Duties of the Community Appearance Commission**

A. The Community Appearance Commission may:

1. Initiate, promote, and assist in the implementation of programs of general community beautification in the Town.

2. Coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the Town.

3. Provide leadership and guidance in matters of area or community design and appearance to individuals, to public and private organizations.

4. Make studies of the visual characteristics and problems of the Town, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.

5. Prepare both general and specific plans for the improved appearance of the Town. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the Town or any part thereof within its area of
planning and development regulation jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.

6. Participate, in any way deemed appropriate by the Town Council and specified in the ordinance establishing the commission, in the implementation of its plans. To this end, the Town may include in the ordinance the following powers:

a. To request from the proper officials of any public agency or body, including agencies of the State and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the Town's planning and development regulation jurisdiction.

b. To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the planning or governing board. All plans shall be reviewed by the commission in a prompt and expeditious manner, and all recommendations of the commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the planning or governing board and to the appropriate agency.

c. To formulate and recommend to the appropriate planning or governing board the adoption or amendment of ordinances, including zoning regulations, subdivision regulations, and other local development regulations, that will, in the opinion of the commission, serve to enhance the appearance of the city or county and surrounding areas.

d. To direct the attention of Town officials to needed enforcement of any ordinance that may in any way affect the appearance of the city or county.

e. To seek voluntary adherence to the standards and policies of its plans.

f. To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.

g. To promote public interest in and an understanding of its recommendations, studies, and plans, and, to that end, prepare, publish, and distribute to the public such studies and reports that will, in the opinion of the commission, advance the cause of improved appearance.

h. To conduct public meetings and hearings, giving reasonable notice to the public thereof. Perform any other duty assigned by the Council that is authorized pursuant to N.C. Gen. Stat. § 160D-960.

2.03.05 The commission shall, no later than April 15 of each year, submit to the governing board a written report of its activities.

(Ord. 20160224, 05-19-2016; Ord. 20160438, 03-16-2017; Ord. PL01809-082218, 10-16-2018; Ord. PL04195-090820, 12-17-2020; Ord. PL04727-050721, 07-01-2021)
2.04 Historic Preservation Commission

2.04.01 The Historic Preservation Commission is responsible for the inventory of historical, architectural and culturally significant properties within the Town of Boone corporate limits. The Historic Preservation Commission also makes recommendations to Council to promote, enhance and preserve the character and historic landmark or district in the Town’s planning area. The Historic Preservation Commission operates pursuant to Subsection 2.04.05.

2.04.02 Membership. There shall be a Historic Preservation Commission consisting of five (5) members. To the extent qualified persons can be found, the majority of the Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields, and to the extent persons may be found with the stated qualifications, the Town Council shall seek to appoint two persons with significant experience or knowledge in historic preservation, one person with significant experience or knowledge in building construction, and one person with significant experience or knowledge in architecture.

2.04.03 Rules of Procedure. The Historic Preservation Commission shall conduct its meetings in accordance with its duly adopted rules of procedures so long as they are not inconsistent with the provisions of this Ordinance or State law, and the Commission shall comply with the requirements of Article 8. The Commission shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas. When exercising authority over any individual property in accordance with Sections 8.03 and 8.06 of this Ordinance, it shall conduct itself in a quasi-judicial manner.

2.04.04 Historic Preservation Commission Chair and Vice-Chair

A. In or about July of each year, the Commission will accept and review applications from the current membership for Chair and Vice-Chair positions in order to forward a recommendation on these positions to Council. Upon receipt of the Commission’s recommendations, Council shall review the submitted applications and the Historic Preservation Commission recommendations before designating the Chair and the Vice-Chair. The people so designated shall serve in these capacities for terms on one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.

1. The Historic Preservation Commission shall designate the Chair and Vice-Chair of any subcommittees.

B. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment.

C. The Chair and Vice-chair may take part in all deliberations and vote on all issues.

2.04.05 Powers and Duties of Historic Preservation Commission

A. The Historic Preservation Commission shall, in accordance with the procedures of Article 8 of this Ordinance, have the following powers:
1. Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance; and

2. Recommend to the Town Council areas to be designated by ordinance as "Historic Districts;" modification of Historic District boundaries; and individual structures, buildings, sites, areas, or objects to be designated by Ordinance as "Landmarks"; and

3. Recommend to the Town Council criteria and procedures for the protection and preservation of Historic Districts and Landmarks; and

4. Recommend to the Town Council that designation of any area as an Historic District or part thereof, or designation of any building, structure, site, area, or object as a Landmark, be revoked or removed for cause; and

5. Conduct educational programs with respect to historic properties and districts within its jurisdiction, including but not limited to programs of recognition for significant historic properties, and programs to educate landowners of possible tax benefits associated with historic designation; and

6. Cooperate with the State, federal, and local governments in pursuance of the preservation and protection of areas and properties deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and contract, when authorized by the Town Council, with the State of North Carolina or the United States of America, or any agency of either for that purpose; and

7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof, provided that no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof; and

8. Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan; and

9. Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, and identify and propose preservation alternatives to owners; and

10. Perform any other related duties that the Council may direct.

(Ord. PL01809-082218, 10-16-2018; PL04195-090820, 12-17-2020; Ord. PL04727-050721, 07-01-2021; Ord. PL05270-110121, 12-08-2021)

2.05 Generally Applicable Provisions

2.05.01 The following provisions are applicable to every board and committee established under or this Article and to every subcommittee created by any such board or committee (collectively referenced in this section as "board"), except as specifically provided otherwise in the preceding sections, Article 6, or state law.
A. **Appointment of Members.** Members of each board shall be appointed by the Town Council pursuant to the procedures set forth at Chapter 35 of the Municipal Code.

B. **Designated student member.** Except for the Board of Adjustment, one membership position on each board, shall be designated for an Appalachian State University student; *provided*, that more than one Appalachian State University student position may be appointed in the discretion of Town Council. The designated Appalachian State University student member shall serve a term of one (1) year.

C. **Term.** Regular members and any alternate members shall be appointed for three (3) year staggered terms, but may continue to serve until their successors have been appointed. Vacancies shall be filled for the unexpired terms only. Members may be appointed to no more than three successive terms. A former member may be reappointed following a one-year period of non-membership. Vacancies which occur for reasons other than the expiration of a term shall be filled as they occur only for the unexpired remainder of the term.

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

E. **Absences.**

1. Board members shall be removed for unexcused failure to attend three (3) consecutive meetings or for unexcused failure to attend fifty percent (50%) of the regular meetings in any twelve (12) month period. For example, if a member misses six (6) of twelve (12) meetings during a twelve-month period and two (2) of the absences are due to the member’s illness, the member will be recorded as having missed four (4) of ten (10) meetings. Alternate members shall be removed for unexcused failure to attend or participate in three (3) consecutive meetings for which the member’s attendance is requested.

2. The Administrator shall notify in writing any member for whom one more absence will trigger removal.

3. Absences due to sickness, emergencies, or other exigencies shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Board. For example, if a member misses six of twelve meetings during a twelve-month period and two of the absences are due to the member’s illness, the member will be recorded as having missed four of ten meetings.

4. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator, the member shall be replaced.

5. The Administrator shall notify the member and Town Council when a member has exceeded the allowable number of unexcused absences.

6. Council may act to excuse absences in advance or to reappoint a member after being informed by the Administrator of the member’s removal.
F. **Residency requirements.** Every member of each committee and board established under this Article must be a resident of the Town of Boone. Except as provided at 2.01.02(C) above with respect to Board of Adjustment members, a member who moves outside the Town limits shall be deemed to have resigned from the board effective immediately.

G. **Resignation.** A member of a board may resign by notifying the Mayor, Town Manager, or Administrator. A resignation shall be effective at the time a replacement member has been appointed unless the member declares a date certain in the resignation.

H. **Removal.** The Administrator or a member of the Town Council may propose removal of a member for good cause related to the performance of board duties. Before removal, the member shall be given an opportunity to appear before the Town Council to address the issues involved.

I. **Meetings; meeting schedule.** A board shall conduct meetings in accordance with the meeting schedule adopted by Council, so long as there are items for its consideration, and it may schedule additional meetings (“continuation meetings” and “special meetings”), as necessary, so long as all notice requirements are met. Regardless of whether or not a quorum of the board is present, any duly advertised regular or special meeting may be continued to a later date (“continuation meeting”) without additional notice and advertising if the date, time, and location of the continuation meeting is announced by the Chair.

J. **Open Meetings.** Every board shall operate in compliance with the North Carolina Open Meetings law, codified as N.C. Gen. Stat. §§ 143-318.9 et seq. (hereafter, “the law”). At a minimum, all meetings of any board shall require all of the following:

1. Other than for an emergency meeting, notice by posting of the date and time of the meeting at least 48 hours in advance on the bulletin Board for that purpose in Town Hall, unless a longer notice is required by this Ordinance or State law. If an agenda has been distributed to members of the board, it shall also be posted.
   a. An “official meeting” occurs whenever a regularly scheduled meeting of a board occurs, whether or not a quorum is present, or whenever a majority of the board meets, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.
   b. “Deliberate” includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.
   c. An “emergency meeting” is one that concerns generally unexpected circumstances requiring the immediate consideration of the Board. In the
event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.

2. A meeting that is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.

3. Minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are reviewed and approved by the board.

K. **Speakers.** When a board meeting includes a provision for public comment, any person wishing to address the board shall state their name and whether or not they are a resident of the Town. For clarification, this subsection does not apply to the Board of Adjustment, which is governed by its own Rules of Procedure and Article 6 herein; nor does this subsection apply to the Historic Preservation Commission when it is acting in its quasi-judicial capacity and is governed by its Rules of Procedures and Article 6 herein.

1. Speakers shall be recognized in the order in which they have signed up.

2. Unless a different time limit is adopted by the board, no member of the public shall be allowed to speak for more than five minutes.

3. Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the same positions, the presiding officer may request that all such persons designate a spokesperson for their group to address the board, and the presiding officer may allot a larger amount of time for the presentation of the group position by the spokesperson.

4. All persons addressing a board shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which violates norms of accepted decorum, after warning such person(s) and, except in a situation where there is a risk of harm to any person present, providing such person(s) the opportunity to alter the behavior to bring it into conformity with norms of accepted decorum, the presiding officer may direct that such person(s) be removed from the meeting.

L. **Meetings of Advisory Boards**

1. **Meeting procedures.** When a board is meeting in an advisory capacity (rather than in a quasi-judicial role), it need not conduct its meetings in accordance with the quasi-judicial procedures set forth in Article 6. However, every board shall conduct its meetings so as to obtain necessary information and to promote the free and full exchange of ideas.
a. The agenda shall include only those matters within the responsibilities and powers of the board as provided herein.

b. Absent an emergency matter, which can be placed upon the agenda by a unanimous vote of those present, only matters on the published agenda may be acted upon by the board.

c. Issues considered under agenda items entitled, “other matters” or similar language shall only be for information, and other items or issues for information may be added to the agenda by majority vote of those present.

d. Meetings of a board shall proceed in the following order: adoption of an agenda, approval of the minutes, public comment (when public comment is to be accepted), unfinished business, new business, and informal discussion. By majority vote of the members in attendance, the order of business may be altered.

e. The business of every board shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the board shall be respectful to each other and shall avoid interrupting each other.

M. Quorum and Voting

1. A quorum is necessary for a board to take official action. Except as otherwise provided by this Ordinance or other law, a quorum shall consist of a majority of the members of the board. Vacant positions are not counted as members for purposes of calculating quorum. A member who is present shall be counted for purposes of quorum even if recused from voting.

2. Unless otherwise required by law or this Ordinance, all actions or recommendations of a board are only effective or adopted upon majority vote of the members present, following a motion and second.

3. In the case of a divided vote on any question on which the board is required to act, the record shall include the vote of each member. When such action is to be reported to the Council, the board shall not only report the action or recommendation adopted, but the vote by which it was adopted.

4. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can hear all deliberations and proceedings of the board, and the members of the board can hear the member.

5. A roll call vote shall be taken upon the request of any member.

N. Limitations on Board and Board Member Powers
1. No individual member of a board shall purport to speak or act on behalf of the board without action by the board explicitly authorizing the member to speak or act on its behalf; and

2. No individual member of a board, nor the board itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the board to speak or act on its behalf; and

3. Without an express grant of authority or explicit authorization by the Council, no individual member of a board, nor the board itself, shall direct Staff to take action requiring the expenditure of Town funds; and

4. A board shall not create any group external to its membership without the explicit prior approval and/or appointment of the Town Council; and

5. A board may not create a subcommittee or working group within its membership without explicit approval of the Town Council.

O. Conflicts of Interest

1. Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

2. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

3. A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Ord. 20160224, 05-19-2016; Ord. PL04195-090820, 12-17-2020; Ord. PL04727-050721, 07-01-2021)

2.06 Land Use Administrator

2.06.01 Land Use Administrator

A. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned by the Town Manager to one or more individuals. The person or persons to whom these functions are assigned shall be
referred to in this Ordinance as the “Land-use Administrator” or “Administrator”. The term “Planning Director”, “Staff” or “Planning and Inspections Staff” is sometimes used interchangeably with the term “Administrator”.

B. When enforcing this Ordinance, the Council recognizes that there may be instances where the Administrator should be given the authority to approve limited deviations to some provisions of the Ordinance. The Administrator may approve a deviation only after the applicant has submitted documentation to demonstrate that one of the following conditions exists:

1. A surveying error has occurred that has created a situation in which the applicant is unable to comply with the requirements of the Ordinance.

2. The configuration of the lot and location of existing structures is such that the applicant is unable to comply with the requirements of the Ordinance and that the deviation being requested will not have a detrimental effect upon any adjacent landowner.

3. Due to unique circumstances related to the development being proposed, the applicant is able to demonstrate that strict compliance with the Ordinance will not be in the best interests of the Town and that the deviation being requested will not have a detrimental effect upon any adjacent landowner.

4. The applicant has agreed to take measures that would ameliorate the effects of the deviation and the owners of all property located within 150’ have agreed in writing to the deviation being requested.

C. A request for deviation shall be made before the development approval is issued. Deviations may only be approved to the extent authorized below to the following provisions of the Ordinance:

1. Deviations from the requirements of B1.04 Complete Intensity Table, provided the deviation shall not exceed ten percent (10%) of any requirements.

2. Deviations from the setback requirements of Subsection 14.03.06(D) Accessory Structure Setback requirements, provided the deviation shall not exceed ten percent (10%) of any requirements.

D. The authority given to the Administrator to grant such deviations shall be construed to be permissive and not mandatory. The decision of the Administrator, as to whether or not to grant a deviation, shall constitute the final decision of the Town and is not appealable. In the event a deviation is not approved, the applicant shall have the right to request a variance from the Board.

2.06.02 Conflicts of Interest

A. No staff member shall make a final decision on an administrative decision 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. For purposes of this section, a "close familial relationship"
means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term
includes the step, half, and in-law relationships.

B. No staff member who is financially interested or employed by a business financially
interested in a development subject to regulation under this Ordinance shall be
involved in any manner in the review or decision-making with respect to such
development.

C. No staff member or other individual or an employee of a company contracting with the
Town to provide staff support shall engage in any work that is inconsistent with their
duties or with the interest of the Town, as determined by the Town.

2.06.03 Interpretagions

A. Zoning Map Interpretations: The Planning Director is authorized to interpret the
zoning map and disputed questions of zoning district boundary lines.

1. A zoning map interpretation shall only be made upon proper written application.

2. Where uncertainty exists as to the boundary of districts as shown on the Official
Zoning Map, the following rules shall apply:

   a. A boundary indicated as approximately following the centerline of an alley,
      street, highway, stream or railroad shall be construed to follow such
      centerline;

   b. A boundary indicated as approximately following a lot line, corporate limit, or
      extraterritorial boundary line, shall be construed as following such line, limit
      or boundary;

   c. A boundary indicated as following the shoreline or the centerline of a stream,
      river, lake, or other bodies of water shall be construed to follow such shoreline
      or centerline, and in the event of change in the shoreline or centerline, the
      boundary shall be construed as moving with the actual shoreline or centerline;

   d. A boundary indicated as approximately following the designated limit of a
      special flood hazard area shall be construed as following such limit;

   e. Where a district boundary divides a lot or where distances are not specifically
      indicated on the Official Zoning Map, the boundary shall be determined by
      measurement, using the scale of the Official Zoning Map;

   f. Where any street or alley is hereafter officially vacated or abandoned, the
      regulations applicable to each parcel of abutting property shall apply to that
      portion of such street or alley added thereto by virtue of such vacation or
      abandonment.
B. **Text Interpretation:** The Planning Director is authorized to interpret Ordinance text.

1. A text interpretation shall only be made upon proper written application.

2. Where uncertainty exists as to any meaning of this Ordinance, the provisions of Article 1 shall be used for guidance.

3. The Planning Director shall consult with the Town Attorney where there is uncertainty in the meaning of the Ordinance with respect to substantive matter.

C. **Advisory Opinions Regarding Nonconformities:** An advisory interpretation or advisory opinion given by the Administrator is not binding and does not constitute a final and binding decision subject to appeal under Article 6.

D. **Procedure for Evaluating Unlisted Uses:** See procedures set forth in Subsection 14.02.06.

2.06.03 **Planning Director**

A. The Planning Director is the administrative head of the Planning and Inspections Department.

2.06.04 **Floodplain Administrator**

A. The Administrator or their designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of Article 30.

(Ord. 20150007, 02-23-2015; Ord. 20160222, 05-19-2016; Ord. PL04727-050721, 07-01-2021; Ord. PL05688-050322, 06-08-2022)

2.07 **Public Works Director**

2.07.01 The Public Works Director is the administrative head of the Public Works Department.

2.07.02 When referenced in this Ordinance, references to the Public Works Director shall include their designee.

(Ord. 20150007, 02-23-2015; Ord. PL04727-050721, 07-01-2021)

2.08 **Town Council**

2.08.01 Town Council

A. In considering proposed changes in the text of this Ordinance or in the zoning map, the Council acts in its legislative capacity and must proceed in accordance with the requirements of Article 9.

B. Unless otherwise specifically provided in this Ordinance, in considering amendments to this Ordinance or the zoning map, the Council shall follow the regular, voting, and other requirements as set forth in other provisions of the Code of Boone, the Town Charter, North Carolina General Statutes and the North Carolina Constitution.
ARTICLE 3  RESERVED
TITLE II REVIEW AND APPROVAL PROCEDURES
4.01 Development Approvals

4.01.01 Approval Required

A. Use of property, including intensity of use, may not be initiated or substantially changed, nor may any land disturbing activities commence, nor may signs, buildings or other structures be constructed, erected, moved, demolished, or substantially repaired, altered or renovated, except in accordance with and pursuant to the issuance of a valid development approval.

1. Undeveloped property may not be subject to land-disturbing activities except pursuant to and in accordance with a valid development approval authorizing a major subdivision, a permitted use, or the construction of one or more structures on the property.

2. Demolition of an existing building is not permitted except in accordance with and pursuant to the issuance of a valid development approval for new (replacement) construction; provided, that this provision shall not apply in the case of (1) demolition of accessory structures, or (2) demolition of a structure where the owner has established to the satisfaction of the Administrator that such is required for the public safety, health, or welfare, and that land-disturbing activities will be limited to the minimum reasonable extent necessary for the demolition.

B. Property may not be subdivided except in accordance with and pursuant to the issuance of a valid development approval.
C. Physical improvements to land to be subdivided may commence upon preliminary plat approval and the issuance of a valid zoning permit authorizing such work.

D. No development approval shall be issued within:

1. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under Town regulations governing development from the tract of land for which development approval is sought; or

2. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under Town regulations governing development from the tract of land for which development approval is sought and the harvest was a willful violation of the Town regulations.

4.01.02 Process Overview:

A. Development approvals needed to authorize a proposed development, will be issued under this Ordinance only after a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Plans and applications which are approved are incorporated into any permit issued, as are representations made by the applicant, and except as otherwise provided in Section 4.16, all development shall occur strictly in accordance with such approved plans, applications, and representations.

1. For purposes of this Ordinance, unless the context clearly indicates otherwise and without altering the scope of any regulatory authority granted by statute or local act, the term “development” means any of the following:

   a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

   b. The excavation, grading, filling, clearing, or alteration of land.

   c. The subdivision of land as defined in G.S. 160D-802.

   d. The initiation of or substantial change in the use of land or the intensity of use of land

2. Revisions that affect the design or capacity of any stormwater system shall require prior written approval by the Town.

B. Applications shall be submitted in accordance with section 4.05.01 and the requirements listed in Appendix A.

C. All permits/approvals shall be issued in the name of the applicant, and shall identify the property involved, and the proposed use. The permit shall incorporate by reference the plans submitted and representations made, and shall recite any special conditions or requirements imposed by the permit issuing authority.
(Ord. PL04196-090820, 07-01-2021; Ord. PL04727-050721, 07-01-2021)

4.02 Who May Submit Applications

4.02.01 An application will be accepted only from a person having the legal authority to take action in accordance with the development approval.

A. Applications for development approval may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

B. When a person other than the owner of the property applies for a development approval, the application must be accompanied by the written approval of the property owner or other proof of authority.

C. No application may be accepted on behalf of a non-human entity unless it is registered and in good standing with the North Carolina Secretary of State, or such other authority as legally mandated.

D. When an application involves development on multiple properties owned by multiple owners, it must be accompanied by proof of authority or permission of all owners.

E. Property owners, or their agents or assigns, are responsible for ensuring that provisions of this UDO are adhered to; including activities contracted for, or performed by those under their employ.

4.02.02 The Administrator shall require an applicant to submit evidence of authority to submit the application in accordance with Subsection 4.02.01.

(Ord. PL04727-050721, 07-01-2021)

4.03 Staff Consultation Before Formal Application

4.03.01 Even if not required, to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance, a pre-application consultation between the applicant and Staff is strongly encouraged.

4.03.02 A pre-application consultation is mandatory prior to following submittals:

A. Special Use Permit

B. Variance

C. Major Subdivision Preliminary Plat Approval

D. Zoning Map Amendment

E. Certificate of Appropriateness for Major Work

4.03.03 Upon request or as mandated, the Administrator shall meet with the applicant as soon as feasible to review the proposed application.

(Ord. PL04727-050721, 07-01-2021)
4.04 Applications

4.04.01 Application Submittals:

A. Preliminary review for completeness of application. An application shall not be accepted for review and shall not trigger the permit choice provision of Subsection 4.05.03(B) unless it is complete. Within 10 days of submission, the Administrator shall review an application for completeness and the application shall be found to be complete if it meets all of the following requirements:

1. An application form provided by the Administrator is fully completed with all plans and other documents and information required pursuant to Appendix A included or attached, except as otherwise directed by the Administrator pursuant to 4.05.02(A);

2. The application includes such other plans, documents, or information as the Administrator may require following a pre-application conference regarding a site-specific plan;

3. A Traffic Impact Analysis is submitted if such is required or requested pursuant to this section;

4. The application is signed by a person with lawful and documented authority to submit the application;

5. All required fees are paid; and

6. The application, supporting documentation, and fees are delivered to the Administrator in the medium (e.g., electronic and/or paper) required by the Administrator.

B. A non-refundable fee may be assessed by the Administrator for preliminary review of the completeness of an application.

C. If an application is incomplete, it shall be rejected with comments, as appropriate, by the Administrator. Any resubmittal of the application shall be reviewed and processed as a new application. Accordingly, any such application shall be considered submitted on the date of the resubmittal and considered for completeness pursuant to Subsection 4.05.01(A) above.

4.04.02 The Administrator shall require the submission of all information necessary for the permit issuing authority to decide whether the development, if completed as proposed, will comply with all of the requirements of this Ordinance and all other duly adopted requirements of the Town.

A. The presumption established by this Ordinance is that all of the information set forth in Appendix A is necessary to satisfy the requirements of this Section.
1. However, it is recognized that each development is unique, and therefore the permit issuing authority may allow less information or require more information to be submitted according to the needs of the particular case.

2. For applications submitted to the Town Council or Board of Adjustment, the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth in Appendix A should be submitted.

B. In this Ordinance, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more appendices to this Ordinance. It is not always necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information, in the judgment of the Administrator, to allow the permit issuing authority to evaluate the application in the light of the substantive requirements set forth in the text of this Ordinance and all other duly adopted requirements of the Town.

1. However, whenever this Ordinance requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article 12.

C. Traffic Impact Analysis: In addition to the information included in Appendix A, certain developments may by, virtue of size, location or configuration of access points to the public road system, be required to have a traffic impact analysis performed. In those instances, where a traffic impact analysis is required by the Administrator, the study must be completed and submitted in order for the application to be considered complete. A traffic impact analysis may be required when any of the following conditions exist:

1. The development proposes to have an access to the public road system within 100’ of the STOP bar of any traffic control signal; or

2. The development proposes to have an access to the public road system within 200’ of the STOP bar of any traffic control signal and based upon Institute of Transportation Engineers (ITE) trip generation rates is projected to generate eighty (80) or more exiting trips during any one (1) hour period of any day; or

3. The development proposes to have access to any public road at a location where sight distance in any direction along the road is less than 500’; or

4. The development proposes access onto a public road that does not have a paved width of at least eighteen feet (18’); or
5. The development proposes access to a public road that currently operates at a level of service of D or less and based upon ITE trip generation rates is projected to generate 1,500 weekday trips; or

6. The Administrator or Public Works Director determines that the proposed project will have a potential negative impact on the public road system due to the size of the project or existing transportation system; or determines that there are safety concerns with the driveway location and design.

If a traffic impact analysis is performed and that analysis concludes that improvements are required to the transportation system; the applicant may be required to complete those improvements in connection with the project as a condition of the development approval. Unless an agreement is executed by the Town in which the time for the improvement is specified the improvement shall be completed prior to issuance of a certificate of occupancy. The fact that the obligation to construct lies with the applicant does not preclude the Town from entering into an agreement to participate if that will be in the interest of the Town.

(Ord. PL04196-090820, 07-01-2021; Ord. PL04727-050721, 07-01-2021)

4.05 Processing of Applications

4.05.01 Upon submission of a complete application, the Administrator shall review the application for compliance with this Ordinance and any other requirements of the Town.

4.05.02 Permit Choice:

A. Following submission of a complete application for a development permit, if this unified development ordinance is amended between the time a complete application was submitted and the time a development permit decision is made, the applicant may choose which adopted version of the ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application.

B. Where multiple development permits are required to complete a development project, the development permit applicant may choose the version of this ordinance applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection (B), an erosion and sedimentation control permit or a sign permit is not an initial development permit.

C. For purposes of this section 4.05.02, except as provide at subsection (B) or otherwise provided by law, “development permit” means an administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:

1. Zoning permits.
2. Site plan approvals.
3. Special use permits.
4. Variances.
5. Certificates of appropriateness.
6. Plat approvals.
8. Building permits.
10. State agency permits for development.
11. Driveway permits.
12. Erosion and sedimentation control permits.
13. Sign permit.

4.05.03 Applications Requiring Hearings: The Administrator shall place an application on the agenda of the appropriate Board or Commission as soon as feasible after the applicant has provided all information requested by the Administrator or the applicant, in writing, refuses to provide requested information and demands the application be forwarded to the appropriate Board or Commission for action.

A. If the Administrator believes that the application is incomplete, the Administrator shall recommend to the appropriate Board or commission that the application be denied on that basis, and shall provide detailed information to the appropriate Board or commission as to the elements, supplemental documentation or materials which the Administrator believes are lacking.

4.05.04 Discontinued Applications: An application shall be deemed withdrawn if:

A. Processing of the application is placed on hold at the request of the applicant for a period of six consecutive months or more, or

B. The applicant fails for a period of six or more consecutive months to fully respond to any written request by the Administrator for additional information or for changes to be made to the development plan to comply with requirements of this UDO. Any such written request made by the Administrator shall provide notice to the applicant that a response is required within 6 months or the application will be deemed withdrawn.

Applications to be Processed Expeditiously

4.06.01 The Town shall make reasonable efforts to process applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance and all other duly adopted requirements of the Town.

(Ord. PL02338-03072019, 05-09-2019; Ord. PL04727-050721, 07-01-2021)

Zoning Permits

4.07.01 Upon review of an application for a zoning permit and all duly-requested supplemental documentation, the Administrator shall issue the zoning permit only upon concluding that:

A. The requested permit is within the Administrator’s jurisdiction, and
B. If completed as proposed in the application, the development will comply with the requirements of this Ordinance and any other duly adopted requirements of the Town.

4.07.02 The permit is issued when the earlier of the following takes place:

A. A copy of the fully executed permit is delivered to the applicant; or,
B. The applicant has been notified that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions.
C. For purposes of this Section, delivery is accomplished when a notice or permit is hand-delivered to the applicant or his representative or three (3) days after the notice of permit is deposited in the U.S. Mail, addressed to the applicant or his representative at the address provided on the application.

4.07.03 A proposed development which otherwise is allowable by right but has extraordinary impacts as defined herein shall require a special use permit and shall be processed accordingly.

4.07.04 A proposed development has an extraordinary impact if the Administrator determines:

A. Applicable firefighting or law enforcement capabilities are inadequate to serve the development as proposed, or
B. The proposed development will have a substantial, negative impact on an environmentally sensitive area as defined by the U.S. Environmental Protection Agency or the N.C. Department of Natural Resources.
C. The proposed development will have a substantial, negative impact on adjacent properties and the provisions of the Ordinance designed to address those impacts are clearly inadequate.

4.07.05 Should the Administrator exercise the Administrator’s authority pursuant to this Section, the Board shall not deny the special use permit unless it cannot craft conditions which satisfactorily mitigate the substantial, negative impacts.

Inspections:

4.07.06
A. Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State law, this Ordinance, other applicable Town regulations, and the terms of the approval.

B. In exercising this power, staff are authorized to enter any premises within the town limits at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

4.07.07 It shall be unlawful to deviate from the approved Zoning Permit unless the Administrator has provided written approval for the requested modification.

4.07.08 Zoning Permit Extension

A. Unless expressly prohibited, the Administrator may extend a zoning permit for a period up to six (6) months if the Administrator concludes that:
   1. The permit has not yet expired, and
   2. The permit recipient has proceeded with due diligence and in good faith, and
   3. Applicable regulations have not changed so substantially as to warrant a new application.

B. Permit extensions are not allowed for temporary zoning permits unless explicitly authorized.

C. Successive extensions may be granted for periods up to six (6) months upon the same findings.

4.07.09 Expiration of Zoning Permits

A. Except as specifically provided otherwise in this section, in sections 4.13 or 4.14 or elsewhere in this ordinance, or by other applicable law, zoning permits shall expire 12 months after issuance unless development authorized by such permit has substantially commenced. If, after development is substantially commenced, development is discontinued for a period of 12 months, the zoning permit shall immediately expire.

B. Site-specific development plans. After development approved pursuant to a site-specific development plan is substantially commenced, a zoning permit shall immediately expire if development work is intentionally and voluntarily discontinued for 24 consecutive months.
C. Development shall be considered “substantially commenced” only if substantial on-site construction has been undertaken relative to the total project cost of construction. Development shall not be considered “substantially commenced” if less than ten percent (10%) of the total cost of all on-site clearing, grading, excavation, construction, erection and alteration authorized by such permit has been completed. Activities that take place or expenses incurred prior to approval of the zoning permit authorizing the development shall not be taken into account in determining whether development has “substantially commenced.”

D. A permit shall not expire or be revoked because of the running of time while a vested right under section 4.14 is outstanding.

(Ord. 20140384, 08-18-2014; Ord. PL04196-090820, 07-01-2021; Ord. PL04727-050721, 07-01-2021)

4.08 Final Certifications

A. Issuance of the following certificates shall be required prior to the occupancy or use of any new construction and re-occupancy or re-use of any renovation/rehabilitation in the Town of Boone. The certificates ensure that a completed development has complied with all the applicable development approvals for that particular development.

1. **Certificate of Compliance:** A Certificate of Compliance certifies compliance with applicable building, mechanical, plumbing, electrical, fire protection or gas codes. It does not alone authorize occupancy or use of any building, structure or land.

2. **Certificate of Occupancy:** A Certificate of Occupancy may only be issued following issuance of Certificates of Compliance when necessary. A Certificate of Occupancy certifies compliance of a building with all applicable requirements of the UDO and other relevant State and local laws. No building may be occupied or used until a Certificate of Occupancy is issued. A Certificate of Occupancy is inclusive of a Certificate of Zoning Compliance and a Certificate of Compliance.

3. **Certificate of Zoning Completion:** A Certificate of Zoning Completion may only be issued following issuance of Certificates of Compliance when necessary. A Certificate of Completion certifies compliance with the development approval.

(Ord. PL04727-050721, 07-01-2021)

4.09 Special Use Permits and Major Subdivision Preliminary Plat Approval

4.09.01 **Special Use Permit:** A special use permit must be approved by the Board of Adjustment according to the procedures set forth in Article 6 and the standards set forth in Section 6.02.

4.09.02 **Major Subdivision Preliminary Plat Approval:** A major subdivision preliminary plat must be approved by the Board of Adjustment according to the procedures set forth in Article 6 and the standards set forth in Section 6.02.
4.10 **Uses Previously Approved by Conditional Use Permit**

4.10.01 Amendments and modifications to uses currently subject to the terms and conditions of a previously approved conditional use permit, except those issued with conditional use zoning approvals, will be processed subject to the provisions of Section 4.16 dealing amendments and modifications to special use permits or major subdivision preliminary plat approvals.

4.11 **Variances**

4.11.01 A variance must be approved by the Board of Adjustment according to the procedures set forth in Article 6.

4.12 **Performance Guarantees**

4.12.01 **Improvement Guarantees:** In cases when, because of weather conditions or other factors beyond the control of the permit recipient or applicant, exclusive of financial hardship, it would be unreasonable to require the permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property or occupying any buildings or selling any lots in a subdivision, the Administrator may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this Ordinance are concerned) subject to a performance guarantee agreement with the applicant in accordance with the following standards:

A. The applicant shall agree to complete all required improvements within a specified period of time, not to exceed one year.

B. **Financial Guarantee Type.** To secure this agreement, the developer must provide one or more of the following financial guarantees to cover the costs of the uncompleted improvements:

1. **Cash, Letter of Credit, or Equivalent Security**
   a. The developer must deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value with the Town.

2. **Surety Bond**
   a. The developer must obtain a surety bond from a surety bonding company authorized to issue surety bonds in North Carolina.
   b. The bond must be payable to the Town and must be in an amount covering the entire probable cost of installing all uncompleted improvements, as approved by the Town.

C. **Amount.** The amount of the performance guarantee shall be in an amount of not less than one hundred twenty-five percent (125%) of the reasonably estimated cost of completion. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements.
D. Once the agreement is signed by the applicant and the required financial guarantee is provided, the final plat may be approved or the Certificate of Occupancy may be issued if all other requirements of this ordinance are met.

E. **Release.** The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to the Town’s acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the Town, if subject to its acceptance, upon request by the developer, the local government shall timely provide written acknowledgement that the required improvements have been completed.

F. The developer shall have the option to post one type of a performance guarantee as provided for in this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

G. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

### 4.12.02 Warranty Against Defects

A. Upon completion of construction of all improvements intended for public dedication, the developer shall request a warranty inspection. Once all the improvements are deemed acceptable by the Public Works Director and pass the warranty inspection, the developer shall submit the following to the Administrator:

1. A set of as-built drawings,

2. An engineer’s certification that all improvements have been constructed in accordance with the Town’s requirements.

3. A written warranty against defects which shall guarantee the material and workmanship of required improvements for a period of not less than one year from the date of such acceptance.

4. A financial guarantee payable to the town equal to at least 100% of the cost of the installation of such improvements as determined by the Public Work Director. Such financial guarantee shall be in a form as provided for in Subsection 4.13.03 above.

B. Upon acceptance of the improvements by the town, a 1-year warranty period shall commence. During the 1-year warranty period, the developer shall repair any defects that occur. For the purposes of this section, the term “defects” refers to any condition in the dedicated improvements that requires the town to make repairs to such improvements over and above the normal amount of maintenance that they normally would require.

C. At the end of the one-year warranty period, the developer shall request a final inspection. Upon successful completion of all warranty items, the developer shall be
4.13 Vested Rights for Certain Approvals

4.13.01 A vested right shall be deemed established upon proper and lawful approval of a site-specific vesting plan for a special use permit, major subdivision, or Conditional District.

4.13.02 Duration: Except as provided for in Subsection 4.13.02(C), a right that has been vested as provided for in this Ordinance shall remain vested for a period of two years.

A. This vesting shall not be extended by any amendments or modifications to a site-specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

B. A site-specific vesting plan shall be deemed approved upon the effective date of the approval authority’s action or Ordinance relating thereto.

C. The permit-issuing authority may provide that rights vest for a period of time exceeding two (2) years but not exceeding five (5) years, inclusive of all amendments, modifications and phasing, where warranted in light of all 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. These determinations shall be in the sound discretion of the approval authority at the time the site-specific development plan is approved or modified.

D. Approval shall vest for seven years for a multi-phased development of at least 25 acres’ subject to a master development plan with committed elements showing the type and intensity of use of each phase.

4.13.03 The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type and intensity of use, or Ordinances or regulations that are general in nature and are applicable to all property subject to regulation by the Town, including, but not limited to building, fire, plumbing, electrical and mechanical codes.

A. Applicable new or amended regulations shall only become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this Ordinance.

4.13.04 A vested right is not a personal right, but shall be attached to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such rights while applicable.

4.13.05 Termination/Expiration: A right that has been vested as provided for in this Ordinance shall terminate and automatically expire:
A. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed, or

B. With written consent of the affected landowner, or

C. With respect to development with vesting periods of 2 years or more, if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, or

D. Upon findings by the permit-issuing authority, by Ordinance after notice and public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan, or

E. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant’s fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action, or

F. Upon findings after notice and an evidentiary hearing that the landowner or the landowner’s representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the vested right, or

G. Upon enactment or promulgation of a State or federal law or regulation that precludes the development subject to the vested right, in which case the approval authority shall modify the affected provisions, upon finding that the change in state or federal law has a fundamental and retroactive effect on the development, after notice and a public hearing.

H. Upon a failure by the permit holder to abide such terms and conditions as have been attached to the approval or otherwise required by this Ordinance.

4.13.06 Nothing in this Section is intended or shall be deemed to create any vested right other than those established pursuant to N.C. Gen. Stat. §160D-108.

4.13.07 Any petition for voluntary annexation filed with the Town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any vested right with respect to the property subject to the petition has been established under G.S.160D-108. A statement that declares that no vested right has been established, or the failure to sign a statement declaring whether or not a vested right has been established, shall be binding on the landowner and any such vested right shall be terminated.

4.14  Effect of Development Approval on Successors

4.14.01 Development approvals authorize the applicant to develop and use land and structures in a particular way. Such approvals are transferable. However, so long as the land or structures or any portion thereof authorized by a development approval continues to be used for the purposes for which the development approvals was granted, then:

A. No person (including successors and assigns of the person who obtained the approval) may make use of the land or structures except in accordance with all the terms and requirements of that development approval, and

B. The terms and requirements of the development approval run with the land and are binding on successors in interest.

(Ord. PL04727-050721, 07-01-2021)

4.15  Modification of Development Approvals

4.15.01 After a development approval has been issued, no deviations from the terms of the development approval shall be made until written approval of proposed changes or deviations has been obtained.

4.15.02 A development approval with vested rights pursuant to NC Gen. Stat. 160D-108 may be modified pursuant to the provisions of this section. The proposed modification of a development approval authorizing a development or phase of development that has been completed shall be considered only as a new application.

4.15.03 Minor modifications to any development approval issued pursuant to this Ordinance are permissible and the Administrator may authorize such minor modifications subject to the following:

A. A modification is minor if, whether taken alone or together with other proposed modifications, it has no material (i.e., important, essential, and relevant) negative impact on any one or more neighboring properties or on the general public. In addition, in no case may a minor modification:
   1. Exceed ten percent (10%) of any measurable standard; or
   2. Change the approved use(s); or
   3. Change the density of the overall development; or
   4. Modify a feature of an application which was central to the deliberations of the permit-issuing authority; or
   5. Modify an express condition imposed by the permit-issuing authority.

B. The Administrator shall determine whether or not a proposed modification, whether taken alone or together with other proposed modifications, is minor. With respect to permits authorized by the Board of Adjustment or Town Council, in the event of doubt the proposed modification shall not be considered minor.
C. An applicant requesting approval of one or more minor modifications shall submit a written request for such approval to the Administrator.

1. The request shall identify the proposed changes.
2. The request shall be processed in accordance with Section 4.05.
3. Approval of all changes shall be in writing.

4.15.04 All proposed modifications of a development approval that are determined by the Administrator not to be minor are considered substantial modifications and must be reviewed and approved permit-issuing in the same manner as the original approval.

4.15.05 If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification.

(PL02632-060518, 09-19-2019; Ord. PL04727-050721, 07-01-2021)

4.16 Maintenance of Common Areas, Improvements, and Facilities

4.16.01 The recipient of any zoning, special use permit, preliminary or final plat approval, his successors and assigns, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any development permit issued in accordance with its provisions, except and until those common areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.

A. As illustration, private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended in accordance with Town Codes, and required vegetation and trees used for screening, landscaping, or shading must be properly maintained or replaced if they die or are destroyed.

4.16.02 A permit holder may create a property owners’ association or similar legal entity (association) to succeed to its responsibilities under this Section, so long as such association is established in accordance with Appendix A.

(Ord. PL04727-050721, 07-01-2021)

4.17 Design and Other Professionals

4.17.01 All professionals associated with an application shall be competent for the task undertaken, and licensed by and in good standing with the appropriate licensing Board in the State of North Carolina.
A. If problems with the project are encountered that result from the failure by a design professional to properly discharge his responsibilities, the Town may initiate appropriate action(s) including filing a complaint with the appropriate licensing Board and refusing to accept certifications regarding analysis of design or construction from the individual or firm.

4.17.02 If a geotechnical engineer performs a subsurface investigation, that engineer shall review the plans and specifications prior to submittal to the Town. A report of this review shall be submitted to the Town along with the permit application.

4.17.03 If retaining walls are required, and a geotechnical engineer has performed a subsurface investigation, the design professional shall provide a statement that the report on the subsurface investigation was reviewed and recommendations incorporated into the design.

A. The design professional shall also require the geotechnical engineer to prepare a global slope stability analysis of the retaining walls.

B. The global slope stability analysis shall be submitted with the plans for the retaining walls.

4.17.04 Whenever the Administrator is considering and reviewing an application which involves data or representations within the exclusive purview of a professional in a particular field, the Administrator may demand a certified statement from an appropriate professional confirming that the data or representations are accurate and meet the requirements of this Ordinance.

4.17.05 Whenever the Administrator considered and reviewed an application which involved data or representations within the exclusive purview of a professional in a particular field, the Administrator shall require a certified statement from an appropriate professional confirming that the work was completed in compliance with the approved plans.

4.17.06 The Administrator shall require verification that plant material was installed by a landscape contractor registered in the State of North Carolina.

4.18 Project Manager

4.18.01 In order to provide adequate coordination of the various design professionals on all development projects, every project shall designate and identify a project manager.

A. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

4.18.02 The project manager shall be responsible for coordination of all design and construction monitoring activities related to the project. This shall include, but not be limited to:

A. Coordination of design, including ensuring that adequate consideration is given in the design of recommendations made by professionals who performed preliminary exploration of site conditions, and
B. Monitoring of construction, and

C. Ensuring all final certifications indicating that the project was constructed in compliance with the approved design documents are completed.

4.18.03 Prior to issuance of a Certificate of Occupancy the project manager shall submit a certification that the project was constructed in accordance with the approved plans and specifications.

A. Attached to the project manager’s final certification shall be all the certifications required from the design and other professionals as described in Section 4.18.

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 5 SUBDIVISIONS

5.01 No Subdivision Without Plat Approval

5.01.01 No person may subdivide his land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of this Article and recorded in the Watauga County Registry. Building permits required pursuant to G.S. 160D-1110 shall be denied for lots that have been illegally subdivided.

5.01.02 The Watauga County Register of Deeds shall not record a plat of any subdivision within the Town’s planning jurisdiction unless the plat has been approved in accordance with the provisions of this Ordinance.

5.01.03 The provisions of this Section shall not prohibit any owner or his agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not been properly approved or recorded with the Watauga County Register of Deeds, provided the contract does all of the following:

A. Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance; and

B. Plainly and conspicuously notifies the prospective buyer or lessee that:

1. A final subdivision plat has not been approved or recorded at the time of the contract, and

2. That no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, and

3. That changes between the preliminary and final plats are possible, and

4. That the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat; and
C. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five (5) days after the delivery of a copy of the final recorded plat; and

D. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than fifteen (15) days after the delivery of the final recorded plat, during which fifteen (15) day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

5.01.04 The provisions of this Section shall not prohibit any owner or his agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulations or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the unified development Ordinance and recorded with the Watauga County Register of Deeds.

(Ord. PL04727-050721, 07-01-2021)

5.02 Flood Damage Prevention

5.02.01 All subdivisions shall comply with Article 30 Flood Damage Prevention.

5.03 Water Supply Watershed Area

5.03.01 If the proposed minor subdivision plat is located in a designated Water Supply watershed, the Commission shall review the plat and shall approve, not approve, or conditionally approve based on the following findings:

A. It either is or is not a minor subdivision; and

B. It either does or does not meet the requirements of this Ordinance.

5.03.02 If the proposed major subdivision plat is located in a designated Water Supply watershed, the Commission shall review the plat and shall find that it does or does not meet the requirements of this Ordinance. Such findings of the Commission shall be forwarded to the Board for preliminary plat approval and if approved and completed, Council for final plat approval.

5.04 Design Standards

5.04.01 All lots shall meet the minimum standards set forth in this Ordinance except for Architecturally Integrated Subdivisions.
5.04.02 Whenever a residential major subdivision that involves the creation of one or more new streets borders on or contains an existing proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.

5.04.03 No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:

“Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Town of Boone Unified Development Ordinance.”

5.04.04 The recorded plat of any subdivision that includes a private road shall clearly state that such road is a private road. Further, the initial purchaser of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.

5.04.05 When creating lots from an existing lot or parcel that contains a wireless support structure (stealth or non-stealth), the new lot(s) shall be located no closer to the existing structure than the applicable setback requirement provided at Section 15.24.09 and 15.24.10.

(Ord. PL04727-050721, 07-01-2021)

5.05 Exempt Divisions of Land

5.05.01 The following are not included within the definition of “subdivision” and are exempt from the subdivision procedures of this Article:

A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this Ordinance.

B. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.

C. The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.

D. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards set forth in this Ordinance.

5.05.02 An exempt division of land must comply with the requirements of the applicable requirements of the Water Supply Watershed Overlay requirements.

5.05.03 No approval is required for an exempt division of land, however, certification of exempt status is required. A plat of an exempt division of land, if prepared, must be certified by the Administrator, in accordance with Appendix A, before it can be recorded in the Office of the Watauga County Register of Deeds.
5.06 **Subdivision types**

5.06.01 There are two types of subdivisions:

A. Minor, and

B. Major

5.06.02 A minor subdivision is any subdivision other than a major subdivision.

5.06.03 A major subdivision is one which involves:

A. The creation of eleven or more lots, regardless of whether the lots are created at one time or over an extended period of time; or

B. The creation of any new streets (either public or private); or

C. The creation or extension of a public water or sewer system, or

D. The installation of drainage improvements upon one (1) or more lots to serve one (1) or more other lots.

5.07 **Minor Subdivision**

5.07.01 Minor subdivisions are subject to a three (3) step approval process: sketch plan consultation (optional), preliminary plat approval, and final plat approval.

5.07.02 **Sketch Plan:** A sketch plan submittal is optional but is strongly encouraged for minor subdivisions.

A. A sketch plan is a plan prepared in advance of formal submittal for the purpose of receiving informal staff comments.

B. Although there are no minimum requirements for the content of a sketch plan, applicants are encouraged to provide as much detail as possible.

5.07.03 **Preliminary Plat:** A preliminary plat is required for all minor subdivisions.

A. The preliminary plat shall be submitted in accordance with Article 4.

B. The preliminary plat shall contain the information as described in Appendix A.

C. Administrator Review:

1. The Administrator must review the plat for conformance with the requirements of this Ordinance and may consult with other departments, agencies or officials by referral.

2. The Administrator must approve, approve with conditions, or deny the preliminary plat within the time specified within Article 4.

3. Preliminary plats approved by the Administrator may proceed toward final plat approval.
4. Plats denied or granted conditional approval by the Administrator may be appealed to the Board of Adjustment in accordance with Article 6.

5. Modifications to approved minor subdivision preliminary plats are subject the requirements in Section 4.16.

6. Minor subdivision preliminary plat approval remains valid for one (1) year and may be extended in accordance with the provisions of Section 4.14.

5.07.04 Final Plat: A final plat is required for all minor subdivisions.

A. Upon approval of a minor subdivision preliminary plat, the applicant is eligible to submit a final plat for approval.

B. The final plat shall be submitted in accordance with Article 4.

C. The final plat shall contain the information as described in Appendix A.

D. The final plat shall be prepared and certified by a North Carolina licensed professional land surveyor.

E. The final plat must conform to the approved preliminary plat.

F. The approved final plat shall be recorded within forty-five (45) days of approval by the Planning and Inspections Department or the approval shall be void.

5.08 Major Subdivision

5.08.01 Major subdivisions are subject to a four (4) step approval process: sketch plan consultation, preliminary plat approval, zoning permit for the construction of subdivision-related infrastructure, and final plat approval.

5.08.02 Sketch Plan: A sketch plan submittal is required for major subdivisions.

A. A sketch plan is a plan prepared in advance of formal submittal for the purpose of receiving informal staff comments.

B. Although there are no minimum requirements for the content of a sketch plan, applicants are encouraged to provide as much detail as possible.

5.08.03 Preliminary Plat: A preliminary plat is required for all major subdivisions.

A. The preliminary plat shall be submitted in accordance with Article 4.

B. The preliminary plat shall contain the information as described in Appendix A.

C. Board of Adjustment Review:

1. The Administrator shall present completed major subdivision preliminary plats to the Board in accordance with Article 4.

2. The Board must approve, approve with conditions, or deny the preliminary plat in accordance with Article 6.
3. If the major subdivision preliminary plat is granted approval with conditions, the applicant has thirty (30) calendar days to revise and resubmit the preliminary plat to the Administrator which incorporates the revised conditions.
   a. If all of the conditions have been met and the preliminary plat is otherwise unchanged, the Administrator must approve the preliminary plat.
   b. If the preliminary plat is not revised within thirty (30) calendar days to meet the approval conditions, or the applicant notifies the Administrator that no more revisions to the preliminary plat will be made, the Administrator shall deny the preliminary plat.

4. An applicant for a major subdivision preliminary plat denied by the Board may seek judicial review pursuant to Article 6.

5. A modification to an approved major subdivision preliminary plat is subject to the requirements of Section 4.15.

6. A major subdivision preliminary plat approval remains valid for two (2) years and may be extended in accordance with the provisions of Section 4.14. Once constructed the subsequent development of individual lots shall not require modification of the subdivision plat approval unless explicitly required in the original approval or prior modification.

7. An applicant for a major subdivision preliminary plat approved by the Board may thereafter proceed with an application for a zoning permit in accordance with Article 4, for the construction of subdivision-related infrastructure.

8. All infrastructure approved through the preliminary plat process must be completed or the applicant must provide a performance guarantee per Section 4.13 prior to proceeding with Final Plat approval.

5.08.04 **Final Plat**: The final plat is proof that all the requirements of the preliminary plat have been met. A final plat is required for all major subdivisions.

   A. Upon approval of a major subdivision preliminary plat, and completion of all required subdivision-related infrastructure as authorized by the preliminary plat approval, the applicant is eligible to submit a final plat for approval.

   B. The final plat shall be submitted in accordance with Article 4.

   C. The final plat shall contain the information as described in Appendix A.

   D. The final plat shall be prepared and certified by a North Carolina licensed professional land surveyor.

   E. The final plat must be in compliance with the approved preliminary plat.

   F. The Administrator shall approve the final plat if the subdivision improvements are consistent with this Ordinance and the preliminary plat approval.
G. The approved final plat shall be recorded within forty-five (45) days of approval by the Planning and Inspections Department or the approval shall be void.

(Ord. PL05189-100821, 11-18-2021)

5.09 Plat Approval Not Acceptance of Dedication Offers

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

5.10 Architecturally Integrated Subdivisions

5.10.01 In an architecturally integrated subdivision, the applicant may create lots and construct buildings without regard to any minimum lot size, lot width or setback restrictions except that:

A. Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision, and

B. Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this Ordinance.

5.10.02 The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract. The number of lots allowed in an architecturally integrated subdivision shall be calculated by dividing the project area by the minimum gross land area set forth for the zoning district. For an architecturally integrated subdivision project that is composed of areas with different zoning designations, the number of lots shall be determined for each zoning district. The maximum number of lots for the project shall be the sum of the densities for each district. Further, only authorized uses shall be permitted in each zoning district.

5.10.03 In architecturally integrated subdivisions the amount of land saved by creating lots that are smaller than the standards set forth in B1.04 Complete Intensity Table, shall be set aside as open space.

5.10.04 The purpose of this Section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the applicant who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

(Ord. PL04727-050721, 07-01-2021; PL05688-050322, 06-08-2022)
ARTICLE 6  QUASI-JUDICIAL HEARINGS

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6.01 Provisions Applicable to All Quasi-Judicial Hearings

6.01.01 General Provisions
A. All hearings of the Board of Adjustment and all quasi-judicial hearings of the Historic
Preservation Commission shall be conducted in a quasi-judicial manner as described in
this Section 6.01.

B. Subject to the specific provisions of Section 6.04 as to appeals, the Board of Adjustment
or Historic Preservation Commission (both being referred to in this Section 6.01 as
“board”) shall hear and decide every appeal and application within a reasonable time.

C. The board may subpoena witnesses and compel the production of evidence at the
request of the Town, the applicant, and any person with standing pursuant to the
procedures set forth in the board’s Rules of Procedure.

D. Administrative Materials. The board packet shall include the Administrator’s analysis
of the issues, identifying any information, documents, and adopted plans material to
the case. The Administrator’s analysis may also include recommendations as
appropriate. The board packet shall be distributed to the members of the board,
applicants, or appellants, the landowner if not the applicant or appellant and any other
party to the case. Subject to the board’s rulings on any objection, these materials shall
be entered as part of the hearing record.

E. Each hearing conducted by the board shall provide an opportunity for parties and
interested members of the public to testify and offer competent, material, and
substantial evidence, but the board may limit the time available for each person
offering testimony and may exclude testimony and evidence which is cumulative or
redundant.

F. Hearings shall be conducted in compliance with the board’s duly adopted Rules of
Procedure.

G. The Town is considered a party in every hearing before the board.

H. Objections regarding jurisdictional and evidentiary issues, including, but not limited to,
the timeliness of an appeal or the standing of a party, 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.

I. The board may continue any hearing until a subsequent meeting at a specified time, date, and place without further advertisement or notice, and may keep a hearing open to take additional information up to the point a final decision is made.

J. If a hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement or notice.

6.01.03 Voting

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

B. Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused or has been allowed to withdraw from the meeting in accordance with this Section.

C. A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons’ constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to:

1. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;

2. Undisclosed ex parte communications;

3. A close familial, business, or other associational relationship with an affected person; or

4. A financial interest in the outcome of the matter.

D. If an objection is raised to a member’s participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

E. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member’s desire to avoid voting on matters to be considered at that meeting.

F. Except as authorized in this Section, a motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
G. A roll call vote shall be taken upon the request of any member.

6.01.04 Notice of Hearing

A. The Administrator shall give notice of any hearing of the board as follows:

1. **Contents of Notice:** Every notice shall state the date, time, and place of hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

2. **Mailed Notice:** Notice shall be mail by depositing in the mail at least 10 days, but not more than twenty-five (25) days, prior to the date of the hearing to:
   
   a. The person or entity whose appeal, application, or request is the subject of the hearing;
   
   b. The owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
   
   c. The owners of all parcels of land abutting the parcel of land that is the subject of the hearing;
   
   d. The owners of real property located within 150 feet of the subject lot(s);
   
   e. The owners of any real property in a protected district, whose property boundary has triggered application of transitional zone standards; and
   
   f. Any other persons who have submitted a written request for notice and intervening parties so long as the request for notice or intervention request have been filed prior to notification being mailed.

3. **Posted Notice:** At least ten (10) days, but not more than twenty-five (25) days prior to the date of the hearing, the Administrator shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The signs to be posted shall include the date, time and location of the hearing and shall direct the public to detailed information about the hearing.

6.01.05 Board Packet. The Administrator shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form.

6.01.06 Modification of Applications After Distribution of Board Packet Except Appeals of Staff Decisions.
A. Modification of Application Between Distribution of the Board Packet and the Board Meeting:

1. Modification in Response to Administrator’s Recommendation or Request: An applicant may not significantly modify an application between the distribution of the board packet containing the Staff Report of the case and the board meeting unless the proposed modification is in direct response to a specific request or recommendation by the Administrator.

   a. A proposed modification, even in response to the Administrator’s recommendation or request, shall be submitted to the Administrator prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification.

   b. If the Administrator determines that the applicant did not submit the proposed modification prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled meeting of the board or withdrawal of the proposed modification.

2. Insignificant or Minor Modifications in an Application: An applicant may make a non-substantial modification to an application between the distribution of the board packet containing the Staff Report and the scheduled hearing.

   a. A proposed non-substantial modification shall be submitted to the Administrator prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification. However, if an applicant proposes an insignificant modification to an application during the scheduled hearing, and the Administrator indicates that adequate time exists to evaluate the insignificant modification can be fully evaluated with or without a recess by the board, the modified application may be acted upon by the board.

   b. If the Administrator determines that the applicant did not submit the proposed modification prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled meeting of the board or withdrawal of the proposed modification.

3. Major Modification of an Application: An applicant seeking to significantly modify an application between the distribution of the board packet containing the Staff Report of the case and the board meeting, whether in response to Staff recommendations or self-initiated, must file a new application.
4. **Determination as to whether a Proposed Modification is Insignificant, Minor or Major:** The Planning Director shall make the determination as to whether a modification is “insignificant”, “minor” or “major” in accordance with Section 4.16. The determination of the Planning Director shall constitute the final decision of the Town and is not appealable.

**B. Modification of Application in Response to Concerns & Issues Raised at the Hearing**

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the board an applicant may agree to modify an application, including the plans and specifications submitted.

2. Unless such modification is so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed change without revised plans before it, the board may approve the application with the condition that the special use permit will not be issued until plans reflecting the agreed upon changes are submitted and approved by the Administrator.

**6.01.07 Testimony and Documentary Evidence**

**A. Oaths:** All persons who present testimony to the board shall be sworn. The Chair of the board or any member temporarily acting as Chair, and the Clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

1. Any person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor.

**B. Speakers:** At any meeting of the board, when the meeting is opened for public testimony:

1. Speakers shall be recognized in the order in which they have signed up unless a different order is requested by the board and agreed upon by the speakers.

2. Each speaker wishing to address the board shall state their name and then shall be sworn.

3. All persons addressing the board shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. The board may address in its Rules of Procedures under what circumstances the presiding officer or board may direct that a person who violates proper decorum may be removed, but the Chair shall have inherent authority to have removed a person who threatens other participants or member of the board as well as any person whose behavior is so disruptive as to prevent the board from continuing the hearing.

**C. Competent Evidence:** The board may address the standards for authenticating and admitting evidence in its duly adopted Rules of Procedure.
1. The rules of evidence as applied in the trial division of the General Court of Justice
do not strictly apply. However, no evidence shall be considered unless:
   a. The evidence appears to be sufficiently trustworthy and was admitted under
      such circumstances that it was reasonable for the decision-making board to
      rely upon it; or
   b. The evidence was admitted without objection,

2. To be considered “competent”, testimony shall generally meet the following:
   a. The witness has personal knowledge of the subject of the testimony; and
   b. The subject of the testimony is relevant to an issue involved in the hearing.

3. To be considered “competent”, documentary evidence shall generally require
   authentication. A document is authenticated by one of the following methods:
   a. Certification, by signature, title and seal, of the person who is the custodian of
      the records; or
   b. Information within the document which establishes its origin and reliability; or
   c. Testimony by a person with personal knowledge of the document’s origin and
      reliability.

4. If a copy is used in place of an original, testimony must be offered by a witness
   establishing the date and author of the document and confirming that such
   document is a true and accurate copy of the original document.

5. Photographs must be accompanied by testimony as to the date and place where
   the photograph was taken and a statement that the photograph fairly and
   accurately represents the subject is depicted.

6. Notwithstanding the forgoing, and regardless of the lack of a timely objection, the
   term “competent evidence” shall not be deemed to include the opinion testimony
   of lay witnesses as to any of the following, and such testimony shall be deemed
   incompetent:
   a. The use of property in a particular way would affect the value of other
      property; or
   b. The increase in vehicular traffic resulting from a proposed development would
      pose a danger to the public safety; or
   c. Matters about which only expert testimony would generally be admissible
      under the rules of evidence.

6.01.08 Burden of Presenting Evidence; Burden of Persuasion

A. Evidence: The burden of presenting evidence shall be upon the party or parties urging
   a particular position. However, at a minimum, the applicant or appellant must provide
substantial competent and credible evidence which addresses every material issue to be determined by the board.

B. **Credibility:** In making its decision the board may explicitly or implicitly make credibility determinations regarding the testimony of any witness, and where the board has concluded that the testimony of a particular witness is incredible or otherwise unreliable, it is not bound to accept that testimony and may not only reject it but, if warranted, may make a contrary finding from the facts asserted.

C. **Persuasion:** The burden of persuasion shall be on the applicant or appellant or other party or person advocating a particular position.

### 6.01.09 Decisions of the Board

A. The board’s decision shall resolve all contested facts and their application to the applicable standards.

B. All findings and conclusions made by the board shall be based upon competent, material, and substantial evidence presented at the hearing, including all information in the board packet, unless objected to by a party and excluded by the board.

C. Any conditions imposed by the board that are essential to the board’s approval of the application must be consented to in writing by the landowner and the permit applicant prior to final approval of the board’s written decision.

D. Each decision, including any conditions adopted by the board, shall be reduced to writing, reflect the board’s determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the Chair or other authorized member of the board.

E. The decision shall be effective upon approval by the board, signature by the filing with the Clerk of the board.

F. The decision shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant, landowner, and to any other person appearing as a party before the board, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.

1. The Clerk of the board shall certify that proper notice shall be made.

G. Any conditions attached to an approval shall be entered on the face of any necessary zoning permit landowner.

### 6.01.10 Reconsideration of Board Action

A. Whenever the board denies an application on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the board at a later time unless the applicant clearly demonstrates that:

1. Circumstances affecting the subject property have substantially changed, or
2. New information is available that could not, with reasonable diligence, have been presented at a previous hearing and is submitted to the Administrator within thirty (30) days of the denial.
   a. The submission of purported new information under this Section shall not, however, toll the period during which an applicant may seek judicial review of the denial and does not extend the period within which an appeal must be taken.

B. Notwithstanding Subsection 6.01.10(A), the board may at any time consider a new application affecting the same property as an application previously denied.

1. A new application is one that differs in some substantial way from the one previously considered.

(Ord. PL00147-010417, 02-16-201; Ord, PL02335-030719, 05-09-2019; Ord. PL04196-090820, 07-01-2021; Ord. PL04727-050721, 07-01-2021)

6.02 Board of Adjustment Consideration of Special Use Permit, Transitional Zones and Major Subdivision Preliminary Plat Applications

6.02.01 An applicant for a special use permit or major subdivision preliminary plat approval must produce substantial competent and credible evidence demonstrating each of the following:

A. The application is complete;

B. If completed as proposed, the development or subdivision:
   1. Will comply with the requirements of this Ordinance;
   2. Will not materially endanger the public health or safety;
   3. Will not substantially injure the value of adjoining or abutting property;
   4. Will be in harmony with the area in which it is to be located;
   5. Will be in general conformity with the Comprehensive Plan and all other relevant plans officially adopted by the Town; and
   6. In cases involving transitional zones, meets the standards of Subsection 6.02.02.

6.02.02 Transitional Zones

A. Transitional zones are hereby established and may apply to the procedures and evidence required for development in any existing zoning districts. The land within a transitional zone may be used as permitted in the underlying district, but only pursuant to the procedures and standards applicable to these zones, as created under this Section.

B. Transitional zones attach to each R1, R1A, RR, R2, and RA district, (hereinafter, “the protected district”) without regard to the current uses in that district. They are established for the purpose of creating special protections for residents of protected
districts from the potential adverse impacts of certain potentially incompatible nearby development, based upon the legislative finding that the general requirements of this ordinance have not been sufficient to protect the residents of such protected districts from the adverse consequences of such developments and that the variety of circumstances which may need to be ameliorated in the face of such development are not amenable to a “one size fits all” approach.

C. The location of a transitional zone shall be determined as follows.

1. For designated development in an adjacent zone, the transitional zone shall be measured from the closest point of the area used or disturbed for the development to the boundary of any protected district as measured from all points along that boundary, the nearest point controlling applicability of this Subsection.

2. For development subject to transitional zones within the protected districts, the transitional zone shall be measured from the closest point of the area used or disturbed for the development to the boundary of any protected lot, the nearest point controlling applicability of this Subsection.

D. The size of the transitional zone varies with the type of development proposed. The following are the transitional zones as shown in the Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses:

1. T50: transitional zone equal to fifty feet (50’)
2. T75: transitional zone equal to seventy-five feet (75’)
3. T125: transitional zone equal to 125 feet
4. T200: transitional zone equal to 200 feet
5. T300: transitional zone equal to 300 feet

E. Whenever a development approval is sought to authorize development within a transitional zone, and any area used or disturbed for the development will be located within the pertinent transitional zone, a special use permit is required. If any portion of the area used or disturbed for the development falls within the transitional zone the standards of this Section shall apply to the entire development. The Board may deny the application if the requirements of this Section are not met, or it may place reasonable conditions on the development, in addition to such conditions as may otherwise be reasonably imposed, specifically designed to mitigate the potential impacts identified herein.

1. Exemption: Development within an approved Industrial Park shall not be subject to the requirements of Subsection 6.02.02.

F. In addition to all other requirements of this ordinance which pertain to the proposed development, including but not limited to those relating to the location and placement of structures, the type and quantity of landscape buffering, the type and location of
lighting, and the size of setbacks, in order to meet the requirements of this Section, the applicant must produce substantial competent and credible evidence demonstrating the following:

1. That the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development upon the protected district, including but not limited to:
   a. noise impacts;
   b. light impacts; and
   c. any other predictable negative effect, including but not limited to:
      i. negative visual effects;
      ii. negative traffic effects; and
      iii. negative health effects.

G. Because of the variable topography and characteristics of particular tracts of land within the Town’s zoning jurisdiction, the solutions incorporated into the development plan by the applicant must be tailored to specifically address the characteristics of the particular location in relation to the protected district. Only if an applicant can demonstrate by clear and convincing evidence that the normal requirements of the ordinance are themselves sufficient to protect the protected district may the application be approved without additional measures being incorporated into the site-specific development plan.

6.02.03 Board of Adjustment Action on Special Use Permits and Major Subdivision Preliminary Plat Applications

A. Conclusions of Law: In deciding whether to approve or deny an application for a special use permit or a major subdivision preliminary plat, the Board shall proceed according to the following format:

1. The Board shall determine whether the application is complete.
   a. The burden of presenting a complete application to the Board shall be upon the applicant. The fact that the Administrator believes the application is complete or the applicant has submitted all requested supplemental documentation to the Administrator shall not bind the Board to conclude that the application is complete. The Board is the final arbiter of whether an application is complete.
   i. If the Board concludes that the application is incomplete in a hearing conducted following a demand by the applicant for immediate action by the Board pursuant to Subsection 4.06.02(A) or the applicant refuses to provide the information determined by the Board necessary to complete the application, the application shall be denied.
ii. If the Board otherwise concludes that the application is incomplete the Board may deny the application or may give the applicant an appropriate opportunity to complete the application if the applicant expresses an interest in timely supplementing the application to make it complete.

A. A motion to continue the hearing in order to afford the applicant an opportunity to complete the application shall state the location, date and time of the reconvened hearing.

B. A case continued under these circumstances shall not require the same Board identity at the reconvened hearing, as the applicant will be expected to present his full case at that time.

b. If an application includes features which must be approved by another Town board, commission or department, then such approvals must be obtained prior to the hearing.

2. If the Board concludes that the application is complete, the Board next shall consider whether the application complies with all of the applicable requirements of this Ordinance. If the Board concludes that an element of the application does not fully comply with this Ordinance but has a minimal effect on the issues before the Board, it may conditionally approve the application. If the Board concludes that the application does not comply with all applicable requirements of this Ordinance and conditions will not sufficiently cure the deficiencies or the Board concludes that the deficiency is material to the Board’s approval, then the Board shall deny the application.

3. If the Board concludes that the application is complete and will comply with this Ordinance if completed as proposed, then before it may approve the permit or subdivision it must find all the following based upon substantial competent and credible evidence in the record:

a. The development or subdivision as proposed will not materially endanger the public health or safety, and

b. The development or subdivision as proposed will not substantially injure the value of adjoining or abutting property, and

c. The development or subdivision as proposed will be in harmony with the area in which it is to be located, and

d. The development or subdivision as proposed will be in general conformity with the Comprehensive Plan and all other relevant plans officially adopted by the Town.

B. Conditions: Even when a development or subdivision meets the criteria above, the Board may still impose conditions on an approval.
1. All conditions shall be reasonable and appropriate and shall be related to the predicted impacts of the development.

2. Unless the Board explicitly orders otherwise, every approval is conditioned upon the development being completed in accordance with the plans submitted by the applicant, the commitments and representations concerning the proposed development made by the applicant and representatives at the public hearing, and final conformity with all requirements of the UDO.

3. The Board may attach to a special use permit a condition limiting the permit to a specified duration and in appropriate situations may provide additional process including another public hearing after the special use has begun to evaluate unanticipated impacts, provided such a condition shall not be employed to terminate a special use for which substantial construction or reconstruction has occurred.

4. Without limiting the foregoing, conditions should normally require measures to address impacts on the:
   a. public health or safety, and
   b. values of adjoining or abutting properties, and
   c. harmony with the area in which it is located, and
   d. in the case of Transitional Zones, noise, light, and other predictable negative effects such as visual, traffic and health.

5. Conditions imposed under this section shall not include requirements which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a municipality, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b); driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307; or other unauthorized limitations on the development or use of land.

6.02.04 Voting: The adoption of each conclusion of law under Subsection 6.02.03(A), which is required in order to issue the permit, authorize the preliminary plat or deny the application shall be by majority vote. Should any conclusion of law fail to be adopted, the application shall be denied.

6.02.05 Special Use Permits shall be recorded at the office of the Watauga County Register of Deeds.

6.03 Board of Adjustment Consideration of Variance Requests

6.03.01 A variance is specific to the lot and to the development for which it is requested and neither the nonconforming use of lands, buildings, or structures in the same zoning district; nor the permitted use of lands, buildings or structures in other zoning districts are grounds for the granting of a variance.

6.03.02 A variance granted must be specific and the minimum variance required.

6.03.03 Financial hardship alone does not constitute grounds for the granting of a variance.

6.03.04 The fact that a lot may be utilized for greater profit if the variance is granted is not grounds for the granting of a variance.

6.03.05 No change in permitted uses may be authorized by variance.

6.03.06 A variance may not enlarge or expand nonconformities.

6.03.07 In order for a variance to be granted, the applicant must produce substantial competent and credible evidence to show, and the Board of Adjustment must conclude, the following:

A. Unnecessary hardship would result from the strict application of the Ordinance; however, it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and

B. The hardship results from conditions that are peculiar to the property such as location, size or topography; however, 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; and

C. The hardship did not result from actions taken by the applicant or the landowner however the act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

D. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

6.03.08 In granting variances, the Board may impose appropriate conditions reasonably related to the condition or circumstance that give rise to the variance and which will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

6.03.09 A variance may be granted for a limited or indefinite duration.

6.03.10 Water Supply Watershed Variances

A. Before a Water Supply Watershed Variance is heard by the Board, the Administrator shall notify in writing each local government having jurisdiction in the watershed as well as any entity using the watershed for water consumption.
1. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Administrator prior to a decision by the Watershed Review Board, which for this purpose shall be the Board of Adjustment. Such comments shall become a part of the record.

2. In considering the decision whether to recommend that a major variance from the requirements of Article 29 be granted, the Board shall apply the criteria of Subsection 6.03.07.

3. The Board may place appropriate conditions on the recommended approval of the major variance but they must be reasonably related to the variance.

B. If the Board recommends that a major variance be granted, the Administrator shall promptly prepare a preliminary record of the hearing and transmit it to the North Carolina Environmental Management Commission, (hereafter “EMC”) for its consideration. The preliminary record shall include:

1. The variance application; and
2. The hearing notices; and
3. The evidence presented; and
4. Motions, offers of proof, objections to evidence, and rulings on them; and
5. Proposed findings and exceptions; and,
6. The proposed decision, including all recommended conditions. Proposed conditions should be appropriate and reasonably related to the variance.

C. The Board shall take final action in accordance with the decision by the EMC:

1. If the EMC approves the variance as proposed, the Administrator shall prepare a final decision granting the recommended major variance and the Board shall adopt the decision at its next meeting.

2. If the EMC approves the variance but makes modifications to the recommended major variance, the Administrator shall prepare a final decision, in accordance with the action of the EMC, and the Board shall adopt the modified decision at its next meeting.

3. In the EMC denies the recommend major variance the Administrator shall prepare a final decision in accordance denying the major variance, and the Board shall adopt the denial at its next meeting.

6.03.11 Special Flood Hazard Area Variance

A. A Special Flood Hazard Area variance may be issued for:
1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

2. Functionally dependent facilities if determined to meet the definition as stated in Article 34, provided such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

3. Any other requirements of Article 30.

B. Limitations on Variances:

1. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or Ordinances.

2. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued prior to development approval.

5. Variances shall only be issued upon:
   a. A showing of good and sufficient cause;
   b. A determination that failure to grant the variance would result in exceptional hardship; and
   c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.

C. A written report addressing each of the factors in 6.03.11(D) shall be submitted by the applicant with the application for a variance.

D. The Board shall consider all technical evaluations, all relevant factors, all standards specified in other Sections of Article 30, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location as a functionally dependent facility, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

E. Upon consideration of the factors listed in Subsection 6.03.11(D) and the purposes of this Article 30 Flood Damage Prevention, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of Article 30.

F. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

G. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

6.03.12 Voting: The adoption of each conclusion of law under Subsection 6.03.07 and the granting of a variance shall require a four-fifths vote of the Board. Should any conclusion of law receive less than a four-fifths vote, the variance shall be denied.

6.03.13 Variances shall be recorded at the office of the Watauga County Register of Deeds.

(Ord. PL02335-030719, 05-09-2019; Ord. PL04727-050721, 07-01-2021)

6.04 Appeals of Administrative Decisions

6.04.01 Administrative decisions on applications for minor work may be appealed to the Historic Preservation Commission.
6.04.02 The Board of Adjustment shall hear and decide appeals of all other administrative decisions made by staff including decisions related to erosion and sedimentation control and stormwater control.

6.04.03 An appeal is taken by filing a notice of appeal with the Planning and Inspections Department on the prescribed form, accompanied by the required fee. The notice of appeal shall state the grounds for the appeal, which should generally be sufficient to allow for a thorough understanding by the board of the decision appealed.

A. An appeal may be filed by any of the following:

1. A person who has an ownership interest in the property that is the subject of the decision being appealed.

2. A person who has a leasehold interest in the property that is the subject of the decision being appealed.

3. A person who has an interest created by easement, restriction or covenant in the property that is the subject of the decision being appealed.

4. A person who has an option or contract to purchase the property that is the subject of the decision being appealed.

5. A person who was the applicant for the decision in question.

6. Any other person who will suffer special damages as the result of the decision being appealed.

7. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

8. The Town.

B. An appeal of an administrative decision, including the imposition of penalties, must be taken within thirty (30) days after the date of the receipt of the notice of the determination in the case of the owner or the applicant, or thirty (30) from actual or constructive notice by any other person with standing to appeal.

1. Delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, except that an earlier date can be established by a return receipt for a certified mail notice. Delivery by electronic mail shall be deemed received on the date sent.

2. Constructive notice shall include, but shall not be limited to, any visible signs of the initiation of construction work on a site.
3. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches (6") high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten (10) days. Any such posting shall be the responsibility of the landowner or applicant, and verification of the posting shall be provided to the official who made the decision. Posting of signs however is not required.

6.04.03 Once the appeal has been filed, the Administrator shall schedule a public hearing at the first available meeting and give public notice in accordance with Subsection 6.01.04.

A. The Administrator shall prepare a report detailing the facts relevant to the decision and shall transmit to the board all documents and exhibits constituting the record of the decision from which the appeal is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

6.04.04 Appeal Stays Enforcement Action:

A. An appeal of a decision of violation under Subsection 12.01.01 stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal unless the Administrator who made the decision certifies to the Board after notice of appeal has been filed:

1. That because of the facts stated in an affidavit, a stay would cause imminent peril to life or property, or

2. Because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance.

B. The appellant shall be notified of the Administrator’s certification.

C. Following certification, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

D. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal.

1. The Board shall meet to hear the appeal within fifteen (15) days after such a request is filed.

E. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development permits or permissions to use such property; in these situations, the appellant may request and the board may
grant a stay of a final decision of development permit applications or building permits affected by the issue being appealed.

F. The certification and stay procedures of this Section shall not apply with regard to the pursuit of criminal charges where appropriate.

6.04.05 Deviations from Matters Presented in Notice of Appeal: The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

6.04.06 Scope of Hearing: The hearing shall be based on the record below and the scope of review shall be as follows:

A. The board shall ensure that the rights of the appellant have not been prejudiced because the Administrator’s findings, inferences, conclusions, or decisions were:
   1. In violation of constitutional provisions, including those protecting procedural due process rights.
   2. In excess of the statutory authority conferred upon the Town by ordinance.
   3. Inconsistent with applicable procedures specified by statute or ordinance.
   4. Affected by other error of law.
   5. Unsupported by substantial competent evidence in view of the entire record.
   6. Arbitrary or capricious.

B. When the issue before the board is whether the Administrator erred in interpreting an ordinance, the board shall review that issue de novo. The board shall consider the interpretation of the Administrator, but is not bound by that interpretation, and may freely substitute its judgment as appropriate.

6.04.07 The parties to an appeal that has been made under this Section may agree to mediation or other forms of alternative dispute resolution. If all parties confirm they wish to engage in alternative dispute resolution, the board shall adjourn the hearing to give them a reasonable opportunity to do so.

6.04.08 Decision

A. The board may reverse or affirm, wholly or in part, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the Administrator who made the decision.

B. When hearing an appeal regarding the amount of a civil penalty, the board shall consider the following to the extent relevant, in addition to such other circumstances as the board deems relevant:
1. The timing and effectiveness of any action taken by the appellant to remedy the situation;
2. The cost of the action required to remedy the violation;
3. The timeframe of any previous violation and the similarity of the previous violation to the current violation committed by the appellant; and
4. Penalties incurred as a result of delay in the appellant’s obtaining a determination with respect to the violation as a result of the Board’s meeting schedule.

C. The board may reduce the penalty imposed if it determines:
   1. That the appellant has acted in good faith, and
   2. That the failure of the appellant to correct a violation is the result of circumstances beyond the appellant’s control, or
   3. That there are other circumstances which make the amount of the presumptive civil penalty unfair under in that particular case.

6.04.09 Voting: The decision shall be by majority vote.

6.05 Appeal of Decisions of the Historic Preservation Commission

6.05.01 The Board of Adjustment shall hear and decide appeals of any decision by the Historic Preservation Commission granting or denying a Certificate of Appropriateness (“COA”).

6.05.02 An appeal of the issuance or denial of a COA is initiated by a person timely filing a Notice of Appeal, in accordance with Article 4, accompanied by the required fee.

A. An appeal may be filed by any of the following:
   1. A person who has an ownership interest in the property that is the subject of the decision being appealed.
   2. A person who has a leasehold interest in the property that is the subject of the decision being appealed.
   3. A person who has an interest created by easement, restriction or covenant in the property that is the subject of the decision being appealed.
   4. A person who has an option or contract to purchase the property that is the subject of the decision being appealed.
   5. A person who was the applicant for the decision in question.
   6. Any other person who will suffer special damages as the result of the decision being appealed.
   7. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property
in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

8. The Town.

B. An appeal of a decision by the Historic Conservation Commission on an application for a Certificate of Appropriateness must be taken within thirty (30) days after the date of the receipt of the notice of the decision. The date of receipt shall be conclusively presumed as three days after the notice of the decision or order appealed from has been deposited in the United States mail by the Administrator, with proper postage affixed, and addressed in accordance with the provisions of Section 1.13 except that an earlier date can be established by a return receipt for a certified mail notice. The date of receipt of an email is the date of transmission.

C. An appeal is taken by filing a notice of appeal with the Administrator on the prescribed form, accompanied by the required fee. The notice of appeal shall state the grounds for the appeal, which should generally be sufficient information to allow for a thorough review by the Board.

D. The Administrator shall stamp the appeal with the date received

6.05.04 Appeal Stays Commission Decision:

A. A decision by the Historic Preservation Commission granting a Certificate of Appropriateness shall be stayed while the appeal is pending.

6.05.05 Burden of Proof: The burden of proof and burden of persuasion shall be on the party appealing the decision of the Commission.

6.05.06 Scope of Action: An appeal of a Commission decision shall be in the nature of certiorari. The hearing shall be based on the Commission record and the scope of review shall be as follows:

A. The Board shall uphold the decision of the Commission unless it finds the decision is:
   1. In violation of constitutional provisions, including those protecting procedural due process rights.
   2. In excess of the authority conferred upon the Commission by statute or ordinance.
   3. Inconsistent with applicable procedures specified by statute or ordinance.
   4. Affected by other error of law.
   5. Unsupported by substantial competent evidence in view of the entire record.
   6. Arbitrary or capricious.
B. The term "competent evidence," as used in this Section, shall not preclude reliance by the Commission on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if the evidence appears to be sufficiently trustworthy and was obtained under such circumstances that it was reasonable for the Commission to rely upon it.

6.05.07 Board Action

A. The Board may reverse or affirm, wholly or in part, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the Commission which made the decision.

(Ord. 20160438, 03-16-2017; Ord. PL04727-050721, 07-01-2021)

6.06 Appeals from Decisions under the Minimum Housing Ordinance.

6.06.01 The Board shall hear appeals of decisions issued under the Town’s Minimum Housing Code by the Housing Inspector. Such appeals shall proceed and be decided pursuant to the general procedural provisions set forth in section 6.01 of this Article and the applicable provisions of the Minimum Housing Code. In the event of any conflict, the provisions of the Minimum Housing Code shall prevail.

(Ord. PL04727-050721, 07-01-2021)

6.07 Judicial Review

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

B. A petition for review by the superior court shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with Subsection 6.01.09(E).

C. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 7  NONCONFORMITIES

7.01 General Regulations

7.01.01 Scope: The regulations of this Article govern lots, uses, structures, signs and other aspects of development that came into existence lawfully but do not conform to one or more requirements of this Ordinance. A “nonconformity” as used herein, must always have been legally created or as result of an acquisition pursuant to Section 7.02.

7.01.02 Continuance: A nonconformity may be continued, enlarged or modified only in accordance with the provisions of this Article.

7.01.03 Classification of Nonconformities: Nonconformities are divided into the following categories:

A. Nonconforming Use
B. Nonconforming Lot
C. Nonconforming Sign
D. Nonconforming Situation

7.01.04 Determination of Nonconforming Status: The burden of establishing a legal nonconformity shall be solely upon the owner of such nonconformity.

7.01.05 Duration: Except as provided hereafter, a nonconformity runs with the land.

7.01.06 Variance: Where a variance or an insignificant deviation has been granted for a development standard or feature that does not otherwise conform to the requirements of this Ordinance, that development standard or feature shall be deemed conforming.

7.01.07 Financial Hardship: Financial hardship shall not be a basis for finding that compliance with this Article is not reasonably practicable or impossible.

7.01.08 Determination of Practicability or Impossibility: The Administrator shall make the final determination as to the extent compliance with the Ordinance is practicable and to the extent which it is impossible.

7.01.09 Contiguous Ownership: When possible, nonconforming lots must be combined with other undeveloped lots to create conforming lots. If full compliance can be achieved with the combination of contiguous lots in single ownership or control, no reduction in any standard authorized under this Article may be applied.
7.01.10  **Extent:** The extent or boundary of any nonconformity shall be based upon its condition, extent or location at the time it became nonconforming.

A. With respect to uses of open land, such as mining, in which a permit has been obtained from the State of North Carolina and the activity pursuant thereto has commenced prior to the time the use became nonconforming, the extent or boundary or the nonconformity shall be considered the limits of land authorized for mining pursuant to the permit.

7.02  **Nonconformities Created by Public Acquisition**

7.02.01  A structure, situation or lot of record that is rendered nonconforming as a result of acquisition of a portion of the lot by an entity authorized and for the purposes described N.C. Gen. Stat. § 40A-3 shall be considered conforming only through a receipt of a Certificate of Conformity.

7.02.02  An application for a Certificate of Conformity shall be processed pursuant to Article 4 and shall include:

A. A legal description of the land subject to the public acquisition; and

B. The name and address of the owner of the land; and

C. The name and address of the acquiring entity and its representative; and

D. Proof of the public acquisition proceeding; and

E. A certified as-built survey, no greater than one-year-old, of the development subject to the acquisition proceeding. The survey must demonstrate:

   1. The boundaries of the acquisition, and

   2. All structures, including parking, and any other relevant development features.

   and

F. A site plan, in compliance with Appendix A, indicating the post-acquisition development.

7.02.03  The Certificate of Conformity shall be issued if the following standards are met:

A. The site plan is designed for the development, consistent with the use requirements, which minimizes to the greatest degree practicable any nonconformities including but not limited to: lot dimensions, parking, landscaping, stormwater infrastructure, lighting, and pedestrian infrastructure.

B. The development can function adequately for the use.

C. If a change of use is proposed, it is approved by the appropriate permit-issuing authority; provided, a new nonconforming use may not be allowed.
7.03 Nonconforming Use

7.03.01 A nonconforming use may continue indefinitely unless discontinued as described in Section 7.03.05.

7.03.02 Extension or Enlargement of a Nonconforming Use:

A. No increase in the volume, frequency or intensity of a nonconforming use is allowed.

B. A nonconforming use may not be expanded, enlarged, or extended to occupy a greater area of land or floor area.
   1. A single-family dwelling (Use 1.01) may expand floor area of a principal structure but may not expand the footprint.

C. A nonconforming use may not be relocated, in whole or in part, to another portion of the subject lot.

7.03.03 Repair, Maintenance, and Change in Equipment:

A. Normal repair and maintenance may be performed to allow the continuation of a nonconforming use.

B. A change in equipment may be allowed as long as it does not result in an increase or expansion of activity.

7.03.04 Change of Use:

A. Any change of use may only be to a permissible use.

B. For an existing development, a change of use from one that does not trigger transitional zone standards to one that does trigger transitional zone standards may only be authorized pursuant to approval of a special use permit or a Conditional District zoning map amendment.

C. All other changes of use that do not involve any new development do not require increased compliance with current Ordinance standards.

D. All changes of use that involve new development are governed by Section 7.05.

7.03.05 Discontinuance of Nonconforming Use:

A. A nonconforming use that ceases operations for any reason for a period of 180 days within any twelve (12) month time period may not be reestablished. Any subsequent use of such land must be a permitted use. However, when a use is involuntarily discontinued because an essential structure is destroyed or damaged by fire, flood, wind, other act of God, the use shall not be considered discontinued so long as a building permit for the repair or restoration is issued within six (6) months and the use is resumed within twelve (12) months of the date the development permit is issued. For nonconforming structures see Section 7.05.
1. Exception: When a use made non-conforming by a Town-initiated rezoning has an essential structure destroyed or damaged by fire, flood, wind, other act of God, the use shall not be considered discontinued so long as a building permit for the repair or restoration is issued within twelve (12) months and the use is resumed within twenty-four (24) months of the date the development permit is issued. This exception expires five (5) years after the effective date of the rezoning, after which the standard rule provided in the preceding paragraph shall apply.

B. Discontinuance of one nonconforming use in a development containing multiple principal nonconforming uses does not affect the right to maintain remaining nonconforming uses.

C. A use that is accessory to a principal nonconforming use may not be continued after the principal use has been discontinued, unless the use is also permissible as a principal use.

7.03.06 Nonconforming Use Exception: Any existing building that has been legally permitted as use 1.01 Single-Family Dwelling, 1.02 Manufactured Home “Class A”, 1.03 Manufactured Home “Class B”, or 1.06 Duplex (one duplex building per lot), that is made nonconforming by a change in the permissible use table or by town-initiated zoning map change may continue or be replaced regardless of any period of cease in operation. Additionally, the property may revert back to a prior legal residential use and/or be improved so long as improvements comply with applicable intensity standards.


7.04 Nonconforming Lot of Record

7.04.01 A nonconforming lot of record can generally be used as proposed as if it were conforming.

A. When a use is proposed which requires a greater lot size than the minimum established for the district the use may not be approved.

7.04.02 The site plan for a nonconforming lot of record must be consistent with all use requirements, and must minimize the impacts of any existing nonconformity to the greatest degree practicable. No new nonconformity may be created.

7.04.03 Setbacks: Notwithstanding Subsection 7.03.02, no required setback may be reduced without the following findings by the permit-issuing authority:

A. The lot cannot be developed for a permissible use without such deviation.

B. No significant adverse impact on surrounding properties or the public health or safety will result from the proposed development.

C. A proposed single-family dwelling (Use 1.01), conforming in all other respects except for area or width, which cannot meet the applicable minimum setbacks, may be approved with the following limitation: Absent a variance, there may be no reduction
greater than fifty percent (50%) of a setback and the dwelling must be at least ten feet (10') from all other structures on an adjacent lot.

D. For all other developments which cannot meet the applicable minimum setbacks, absent a variance, there may no reduction greater than twenty percent (20%).

7.04.04 This Section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structure upon it.

(Ord. PL04727-050721, 07-01-2021)

7.05 Nonconforming Situation

7.05.01 Alteration of a Nonconforming Situation:

A. Subject to Subsection 7.05.06, a nonconforming structure may be altered so long as no new nonconformity is created nor existing nonconformity increased.

7.05.02 Development requiring compliance with UDO:

A. Cost of development as referenced herein shall be measured by adding together the costs that will be incurred in all development activity as proposed, together with the development activity other than normal maintenance and repair that has been permitted within the prior thirty-six (36) months.

B. All new structures or portions of structures must comply with all Ordinance requirements. However, when a nonconforming structure is destroyed or damaged by fire, flood, wind, other act of God, the structure may be repaired or restored to its original dimensions and conditions as long as the structure is not located in a Floodway or Special Flood Hazard Area, a building permit for the repair or restoration is issued within one (1) year and the structure is occupied within two (2) years of the date the building permit is issued.

1. A nonconforming structure damaged by other cause to such extent that repair, reconstruction or restoration is expected to cost more than fifty percent (50%) of the total value of the structure, must be removed.

C. Compliance of existing development with the requirements of the Ordinance shall be triggered by the costs of proposed new development (excluding any costs associated with improvements made due to compliance with this Section) in accordance with the following tiers. The Administrator may require certification of the new development by a competent professional. The following tiers are cumulative in effect:

1. **Tier 1:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed ten percent (10%) of the value of the development shall comply with the following, to the extent practicable:

   a. Bicycle parking in accordance with Section 24.09.
b. Landscape improvements pursuant to Section 31.09 Screening Along Streets with a priority given to large deciduous trees.

2. **Tier 2**: Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed twenty-five percent (25%) of the value of the development shall comply with the following, to the extent practicable:
   a. Solid waste and recycling containers pursuant to Section 22.13.
   b. Signs pursuant to Article 26.
   c. Color requirements in accordance with Subsection 25.02.05.
   d. Lighting in accordance with Section 25.05.
   e. Landscape improvements pursuant to Section 31.06 Buffer and Screen Requirements with a priority given to large deciduous trees.

3. **Tier 3**: Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed fifty percent (50%) of the value of the development shall require compliance with the following, to the extent practicable:
   a. Drainage and stormwater requirements pursuant to Article 21.
   b. Pedestrian circulation and sidewalk requirements pursuant to Section 23.08.
   c. Parking requirements pursuant to Article 24.
   d. All other requirements of Article 25 Community Appearance Standards.
   e. All other requirements of Article 31 Landscape Standards.
   f. Corridor District requirements pursuant to Article 14.

4. **Tier 4**: Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed seventy-five (75%) of the value of the development shall require compliance with all requirements of the UDO unless compliance is impossible, provided this section shall not require replacement of or substantial change to a façade that is in good condition.

(Ord. PL04727-050721, 07-01-2021)

7.06 **Discontinuance of Nonconforming Structure**

A. A nonconforming building that is unused for any reason other than destruction by an act of God (which is governed by Subsection 7.05.02(B)), for a continuous period of twenty-four (24) months may no longer be used unless in compliance with all Ordinance requirements to the extent practicable.

B. A nonconforming structure, other than a building, which is the principal structure on a lot, which is unused for a continuous period of six (6) months, may no longer be used except in compliance with all Ordinance requirements to the extent practicable.
C. A nonconforming structure which is in such a state of disrepair or neglect so as to no longer function as intended may no longer be used and must be removed.

D. Discontinuance of one nonconforming structure in a development containing multiple principal nonconforming structures does not affect the right to maintain remaining nonconforming structures.
8.01 Historic Districts

8.01.01 Designation of Historic Districts: Upon recommendation by the Historic Preservation Commission or on its own initiative the Council may designate Historic Districts as overlay districts in the Town’s planning jurisdiction in accordance with the procedures set forth in Article 9. However, no historic district shall be designated until:

A. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and

B. The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or their designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the Town within thirty calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Town of any responsibility for awaiting such analysis, and the Council may at any time thereafter take any necessary action to amend the zoning map.

8.01.02 Modification of Historic District Boundaries and Creation of Additional Districts.

A. After its initial designation of Historic Districts, should the Council wish to make changes in the boundaries of any such district subsequent to its initial establishment, or create additional districts within the jurisdiction, the investigative studies and reports required by Subsection 8.01.01 of this Section shall be prepared by the Historic Preservation Commission, and shall be referred to the Planning Commission for its review and comment in accordance with the procedures set forth in Article 9. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the North Carolina Department of Cultural Resources in accordance with the provisions of Subsection 8.01.01.

B. On receipt of these reports and recommendations, the Council may proceed to amend the Town’s zoning map in accordance with Article 9 of this Ordinance.
8.02 Landmarks

8.02.01 Designation of landmarks.

A. The Council may adopt, amend or repeal Ordinances designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

B. Each property designated as a landmark shall be identified in the Ordinance, along with the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the Council deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the Ordinance shall require that the waiting period set forth in this Article be observed prior to its demolition. For each designated landmark, the Council may also provide for a suitable sign on the property indicating that the property has been so designated, and if the owner consents, the sign shall be placed upon the property. Otherwise, the sign shall be placed on a nearby public right-of-way.

8.03 Application Required

8.03.01 From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a Statement of Conformity (SOC) for minor work or a Certificate of Appropriateness (COA) for major work has been approved as detailed herein.

A. A SOC or COA must be approved prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing any structures.

B. A SOC or COA may be issued subject to reasonable conditions necessary to carry out the purposes of this Article.

C. A SOC or COA is required whether or not a building permit or other permit is required.

D. Exception: Ordinary maintenance or repair of the exterior features of a building does not require approval through the SOC or COA process. Ordinary maintenance or repair includes only such work as does not involve a change in design, material, or appearance of any exterior features of a building or other structure. Proposals to engage in ordinary maintenance or work must be submitted for review pursuant to such
process(es) as the Administrator may require to confirm whether or not the activity meets the standards for the exception.

8.03.02 For purposes of this Section, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. Such "exterior features" shall include historic signs, color, and significant landscape, archaeological, and natural features of the area.

8.03.03 In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs.

8.03.04 Except as provided in 8.03.05, the Historic Preservation Commission shall have no jurisdiction over interior arrangement and shall take no action under this Section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the landmark or district.

8.03.05 Notwithstanding Subsection 8.03.01, jurisdiction of the Historic Preservation Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately-owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the Watauga County Register of Deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Historic Preservation Commission's jurisdiction over the interior.

8.03.06 All applications for Certificates of Appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a Certificate of Appropriateness is filed, as defined by the Historic Preservation Commission's Rules of Procedure. As part of its review procedure, the Commission may view the premises and seek the advice of the North Carolina Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

8.03.07 An appeal may be taken to the Board of Adjustment from the Historic Preservation Commission's action in granting or denying any certificate in accordance with the procedures set forth in Article 6.

8.03.08 This Article shall apply to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, excluding the interiors of buildings or structures owned by the State of North Carolina. The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under N.C. Gen. Stat. § 121-12(a) from any
decision of the Historic Preservation Commission. The decision of the North Carolina Historical Commission shall be final and binding upon both the State and the Town of Boone Historic Preservation Commission.

(Ord. PL04727-050721, 07-01-2021, Ord. PL05504-021822, 06-08-2022)

8.04 **Statement of Conformity for Minor Work**

8.04.01 Upon application, the Administrator may issue a Statement of Conformity (SOC) approving changes to a structure or a site that are judged not to have significant impact on the historical integrity or character of the property (“minor work”).

A. The application for a SOC approving minor work is reviewed by the Administrator on the basis of the standards adopted for the landmark or district in accordance with the provisions of Article 4.

B. Minor works that may be approved pursuant to issuance of a SOC include by way of example, but are not limited to the examples described as minor work at Table 8.05.03 below.

C. When the Administrator determines that an application for approval of a SOC involves major work or otherwise does not meet the requirements for SOC approval, or presents factual or legal issues or matters of discretion not appropriately determined by staff, the application will be forwarded to the HPC for review as a COA application for major work. Upon such action by the Administrator, the applicant is required to submit such additional information or documentation as may be required for the COA review process.

8.04.02 Reserved.

8.04.03 Applications.

A. **Pre-Application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance.

B. In addition to meeting the requirements of Appendix A as applicable, applications shall include:

1. Written description of the proposed work: The application shall describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).

2. Design Standards References: The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed request.

3. Photographs of Existing Conditions: The application shall include contemporaneous photographs showing the current conditions of the area where the work will be
completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.

4. Site Plan: For development which includes modifications to the site in addition to a structure, the applicant shall provide scaled drawings prepared in accordance with UDO Appendix A. These drawings should depict at least the relationship of all existing structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. Tree caliper sizes should be indicated as measured from four and a half feet (4.5’) above the earth’s surface.

5. Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

(Ord. PL05044-083121, 10-21-2021, Ord. PL05419-010622, 02-09-2022, Ord. PL05504-021822, 06-08-2022)

8.05 Certificate of Appropriateness for Major Work

8.05.01 Major work includes all other work not considered as either ordinary or routine maintenance or minor work. Major work requires a COA Application and a quasi-judicial hearing before the Historic Preservation Commission for approval.

A. All public hearings on Certificates of Appropriateness for major work shall be conducted in a quasi-judicial manner as described in Article 6.

8.05.02 Major works that must be approved pursuant to issuance of a COA include by way of example, but are not limited to the examples set forth at Table 8.05.03 below.

8.05.03 Table of Minor Work and Major Work in the Historic District

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New construction of or additions to structures, except as specifically provided otherwise herein.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Accessory Buildings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind¹ repair of existing accessory building</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind replacement of existing, non-contributing accessory building</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demolition of an existing, non-contributing accessory building</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New construction, modification or an addition to an accessory building on a tertiary elevation not visible from a public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations²</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>ADA</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>In-kind repair or replacement of existing ADA features</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of temporary accessibility ramps</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

¹ In-kind repair or replacement of existing accessory building that is consistent with existing design.
² All other alterations that are not considered to be in-kind or otherwise consistent with existing design.
<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Installation of ADA-required features on tertiary elevations not visible from a public street</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Architectural Features (not to include items specifically addressed in other categories) (may include but are not limited to cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, decorative moldings, quoins, columns, brickwork, string courses)</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>In-kind repair/replacement of any existing architectural feature</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition, removal, or alteration of an architectural feature on tertiary elevation not visible from a public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Awnings, Canopies, or Shutters</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing awning, canopy or shutters</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition of awnings, canopies or shutters on tertiary elevation not visible from a public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of an awning, canopy or shutters on a non-contributing structure</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decks, Patios, and Sidewalks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing deck, patio, or sidewalk; addition of public sidewalks</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additions of decks, patios, and sidewalks on tertiary elevations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demolition and Relocation</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Except as otherwise specifically provided herein, any removal, relocation, or demolition of any structure or part thereof</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal/alteration of archaeologically significant features</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Any work that is likely to disrupt or damage known or discovered archaeological resources on the site</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Doors &amp; Windows</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>In-kind repair/replacement of any door or window, including casing, frames, and trim</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of storm windows where divided mullions of storm windows and doors align with windows and doors behind</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of skylights within a tertiary elevation or where the skylight is not publicly visible</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition, removal, or modification of a door or window on tertiary elevations not visible from public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other installation, removal, addition or modification of doors or windows, including construction of new openings and replacement, removal, or modification of existing openings</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Driveways</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing driveways</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additions/alterations of driveways on tertiary elevations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Fences</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>In-kind repair/replacement of existing fence</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additions/alterations of fences on tertiary elevations or not visible from public streets</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description of Work</td>
<td>Routine Maintenance</td>
<td>Minor Work (SOC)</td>
<td>Major Work (COA)</td>
</tr>
<tr>
<td>---------------------------------------------------------</td>
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<td>------------------</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exterior Surfaces Materials (Masonry, Siding, etc.)</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>In-kind repairs/replacement, including repointing, to existing exterior surfaces when the material, color, composition of the new material matches the existing exterior surface (includes requirement that the composition of mortar match the original)</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Foundations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair of a foundation</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Alteration of a foundation on a tertiary elevation not visible from a public street</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Gutters and Downspouts</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of gutters and downspouts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of gutters and downspouts that match the house or trim color as long as no historic features are damaged or removed.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of gutters or downspouts that are not historic to the building</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Landscaping</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insignificant landscaping including vegetable and flower gardens and shrubbery</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Pruning of trees and/or shrubbery</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Removal of trees less than 25 inches in diameter</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Removal of trees that are dead, dangerous per adequate documentation from licensed arborist</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of any invasive species (landscape material) as listed on the Invasive Plants Found in the Mountains of North Carolina list published by the NC Invasive Plant Council</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of any tree 25 inches or greater, unless documented as dead or dangerous</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Mechanical Systems/Equipment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of any existing mechanical systems, vents, and related equipment</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of existing mechanical systems, vents and related equipment</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Installation of mechanical systems, vents, and related equipment on tertiary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Installation of window air conditioners</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>All other installations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Painting</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/re-painting of a previously-painted surface</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other painting, including the painting of exterior surfaces not previously painted</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Parking Lots</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>In-kind repair/replacement of existing parking lots</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Insustantial alterations of existing parking lots and removal of non-historic parking lots</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
### Description of Work

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Public Art</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/maintenance of previously-approved and installed public art</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Replacement of previously-approved and installed public art with artwork of essentially identical mass, proportions, and general features (e.g., a statue replacing a statue, or one mural design replacing another)</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>New installation or substantial modification of public art in the local historic district</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Roofs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of roof coverings</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Repair/replacement of roof coverings not publicly visible</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations, including any modification of roof line</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Satellites</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>In-kind repair/replacement of existing satellite dishes</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition of satellite dishes on tertiary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of satellite dishes</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Signs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing permanent sign</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition/alteration of temporary sign or approved historic house marker</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Addition/alteration of permanent sign on a non-contributing building</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Addition/alteration of permanent sign on a contributing building</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of non-historic permanent sign</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of historic permanent sign</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Solar</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing solar energy system</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition/alterations of solar panels on tertiary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of solar panels</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Miscellaneous</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of house numbers and mailboxes</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establishment of exterior fire exits on tertiary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Establishment of exterior fire exits on secondary and primary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Notes:**

1. “In-kind” means having no change in the design, construction method and materials, and general appearance of the existing or original historic feature.
2. “Alteration” means and includes new construction or installation, modifications, additions, removal or demolition, and any other material change.

### 8.05.04 Applications

**A. Pre-application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to
minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. At this meeting, Staff shall inform applicants on application requirements and provide assistance on identifying possible resources to obtain historic information.

B. In addition to the meeting the requirements of Appendix A as applicable, applications shall include:

1. Written description of the proposed work: The application shall describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).

2. Design Standards References: The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed project.

3. Photographs of Existing Conditions: The application shall include contemporaneous photographs showing the current conditions of the area where the work will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.

4. Site Plan: The application shall provide scaled drawings showing the relationship of all existing structures, driveways, sidewalks, fences, drives, lighting, and trees to the property lines and identify the location of any and all proposed changes. Tree caliper sizes should be indicated as measured from four (4) feet above the earth’s surface.

5. Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

6. Elevations: The application shall provide architectural drawings showing all elevations, including scale, where proposed work will occur.

7. For Projects Involving Demolition or Relocation: The application shall describe the structure, the reason for its demolition or relocation, the proposed reuse of the site, as well as plans for new landscaping at the site.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05502-021822, 04-13-2022, Ord. PL05504-021822, 06-08-2022)

8.06 Remedies for Unapproved Work

8.06.01 The Council or other party aggrieved may institute any appropriate action or proceedings to prevent unlawful demolition, destruction, material alteration, remodeling or removal, to
restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to a designated building, structure, site, area or object.

(Ord. PL04727-050721, 07-01-2021)

8.07 Certain Changes Not Prohibited

8.07.01 Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, material or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition.

8.07.02 Nothing in this Article shall be construed to prevent a landowner from making any use of his property that is not prohibited by other law.

8.07.03 Nothing in this Article shall be construed to prevent a) the maintenance, or b) in the event of an emergency the immediate restoration, of any existing above-ground utility structure without approval by the Historic Preservation Commission.

(Ord. PL04727-050721, 07-01-2021)

8.08 Delay in Demolition of Landmarks and Buildings Within Historic District.

8.08.01 An application for a Certificate of Appropriateness (COA) authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within the district may not be denied except as provided in Subsection 8.08.03.

A. However, the effective date of such a Certificate may be delayed for a period of up to 365 days from the date of approval.

1. The period of delay authorized by this Section shall be reduced by the Historic Preservation Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay.

2. If the Historic Preservation Commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

3. The Historic Preservation Commission may consider waiving or reducing the delay period on such conditions as it deems appropriate and reasonable.

4. The Historic Preservation Commission may require that the applicant or owner, at their cost, document the structure thoroughly through photographic, narrative, and other appropriate documentation.

a. Documentation should include photographs, site and/or floor plan, and descriptions of exterior and interior features of the structure, design, special
architectural features, materials, layout, conditions of the building, important landscape features, streetscapes, other structure(s) on site, and archeological significance of the site. Documentation shall be provided by a historic preservation consultant or professional listed by the North Carolina State Historic Preservation Office, resulting in a report that complies with Historic American Buildings Survey (HABS) guidelines.

b. Planning Staff will provide the owner, the applicant, or the legal representative a list of consultants provided by the North Carolina State Historic Preservation Office (SHPO) or preservation affiliates.

c. Documentation, including a complete set of photographs and all other documentary materials, shall be submitted to Planning and Inspections Staff for preservation by the Town. The adequacy of the report will be considered by the HPC during its next available quasi-judicial hearing; the report must be considered satisfactory by the HPC prior to issuance of a COA.

B. During any delay period, the Historic Preservation Commission shall negotiate with the applicant and/or owner to find a means of preserving the building or site.

1. When considering demolition of a historic building, the property owner is encouraged to seek all reasonable alternatives. Alternatives may include (but are not limited to):

   a. Adapting or renovating the property to suit the owner’s needs including pursuit of federal and state rehabilitation tax credits to offset the cost of such renovation.

   b. Selling the property to someone willing to preserve the building.

   c. Consulting a historic preservation professional or the North Carolina State Historic Preservation Office for suggestions of alternative possibilities.

2. In the COA application, the applicant shall document all alternatives that are investigated and/or attempted.

3. If the applicant contends that a historic structure lacks structural integrity and cannot reasonably be repaired or reconstructed, the applicant should submit competent evidence of the same, which may require the analysis and testimony of one or more experts in the relevant fields.

8.08.02 If the Historic Preservation Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not yet been made by the Council, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be
delayed by the Historic Preservation Commission for a period of up to 180 days or until the Council takes final action on the designation, whichever occurs first.

8.08.03 An application for a COA authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Office as having statewide significance as defined in the criteria of the National Register of Historic Places shall be denied except where the Historic Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

8.08.04 In reviewing a request to demolish a building in the district, the HPC also considers whether demolition will adversely affect other buildings in the district or the overall character of the district.

8.08.05 **Relocation within the Historic District:** Relocation is considered to be a “last resort” to demolition. Most historic buildings are strongly associated with the original site; therefore, relocation could threaten the historic integrity of a property. Relocation requires the HPC’s consideration.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05718-051822, 07-27-2022)
9.01 Amendments in General

9.01.01 Amendments to the text of this Ordinance (hereafter, “the UDO”) or to the Town’s officially adopted zoning map shall be made in accordance with the provisions of this Article.

A. All amendments adopted pursuant to this Article shall be by ordinance.

(Ord. PL04727-050721, 07-01-2021)

9.02 Initiation of Amendments

9.02.01 Text and Map Amendments

A. Citizen/Landowner Requests.

1. Text Amendments. Any person may request that Council set a proposed text amendment for consideration at the next available public hearing. The petition shall be filed with the Administrator and shall include at a minimum: (i) the name, address, and phone number of the applicant, and (ii) a summary of the specific objective of any proposed change in the text of this Ordinance. Such request shall be scheduled for consideration at the next available regularly scheduled Council meeting.

a. The Administrator may, in their discretion, prepare a written analysis of the proposed text amendment to assist Council in consideration of whether to forward the amendment for public hearing. Any such analysis by the Administrator shall address the conformity of the proposed amendment with the Comprehensive Plan and other officially adopted plans of the town, as well as such other matters as the Administrator deems relevant.
2. **Map Amendments.** Except as provided at subsection (C), any person may petition for a map amendment by submitting the required fee and a petition in such form and including such information as may be required by the Administrator. A completed map amendment will be set for hearing at the next available public hearing.

3. The petition shall be filed with the Administrator and shall include at a minimum:
   a. The name, address, and phone number of the applicant;
   b. A description of the land affected by the proposed amendment;
   c. A description of the proposed map change; and
   d. In the case of a Conditional District map amendment, those items described at Subsection 9.02.02 below.

B. In addition to proposed amendments submitted per subsection (A) above, the drafting of proposed text amendments and consideration of any text or map amendment at a public hearing may proceed:

1. Upon direction given by Council to staff either upon Council’s own initiative or upon Council’s consideration of a petition submitted pursuant to section (A) above; or

2. Upon the initiative of the Administrator or the Town Attorney, with the concurrence of both.

C. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall any such amendment be enforceable without the written consent of all landowner whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the city. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land (1) by decreasing the development density of the land to be less dense than was allowed under its previous usage, or (2) by reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

9.02.02 **Conditional District (CD) Map Amendment**

A. A property may be placed in a CD only in response to a petition by the owners of all property to be included.

1. No State-owned property may be placed in a CD without prior approval by the Council of State.

B. The petition shall be filed with the Administrator and shall include at a minimum:

1. The name, address, and phone number of the applicant,

2. A description of the land affected by the proposed amendment, and

3. A description of the proposed map change, and
4. A site-specific development plan and supporting documentation that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined Ordinance requirements, will govern the development and use of the property.

9.02.03 Council Consideration of Proposed Amendments

A. Upon consideration of a proposal to amend the UDO text or zoning map, Council may take any one or more of the following actions:

1. Direct further consideration and/or development of the amendment by Staff and/or the Planning Commission,

2. Authorize drafting of a proposed amendment if such has not already been drafted,

3. Set the proposed amendment for public hearing and consideration by the Planning Commission, and/or

4. Decline to authorize further consideration of the proposed amendment.

B. In the event Council directs a proposed amendment to be considered at a public hearing, such hearing may be scheduled at any such date, time and location as will allow proper notice to issue in advance of the hearing.

C. No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed amendment to assist the Planning Commission and Council in determining the conformity of the draft amendment with this Ordinance, the Comprehensive Plan and any other officially adopted plan of the Town that relates to the proposed amendment.

9.02.04 Modification of Applications After Distribution of Agenda Packet

A. Modification of Petition Between Distribution of the Agenda Packet and the Public Hearing:

1. Modification in Response to Administrator’s Recommendation or Request: An applicant may not significantly modify an application between the distribution of the Agenda Packet containing the Staff Report of the case and the public hearing unless the proposed modification is in direct response to a specific request or recommendation by the Administrator.

   a. A proposed modification, even in response to the Administrator’s recommendation or request, shall be submitted to the Administrator prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification.

   b. If the Administrator determines that the applicant did not submit the proposed modification prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the public hearing being rescheduled until the next regularly scheduled public hearing or withdrawal of the proposed modification.
2. **Insignificant or Minor Modifications in a Petition**: An applicant may make a non-substantial modification to an application between the distribution of the Agenda Packet containing the Staff Report and the scheduled public hearing.

   a. A proposed non-substantial modification shall be submitted to the Administrator prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification. However, if an applicant proposes an insignificant modification to a petition during the scheduled hearing, and the Administrator indicates that adequate time exists to fully evaluate the impacts of the modification with or without a recess by the Council, the modified application may be acted upon by the Council.

   b. If the Administrator determines that the petitioner did not submit the proposed modification prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled public hearing or withdrawal of the proposed modification.

3. **Major Modification of an Application**: A petitioner seeking to significantly modify an application between the distribution of the Agenda Packet containing the Staff Report of the case and the public hearing, whether in response to Staff recommendations or self-initiated, must file a new application.

4. **Determination as to whether a Proposed Modification is Insignificant, Minor or Major**: The Planning Director shall make the determination as to whether a modification is “insignificant”, “minor” or “major” in accordance with Section 4.16.

C. **Modification of Petition in Response to Concerns & Issues Raised at the Hearing**

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board an applicant may agree to modify an application, including the plans and specifications submitted.

2. Unless such modification is so substantial or extensive that the Council cannot reasonably be expected to perceive the nature and impact of the proposed change without revised plans before it, the Council may approve the petition with the condition that the development permit will not be issued until plans reflecting the agreed upon changes are submitted and approved by the Administrator.


9.03  **Hearing Required: Conduct of Hearing; Notice of Hearing**

9.03.01  **Hearing Required**
A. Text, General, and Conditional District Map Amendments are a legislative process subject to judicial review.

B. No action that amends or repeals any of the provisions of this Ordinance may be adopted until a public hearing has been held on such.

9.03.02 Conduct of Hearing

A. The Council and Planning Commission shall meet in joint session to hold the public hearing, and a quorum of each body must be present.

B. Public hearings on proposed amendments shall be conducted in accordance with the meeting schedule adopted by Council, so long as there are items for consideration.

C. A record of the public hearing will be prepared by Staff and minutes of the hearing submitted to the Planning Commission and Council as soon as practical following the public hearing.

D. Public hearings shall be conducted in accordance with rules for the hearing adopted by the Council.

E. The Mayor or other presiding officer may, at a minimum:
   1. Limit the length of time for each speaker, and
   2. Require the designation of a spokesperson for groups of persons supporting or opposing the proposed amendment for the same reasons, and
   3. Provide for the maintenance of order and order the removal from the hearing room of any person attempting to disrupt the hearing or to intimidate or belittle other speakers, and
   4. Limit the number of persons in the hearing room at any one time, insofar as the number of persons wishing to attend the hearing exceeds the safe capacity of the hearing room.

F. Public hearings shall be conducted as follows except as otherwise directed by Town Council:
   1. The applicant or other proponent of the proposed amendment shall present the requested amendment and answer questions posed by Planning Commission and Town Council members.
   2. Town staff (if not the proponent of the amendment) shall comment upon the proposed amendment and answer questions posed by Planning Commission and Town Council members.
   3. Any other persons wishing to speak on the proposed amendment shall be given an opportunity to do so and to answer questions posed by Planning Commission and Town Council members.
4. The meeting shall then be opened to comment and discussion by and among Planning Commission and Town Council members, who also may in their discretion seek further information from or otherwise involve Town staff, the applicant, and any other interested persons in the discussion.

G. Town Council and Planning Commission member shall endeavor to use the public hearing as a forum to voice and address concerns about the proposed amendment, so that each body can have the benefit of understanding the views and concerns of members of the other body.

H. In the case of Conditional District zoning applications, Town Council and Planning Commission members shall endeavor to use the public hearing as a forum to explore possible conditions that could be placed on the proposed development with the agreement of the applicant.

9.03.03 Hearing Notice

A. Legal Ad: For all amendments, the Administrator shall publish a notice of the public hearing no less than once a week for two (2) successive weeks in a newspaper having general circulation in the area.

1. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing.

2. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

B. Adjacent Landowner Notification: With respect to zoning map amendments, the Administrator shall mail written notice of the public hearing by first class mail to the owners, as shown on the listings of the Watauga County Tax Administration, of all properties whose zoning classification will be changed by the proposed amendment and owners of properties for which any portion is (i) within 150 feet of the subject property or (ii) separated from the subject property from the subject property only by a street or other transportation corridor.

1. Each notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

2. The person mailing such notices shall certify to the Council that fact, and such certificate shall be deemed conclusive in the absence of fraud. The certificate of mailing shall be included in the Administrator’s analysis of the proposed petition to the Council and Commission.

a. However, if the proposed zoning map amendment directly affects more than fifty (50) properties owned by a total of at least fifty (50) different landowners, the Council may direct notification, instead of by the aforesaid individually mailed notices, by publication of the notice described above, supra, alone, but the notice must be not less than one-half a newspaper page in size and must
be supplemented by individual notices by first class mail to landowners who reside outside the newspaper circulation area, according to the addressees listed on the most recent property tax listing for each affected property.

C. **Posting:** With respect to General and Conditional District Map Amendments, the Administrator shall also post notices of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right of way within at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

1. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Administrator shall post sufficient notices to provide reasonable notice to interested persons.

2. In addition, the Administrator shall take any other action deemed by the Council or Administrator to be useful or appropriate or desirable to give notice of the public hearing.

D. Every notice required by this Section shall:

1. State the date, time, and place of the public hearing, and

2. Summarize the nature and character of the proposed change, and

3. Reasonably identify the property whose zoning classification would be affected by the amendment if the proposed amendment involves a change in zoning district classification, and

4. State that the full text of the proposed amendment can be obtained from the Town Clerk, and

5. State that substantial and insubstantial changes in the proposed amendment may be made following the public hearing.


9.04 **Citizen Comment**

9.04.01 If any resident, property owner, business owner or other citizen in the Town submits a written statement regarding a proposed amendment to this unified development ordinance, including a zoning map or text amendment, to the clerk to the board at least two (2) business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to Council.


9.05 **Planning Commission Consideration of Proposed Amendments**

9.05.01 A proposed amendment shall be deemed submitted to the Planning Commission for review and comment upon the holding of the public hearing on the proposed amendment as
provided at subsection 9.03. Following the public hearing, the Planning Commission, may proceed to consider the proposed amendment:

A. In that same meeting,

B. At its next regularly-scheduled meeting and/or

C. At a subsequent special meeting, so long as proper notice is given thereof.

9.05.02 The Planning Commission may not reopen a public hearing or hold a second public hearing accept as approved by Town Council.

9.05.03 The Planning Commission may at any time in connection with its review and recommendation duties seek additional information from Town Staff, and such shall not be deemed the reopening or holding of a public hearing.

9.05.04 The Commission shall endeavor to provide a written report and written recommendation to the Council within 30 days of the public hearing. However, the Commission may apply to Council for an extension of time to submit its recommendations.

A. The Commission shall specifically advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan and other officially adopted plans that are applicable and whether the Commission recommends adoption of the proposed amendment.

B. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board

C. In its report to the Council, the Commission may comment, as it deems appropriate, on any matter related to the proposed amendment. By way of example and without limiting the foregoing, in the case of a proposed text amendment, the Commission may propose changes to the proposed text; and in the case of a Conditional District rezoning application, the Commission may propose that one or more conditions be requested by Council.

9.05.05 Rather than or in addition to making its written report, the Commission may recommend to Council that a second public hearing be held on the amendment in order to gather additional public comment or other information. Such a request shall not, however, preclude the Council from acting on the amendment once 30 days have elapsed from the initial public hearing. If Town Council approves a second public hearing, the Planning Commission shall have 30 days from the date of that second public hearing to make a written report to Town Council, and the Town Council shall not act on the application until that 30 days has elapsed.

9.05.06 No member of the Commission shall participate in the discussion or vote on any recommendations regarding any amendment where the outcome of the matter being
considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.


9.06 Council Action on Amendments

9.06.01 Council Action After Referral to the Commission:

A. At any meeting following the receipt of a written report and recommendation from the Commission or after thirty (30) days following the public hearing on a proposed amendment if the Commission fails to submit a written report, the Council may proceed with its consideration of the proposed amendment. Council may:

1. Adopt the proposed amendment; or
2. Adopt the proposed amendment with modifications; or
3. Reject the proposed amendment; or
4. Continue its consideration of the amendment to a later meeting date; or
5. Refer the proposed amendment back to Staff and/or the Planning Commission for such further consideration as Council may direct, including but not limited to a second public hearing.

B. A proposed amendment may only be adopted upon majority affirmative vote of Council. For purposes of any such vote, a failure to vote shall not be considered a vote in the affirmative.

C. The Council should endeavor to take action no later than sixty (60) days after the Commission submits its written recommendation.

D. A comment by the Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Council.

E. The Council is not bound by any other recommendation of the Planning Commission, including a recommendation that the proposed amendment be rejected.

F. In the event Council fails to act on a proposed amendment within ninety (90) days of submission of the Commission’s recommendation, such action shall be deemed a denial of the proposed amendment.

9.06.02 When adopting or rejecting any UDO text or map amendment, the Council:

A. Shall explicitly consider and address in its deliberations the Planning Commission’s recommendations and relevant portions of the comprehensive plan and any other applicable adopted plan.
B. Shall approve a statement analyzing the reasonableness of the proposed rezoning, which may consider among other factors; provided, that if the rezoning involves over 50 properties with more than 50 owners, the statement on reasonableness may address the overall rezoning:

1. the size, physical conditions, and other attributes of the area proposed to be rezoned,
2. the benefits and detriments to the landowners, the neighbors, and the surrounding community,
3. the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
4. why the action taken is in the public interest; and
5. any changed conditions warranting the amendment.

C. May adopt a brief statement describing whether its action is consistent with the Comprehensive Plan and any other officially adopted plan that is applicable and explaining why the Council considers the action taken to be reasonable and in the public interest; provided, that if the rezoning involves over 50 properties with more than 50 owners, the statement on reasonableness may address the overall rezoning. A plan consistency statement is not subject to judicial review.

D. May approve a statement of reasonableness and a plan consistency statement as a single statement.

9.06.03 If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required.

9.06.04 A proposed amendment submitted by an applicant may be withdrawn by the applicant at any time prior to final Town Council action on the application.

A. If an applicant fails to pursue the application for a period of six (6) months thereafter, the application shall be deemed to have expired.


9.07 Ultimate Issue Before Council on Amendments

9.07.01 In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments:
A. The Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

B. The Council shall only consider the impact of the proposed change on the public at large.

9.08 Action Subsequent to Council Decision

9.08.01 The Administrator shall notify the petitioner of the disposition of the amendment petition and file a copy of the decision in the office of the Planning and Inspections Department.

9.08.02 Any amendments pertaining to watershed protection must be filed with the North Carolina Division of Water Quality, North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

9.08.03 In the case of approval of an amendment, all necessary changes to the Ordinance or zoning map shall be entered within fifteen (15) working days of the effective date of the amendment. The Administrator shall authenticate the entry of each amendment and shall maintain a record of the nature and date of the amendment.

9.09 Conditional Districts (CD)

9.09.01 Property may be placed in a conditional district only in response to a petition by all owners of the property to be included.

9.09.02 Neighborhood Meeting

A. The applicant shall conduct a neighborhood meeting prior to the submission of the application for a Conditional District Zoning Map Amendment. This meeting will allow the applicant to explain the proposed development and to be informed of the concerns of the neighborhood and surrounding property owners.

B. A meeting notice must be mailed to property owners within 300’ of the development at least 25 days prior to the meeting in accordance with Subsection 1.13.02 herein. A copy of the notice shall also be provided to the Planning Department. The notice shall contain a summary of the proposed development, the applicants contact information, the date, time, and location of the meeting.

C. The meeting must be held at an accessible and convenient location and time in light of available options. Upon coordination through the Planning Department, the meeting may be held at Town Council Chambers if that location is available.

D. At the meeting, the petitioner, at a minimum, shall present all the following information:

   1. Contact information of the parties involved in the ownership, design, and development of the property;
2. The location of the property and general information on the current conditions of the site;

3. Proposed use(s) and site development;

4. Any preliminary plans or renderings, if available; and

E. The applicant shall provide the Administrator with a summary report of the meeting which includes a list of all attendees and details the meeting including all concerns expressed by attendees and commitments made by the petitioner. This report shall be included in the staff report.

9.09.03 The authorization of a CD for any major subdivision preliminary plat approval or any use which is permitted only as a special use in the zoning district which corresponds to the conditional district shall preclude any requirement for obtaining a special use permit for such use.

9.09.04 All variances proposed by the petitioner must be obtained from the Board prior to the scheduling of the public hearing for the CD.

9.09.05 Transitional Zones. Any proposed CD development within a transitional zone is subject to the standards and requirements of 6.02.02 herein.

9.09.06 Specific conditions applicable to a CD may be proposed by the applicant or the Town or its agencies, but only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the development approval requirements.

A. Conditions and site-specific standards imposed in a CD shall be limited to those that (i) address the conformance of the development and use of the site to Town Ordinances and the comprehensive plan and other applicable plans and (ii) the impacts reasonably expected to be generated by the development or use of the site.

1. Unless consented to by the applicant in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

B. Town Council members and the applicant shall endeavor to discuss and agree to conditions as part of the public hearing process provided at section 9.03; notwithstanding the foregoing, proposed conditions may be discussed or negotiated at any time that Town Council is considering the proposed application.
C. The applicant shall forthrightly answer any request by a Town Council member to agree to a proposed condition. Before doing so, however, the applicant may request continuance of the meeting or postponement of the applicant’s response until a subsequent meeting so that the applicant may further consider the requested condition before making a response. Such request for delay in responding may be granted by a consensus of the Town Council or, there being none, majority vote. Town Council shall continue or postpone the meeting to the next available public hearing or such earlier meeting as it shall deem appropriate.

1. An applicant’s refusal to answer a request to agree to a proposed condition shall be deemed a withdrawal of the application.

D. After the Town has published the notice of public hearing for the application, the applicant shall make no changes to the conditions or site-specific standards that are less restrictive than those stated in the application, including but not limited to smaller setbacks, more dwelling units; greater height; more access ways; new uses; and fewer improvements. More restrictive conditions or additional conditions may be added to the application if such conditions are received by the Planning Department in writing and signed by all owners of the property at least ten (10) business days before the date scheduled for final Town Council action on the application.

9.09.07 Changes to an approved petition or to conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the zoning map and shall be processed as a new application.

A. Except for a proposed minor modification to a previously approved CD, no proposal to amend or change any CD may be accepted nor considered within twelve (12) months of the date of the original approval of the CD or within twelve (12) months of a hearing upon any previous proposal to amend or change the CD.

B. A minor modification is one which does not significantly change the essential character of the use or activity that has been previously authorized through the CD zoning approval.

C. The Administrator shall determine whether a proposed modification to a previously approved CD is a minor modification.

9.09.08 If a petition for a CD is approved, a copy of the approval and all conditions relative to the approval, including site-specific development plan(s), shall be kept on file in the Planning and Inspections Department office. A copy of the approval will also be recorded with the Watauga County Register of Deeds.

9.09.09 Should, by the end of the applicable vesting period, the property fail to develop in accordance with the terms and conditions of the CD approval, no subsequent use of the property shall be permitted without a new petition for zoning map amendment being filed.
9.09.10 Should a petition for a CD be denied, then no new petition for making similar use the same property shall be considered within twelve (12) months of the date of the original denial.

9.09.11 If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to construct an approved site-specific development plan in accordance with any condition agreed upon in the rezoning process, the authorization of the CD shall be null and void and of no effect and proceedings shall be instituted to rezone the property.


9.10 Reserved

(Ord. 20150028, 11-19-2015; Ord. 20160178, 06-16-2016; Ord. PL01265-011618, 03-22-2018)

9.11 Previously Approved Conditional Use Zoning Districts

9.10.01 Applications for amendments to the use of property currently subject to the terms and conditions of a previously approved conditional use zoning district will be processed as new conditional district applications.
ARTICLE 10  RESERVED
ARTICLE 11  RESERVED
ARTICLE 12  ENFORCEMENT

12.01  Violations

12.01.01  Any of the following shall constitute a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance and under State law:

A.  Development without a permit; or
B.  Development inconsistent with a permit; or
C.  Violation by act or omission; or
D.  Use violation; or
E.  Subdivision violation; or
F.  Continuance of a violation; or
G.  Violation of incorporated codes and manuals; or
H.  Violation of conditions of approval; or
I.  Occupancy violation

12.02  Complaints Regarding Violations

12.02.01  Complaints alleging a violation of this Ordinance may be received from citizens, Staff or other concerned parties by filing a written, signed complaint form as provided by the Department. A Staff member may file a written complaint based upon personal observation, a verbal complaint and even an anonymous complaint (as deemed appropriate).

12.03  Persons Liable

12.03.01  The owner, tenant, or occupant of any land or structure, or part thereof, or other person who possesses a cognizable interest in the real or personal property in question, who participates in, assists, directs, causes, allows, maintains, or is otherwise responsible for any situation that is contrary to the requirements of this Ordinance shall be liable for violations of this Ordinance.
12.03.02 A builder, contractor, architect, engineer or other construction, trade or design professional who participates in, assists, directs, or creates a situation that constitutes a violation of this ordinance or is otherwise responsible for a situation that is contrary to the requirements of this Ordinance shall be liable for violations of this Ordinance.

12.03.03 No landlord may escape liability for an occupancy violation based upon a claimed lack of knowledge of the violation unless:

A. The lease of the property includes a provision which authorizes the landlord to terminate the lease early if the tenant violates the occupancy or zoning rules of the Town; and

B. The landlord takes prompt action to terminate the lease and/or tenancy of the tenants of the property when an occupancy violation has been confirmed by the Administrator.

12.03.04 The liability imposed upon persons pursuant to this section 12.03 is joint and several. Each responsible person is subject to enforcement and such fines and/or remedies as are as set forth in this Article.

(Ord. PL05269-110121, 12-08-2021)

12.04 Investigations

12.04.01 The Administrator may conduct investigations deemed necessary to carry out the duties prescribed in this Ordinance and, for this purpose, and enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

12.04.02 The Administrator may require written statements, certificates, certifications, or the filing of reports relating to complaints or alleged violations of this Ordinance from the complainant or a person potentially liable.

A. The failure of a complainant to provide requested information may be interpreted as an indication that the complaint is without merit.

B. The failure of a person potentially liable to provide requested information may be interpreted as an admission of the violation.

12.05 Enforcement

12.05.01 Initial Contact: When the Administrator concludes that a violation of this Ordinance has occurred, he shall:

A. In the case of a repeat violator issue a Notice of Violation in accordance with Subsection 12.05.02; or

B. In the case of a sign violation involving a first-time offender, serve a warning ticket on a responsible party, advising the person liable to take immediate corrective action, with the following limitations:

1. The Administrator may allow up to twenty-four (24) hours to take corrective action,
2. Due to practicalities of sign removal or other circumstances beyond the control of the violator, the Administrator may afford the violator additional time, not to exceed five (5) days.

or

C. For all other violators and violations, attempt to contact the person liable, by telephone or in person, to discuss possible remedies to correct the violation.

1. In the sole judgment of the Administrator if the violation can be corrected within five (5) business days of this discussion and the person liable expresses his intent to correct the violation within that time period, the Administrator may suspend enforcement action to allow the person liable to correct the violation.

12.05.02 Notice of Violation: Following the attempted initial contact, where required, and any mandated cure period, if the violation is unresolved, the Administrator shall issue a written Notice of Violation to the landowner, the permittee, and any other persons who may be liable, including but not limited to the occupant of the property and the person engaged in the unlawful activity. The Notice of Violation shall:

A. Include the nature of the violation and the articles and sections of the Ordinance which have been violated; and

B. Include the measures necessary to remedy the violation and the time period in which the violation must be corrected, if applicable;

1. The Administrator may afford the person liable a period of up to thirty (30) days from the date of the Notice of Violation to correct the violation before penalties are imposed.

2. The decision by the Administrator as to whether such periods should be allowed and the length of any cure period shall be solely within the discretion of the Administrator, but shall be based upon the Administrator’s application of the following relevant considerations which are not exclusive, based on a determination of what action is in the best interests of the Town:

a. The seriousness of the violation; and

b. The damage which may occur by any delay in enforcement; and

c. The effect of the violation, if any, on neighboring landowners or occupants of neighboring property, or other citizens of the Town; and

d. Whether or not the person liable is a repeat violator; and

e. Whether the violation can be corrected within a period of thirty (30) days or less; and

f. Whether the violation is of such nature that the person liable may circumvent enforcement of the Ordinance by means of a temporary correction; and
g. Whether the violator is proceeding in good faith to address the violation; and

h. Such other factors as the Administrator determines reasonably require immediate enforcement, or conversely, allow some minimal delay in enforcement.

and

C. Include the penalties or remedies that may be assessed, the date penalties will begin to accrue, and the amount of such penalties; and

D. Include the action which the Administrator intends to take if the violation is not corrected; and

E. Include an explanation or the right of the person liable to appeal the decision of the Administrator to the Board of Adjustment.

F. Be served by personal delivery, email, or first-class mail. The Staff member providing such notice shall provide a certification for the file reciting the date and manner in which the notice of violation was provided. Notice of the violation also may be posted on the property.

12.05.03 Notwithstanding Subsections 12.05.01 and 12.05.02, when the Administrator determines that a delay in enforcement would pose a danger to the public health, safety, or welfare, the Administrator shall send a Notice of Violation as soon as practicable.

12.05.04 Appeal of a Notice of Violation

A. An appeal of a notice of violation under Subsection 12.01.01 stays enforcement of the decision unless the Administrator who made the decision certifies to the Board after notice of appeal has been filed:

1. That because of the facts stated in an affidavit, a stay would cause imminent peril to life or property, or

2. Because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance.

B. The appellant shall be notified of the Administrator’s certification.

C. Following certification, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

D. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal.

A. The Board shall meet to hear the appeal within fifteen (15) days after such a request is filed.

E. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development approvals; in these
situations, the appellant may request and the board may grant a stay of a final decision of development approval affected by the issue being appealed.

F. The certification and stay procedures of this Section shall not apply with regard to the pursuit of criminal charges where appropriate.

(Ord. PL04727-050721, 07-01-2021)

12.06 Remedies

12.06.01 Available Remedies: Any or all of the following may be used to enforce the provisions of this Ordinance.

A. Civil Penalties: Any person who violates any provision of this ordinance may be subject to the assessment of a civil penalty in accordance with Section 12.07. In addition, where the violation consists of or includes working without required permit(s), the violator shall be required to pay double the normal fee for any required permit(s).

B. Criminal Penalties: Criminal penalties may be assessed only for violations of this ordinance that create or maintain an unsafe building circumstance. In any such case, unless a more stringent criminal penalty is prescribed pursuant to State law for the conduct at issue, a person who knowingly or willfully violates this ordinance shall be guilty of a Class 3 misdemeanor and a fine up to $500.00 for each such violation.

1. The Administrator shall institute criminal charges only with the authorization of the Town Manager.

C. Injunction: Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant to this Ordinance may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law. The institution of an action for injunctive relief under this Section does not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

D. Revocation of Approvals or Certificates: The Administrator may revoke and require the return of a development approval, a Certificate of Compliance, a Certificate of Occupancy, or a Certificate of Zoning Completion pursuant to Section 12.09.

E. Stop Work Orders: Whenever the Administrator determines that a person is engaged in doing work without a required development approval; or any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law, or in a manner that endangers life or property, the Administrator may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped pursuant to Section 12.08.
F. **State and Common Law Remedies:** In addition to other enforcement provisions contained in this Article, the Council may exercise any and all enforcement powers granted to it by State law or common law.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05269-110121, 12-08-21)

12.07 **Civil Penalties**

12.07.01 Any act constituting a violation of this Ordinance shall subject the person liable to a civil penalty per day in the amount specified below. For each day the violation is not corrected, the violator will be guilty of an additional and separate offense. Where a per day per violation and a one-time assessment are described, both apply.

<table>
<thead>
<tr>
<th>Violation</th>
<th>Civil Penalty (per day per violation)</th>
<th>Civil Penalty (one-time assessment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign Violation</td>
<td>$100.00</td>
<td></td>
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<tr>
<td>Occupancy Violation</td>
<td>$200.00</td>
<td></td>
</tr>
<tr>
<td>Grading in Designated Floodway</td>
<td>$500.00</td>
<td></td>
</tr>
<tr>
<td>Improperly pruning, removing or killing a protected tree or shrub.</td>
<td>$100.00</td>
<td>$100.00 per inch in diameter for each tree and $50.00 for each shrub</td>
</tr>
<tr>
<td>Removal of Required Buffer</td>
<td>$100.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>Soil Erosion and Sediment Control Violation</td>
<td>$100.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Illegal Subdivision</td>
<td>$100.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>All other Violations</td>
<td>$100.00</td>
<td></td>
</tr>
<tr>
<td>Repeat Violator 1st Time</td>
<td>250% of the Civil Penalty</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Repeat Violator 2nd or More</td>
<td>500% of the Civil Penalty</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

12.07.02 A penalty accrues from the date imposed until the date the violation is corrected, except as the accumulation of penalties is stayed during appeal as provided in this section.

12.07.03 The penalty may be recovered by the Town in a civil action in the nature of an action to collect a debt and may recover its court costs and attorney’s fees.

12.07.04 The appeal of a civil penalty must be in accordance with the requirements of Article 6. The time period for appeal begins to run upon receipt of the Notice of Violation imposing the penalty. A properly filed appeal stays action by the Town to collect any civil penalty assessed and stays accrual of the penalty.

12.07.05 When authorized by the Town Council, this Ordinance may also be enforced by any available equitable action or proceeding(s) instituted by the Administrator or Town to prevent, restrain, correct or abate a violation of this Ordinance.

12.07.06 **Repeat Violator:** A repeat violator is a person liable who has been determined to have violated any provision of this Ordinance within the previous thirty-six (36) months.

(Ord. PL04196-090820, 07-01-2021; Ord. PL04727-050721, 07-01-2021)
12.08  Stop Work Orders

12.08.01 Whenever the Administrator determines that a person is engaged in doing work without a required approval; or any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law, or in a manner that endangers life or property, the Administrator may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped.

12.08.02 The Stop Work Order shall:
   A. be in writing, and
   B. directed to the person doing the work and
   C. directed to the owner of the property and
   D. posted on the property upon which the work has been undertaken, and
   E. The Stop Work Order shall state:
      1. the work to be stopped, and
      2. the reasons for work stoppage, and
      3. the conditions under which the work may be resumed.

12.08.03 Appeals to Stop Work Order: Appeals of a Stop Work Order shall be made as follows:
   A. An Appeal of Administrative Decision must be filed with in accordance with Article 6.

(Ord. PL04727-050721, 07-01-2021)

12.09  Revocation of Development Approvals

12.09.01 In addition to initiating enforcement actions, the Administrator may revoke any development approval by notifying the holder in writing stating the reason for the revocation.

12.09.02 The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

12.09.03 Reason for Revocation. A development approval shall be revoked:
   A. For any substantial departure from the approved application, plans, or specifications.
   B. For the developer’s refusal or failure to comply with the requirements of state or local laws, or for false statements or misrepresentations made in securing the approval or certificate; or
   C. In the event an approval is mistakenly issued in violation of an applicable state or local law.
Notice of Revocation: Before a development approval or any certificate issued by the Administrator may be revoked, the Administrator shall give the holder five (5) days’ notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations.

A. Hearing Before Administrator: The holder must request a hearing in writing within five (5) days. The Administrator or other disinterested person, as designated by the Administrator, will conduct a hearing on the request within five (5) business days of the Administrator’s receipt of the request. The hearing will be held in person but at request of the permit holder may be held by telephone. At the hearing, the permit holder will be given an opportunity to present the facts and other matters which he maintains should prevent the revocation of the development approval or certificate. The permit holder may be represented by an attorney, shall have the opportunity to examine any documents relied upon by the Administrator, and shall be given the opportunity to cross-examine any witnesses who testify against the permit holder. Within two (2) business days following the hearing, the Administrator or other disinterested person conducting the hearing will issue a decision. If the development approval or certificate is revoked, the Administrator shall provide to the holder a written statement of the decision and the reasons therefore.

B. A decision under Subsection 12.09.03(A) may be appealed to the Board of Adjustment within the prescribed time period.

No person may continue to make use of land or buildings in the manner authorized by any development approval after such development approval has been revoked in accordance with this Section.

(Ord. PL04727-050721, 07-01-2021)

Enforcement by Others

In addition to the remedies provided to the Town hereunder, other persons who have qualified as parties pursuant to the duly enacted Rules of Procedure of the Board of Adjustment may, after the exhaustion of their available administrative remedies, seek to enforce this Ordinance by injunction, mandamus or other appropriate legal action. This provision, however, is not intended to limit the rights of others which are created by North Carolina law to take action to protect their own property interests and rights.
ARTICLE 13    RESERVED
TITLE IV   DISTRICTS AND USES
# ARTICLE 14  ZONING DISTRICT REGULATIONS

**Part I**  Establishment of Zoning Districts and District Standards

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<td>Intensity Standards</td>
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**Part II**  District Regulations

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Part I Establishment of Zoning Districts and District Standards; Zoning Map

14.01 Enumeration and Description of Districts

14.01.01 In order to regulate the height, size of buildings, the intensity and location of land usage, areas of livability space, provide for an improved environment, and to promote the health, safety, and general welfare of its citizens, the Town of Boone is divided into zoning districts.

Note: district titles are intended to convey general land use but the specific standards for each district determine the actual regulations applicable to a particular site.

14.01.02 There are three types of zoning districts: general use districts, overlay districts and conditional districts.

A. General use districts are those in which a variety of uses are permitted. The general use districts established in this article are classified as follows:

R1 Single-Family Residential District  
R1S Small Home Residential District  
R1A Single-Family Residential with Accessory Dwelling District  
RR Residential Rehabilitation Residential District  
R2 Two-Family Residential District  
R3 Multiple-Family Residential District  
R4 Two-Family/Manufactured Home Residential District  
R5 55+ Housing Residential District  
RA Residential Agricultural District  
MH Manufactured Home Park District  
B1 Central Business District  
B2 Neighborhood Business District  
B3 General Business District  
OI Office Institutional District  
WD Wellness District  
M1 Manufacturing District  
U1 University District  
U1 Educational District  
E2 Educational District  
E3 Educational District  
E4 Educational Child Daycare District

B. Overlay districts are those districts that overlap one or more general use districts and contain standards in addition to the underlying general use or conditional district zoning standards. Where requirements conflict, overlay district standards supersede...
general use district standards. The overlay districts established in this article are classified as follows:

- Special Flood Hazard Area (SFHA)
- Watershed Protection District
- Corridor District
- Neighborhood Conservation District (NCD)
- Viewshed Protection District
- Historic Districts

C. A Conditional District (CD) is a zoning district in which the use and development of a property pursuant to a site-specific development plan is approved through the legislative process pursuant to Article 9 of this Ordinance. A CD utilizes a proposed general use zoning district, is limited to the authorized uses and development standards mandated within that district, and may be subjected to conditions that make the development more desirable.

14.01.03 Split Zone:

A. When a development is proposed on land with more than one zoning classification, the elements of the development, including but not limited to parking, recreation and storage, must be located on those portions of the development with zoning designations which allows the use as a principal use or is otherwise specifically authorized. Notwithstanding this prohibition all portions of the site may be used to satisfy the requirements of B1.04 Complete Intensity Table unless otherwise prohibited.

B. Where a lot is located in more than one zoning district, the appropriate land use intensity ratios shall be applied individually to each portion of the gross land area located within the different districts.

14.01.04 Official Zoning Map

A. There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the town’s planning jurisdiction.

B. The Official Zoning Map is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Article 9.

C. A copy of the current Official Zoning Map shall be available for public inspection in the Planning and Inspections Department.

(Ord. PL04727-050721, 07-01-2021; PL05688-050322, 06-08-2022)

14.02 Use Information

14.02.01 Use Table Guidance. Each zoning district enumerated in Part II of this article contains a list of uses permissible in the district. Review Appendix B to view comparative tables that list all uses allowed within the zoning districts enumerated in Section 14.01.
A. **Permitted (P):** A “P” in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed by right in the respective district unless the use is subject to a transitional zone (see 6.02.02). Such uses are subject to all applicable requirements of this Ordinance but do not have additional requirements which are specific to the use in accordance with this Article.

B. **Permitted Subject to Limitations (L):** An “L” in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed by right in the respective district unless the use is subject to a transitional zone (see 6.02.02), provided that the use meets the normal requirements of the Ordinance plus additional requirements designed to address the specific impacts of the use. A cross-reference in the “Reference” column of the Table for a permitted use with an “L” is intended to direct the reader to a Section(s) which has special importance to the use, but it does not limit the applicability of other Sections.

C. **Special Use Permit Required (S):** An “S” in the Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed only with a Special Use Permit in the respective district. A cross-reference in the “Reference” column of the Table for a permitted use with an “S” is intended to direct the reader to a Section which has special importance to the use, but it does not limit the applicability of other Sections.

D. **Conditional District (CD):** A “CD” in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed only with a Conditional District zoning approval in the respective district. A cross-reference in the “Reference” column of the Table for a permitted use with a “CD” is intended to direct the reader to a Section which has special importance to the use, but it does not limit the applicability of other Sections.

E. **Not Permitted (Blank Cell):** A blank cell in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is not allowed in the respective district.

F. **Transitional Zones:** Transitional zones attach to specific uses within the tables and are designed to address the predictable negative impacts of certain uses on protected residential districts and therefore have additional standards which must be met. A proposed use subject to a transitional zone must be approved by a Special Use Permit or in a Conditional District. A superscript “Tn” in the Table of Principal Uses, Table of Accessory Uses or the Table of Temporary Uses denotes the specified use in the specified district is subject to a transitional zone, where “n” represents the size, in feet, of the transitional zone, measured from the boundary of the protected district. However, in the any of the protected districts, the distance is measured from the protected lot rather than the protected zone. See Subsection 6.02.02 for full transitional zone requirements.
G. **Use Nomenclature:** Each use listed in the tables is more fully defined in Article 34 Definitions. The nomenclature of each use within the tables is for identification purposes only.

14.02.02 **Accessory Uses:**

A. An accessory use must be:

1. Clearly incidental to and customarily found in connection with a principal structure or use; and
2. Subordinate to and serve a principal structure or use; and
3. Subordinate in area, extent, or purpose to the principal structure or use served; and
4. Located on the same property as the principal structure

B. A use which is not permitted as a principal use in a zoning district cannot be allowed as an accessory use in that district unless it is specifically listed in the Table of Accessory Uses.

C. When a development is proposed on land with more than one zoning classification, any accessory use must be located on those portions of the development with zoning designations which allows the use as principal use or is authorized by the Table of Accessory Uses.

14.02.03 **Uses Not Requiring Development Approvals**

A. Notwithstanding any other provisions of this ordinance, no zoning-related permit is required for the following uses:

1. Public streets, sidewalks, or greenways.
2. Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way with the permission of the public owner.
3. Town utility facilities located within the Town’s right-of-way or on Town property with the permission of the Town; provided, that if the proposed Town utility facility would exceed any otherwise applicable development standard relating to height, size, intensity of use, or standards related to Historic Districts or Historic Landmarks the Administrator shall notify the Town Council and Town Council may direct that a hearing be held to solicit public comment with respect to the proposed facility.
4. Electric vehicle charging stations installed on Town property or the public right-of-way.

(Ord. PL05169-100621, 11-18-2021; Ord. PL05272-110121, 12-08-2021)
14.02.04 Combination Uses

A. A combination use may only be authorized if all proposed principal uses are permissible in the zoning district for which it is proposed.

B. A combination use must be authorized by a special use permit if any of the permissible uses requires a special use permit.

C. A combination use has special rules regarding landscaping (See Article 31).

14.02.05 More Specific Use Controls

A. When two use classifications in the Table of Principal Uses describe a particular activity, the more specific description shall control.

14.02.06 Unlisted Uses: Any use not permitted, prohibited, or restricted by this Ordinance is an “unlisted use” that shall only be permitted if approved by the Planning Director pursuant to the following provisions:

A. Procedure for Evaluating Unlisted Uses: Where a particular use category or use type is not specifically allowed under this Ordinance or is also not prohibited or restricted by this Ordinance, the Planning Director may permit the use category or type if the criteria of Subsection 14.02.06(B) below are met. The Planning Director shall give due consideration to the intent of this Ordinance concerning the district(s), involved, the character of the uses specifically identified, and the character of the use(s) in question.

B. Criteria for Evaluating Unlisted Uses: In order to determine that the proposed uses(s) has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the Planning Director shall assess all relevant characteristics of the proposed use, including but not limited to the following:

1. The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;

2. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing; and

3. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders); and

4. The type, size and nature of buildings and structures; and

5. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts; and
6. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site; and

7. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses; and

8. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes; and

9. Any special public utility requirements for serving the proposed use, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

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

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

(Ord. PL04727-050721, 07-01-2021)

14.03 Intensity Standards

14.03.01 Unless otherwise provided in this Ordinance, development shall comply with the intensity regulations set forth for the district. Review Appendix B to view comparative tables that comprehensively list the intensity regulations set forth for the zoning districts enumerated in Section 14.01.

A. Subject to the other provisions of this Ordinance, if (i) any portion of a tract lies within an area that is part of a proposed public park, sidewalk, greenway, bikeway, or other public improvement proposed by the Town and (ii) the owner of the tract, with the concurrence of the Town, dedicates to the Town that portion of the tract then, when the remainder of the tract is developed, the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

14.03.02 Minimum Gross Land Area

A. When a lot is located in more than one zoning district, the minimum square footage of the lot shall be the sum of the square footage derived by multiplying the minimum
square footage required for each represented district by the proportion of the lot located within that district.

B. The area within the street right-of-way may not be used to satisfy lot area requirements.

**14.03.03 Minimum Lot Width**

A. No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
   1. Could be used for purposes that are permissible in that zoning district, and
   2. Could satisfy any applicable setback requirements for that district.

B. Where a lot of fronts two (2) or more streets, the minimum lot width requirement shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement.

C. No lot created after the effective date of this Ordinance that is less than the required width shall be entitled to a variance from any building setback requirement.

**14.03.04 Minimum Street Frontage Width**

A. The minimum width of the frontage of a lot on a street shall be eighty percent (80%) of the minimum lot width required for the lot. Easement areas shall be excluded from this requirement.

B. Where a lot fronts on two (2) or more streets, the minimum street frontage width requirements shall be considered met if the frontage along any one of such streets meets the minimum street frontage width requirements.

C. Where a lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety feet (90’), the minimum street frontage width requirement shall not apply.

**14.03.05 Livability Space Ratio**

A. Livability space includes natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas, and the pervious, landscaped portion of street rights-of-way. Livability space does not include paved pedestrian sidewalks or vehicular areas.

B. A maximum of one-third of the livability space required for a development may be impervious (e.g., paved terraces or sitting areas).

C. Livability space ratio is a ratio where the numerator is the square footage of Livability Space and the denominator is the square footage of the entire parcel.

(Ord. PL05270-110121, 12-08-2021)

**14.03.06 Setbacks**
A. No portion of any building may be located on any lot closer to any interior lot line or to the street right-of-way line than is authorized.

1. Where no street right-of-way exists or if the right-of-way is only inclusive of the street pavement the street setback shall be measured from an assumed right-of-way that is parallel to the edge of pavement and setback a minimum of ten feet (10’) from the edge of pavement. This calculation is for setback calculation purposes only and does not represent any expressed or implied taking of property.

2. As used herein, the term “interior lot line” refers to lot boundaries other than those that abut streets.

3. As used herein, the term “building” includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
   a. Gas pumps and overhead canopies or roofs.
   b. Fences running along lot boundary adjacent to public street rights-of-way if such fences exceed nine feet (9’) in height and are substantially opaque.
   c. Retaining walls which exceed four feet (4’) in height.

B. Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the interior setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the interior setback requirement applicable to the adjoining residential lot.

C. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

D. Accessory Structure Setback Requirements:

1. All accessory structures shall meet the building street setback requirement of fifteen feet (15’) from the street right-of-way line and seven feet (7’) from any interior lot line.

2. No accessory structure may be further forward to the street setback than the frontmost point of the principal structure.

3. The maximum lot coverage of the accessory structure shall not exceed twenty percent (20%) of the lot.
4. An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects.

5. An accessory structure shall not be located in an easement unless expressly allowed.

14.03.07 Building Height

A. The height of a building shall be the vertical distance measured from the average elevation of the finished grade at the primary façade of the building to the highest point of the building except as provided herein.

B. “Stories” as used herein refers to the number of heated, habitable floors above grade at the primary facade. Where both stories and heights are listed, the building can have no more than the listed number of stories, and also may not exceed the specified height in feet.

C. Secondary Height: If expressly allowed, the height limitation may range between the primary height limitation to the secondary height limitation (which is the maximum for the district), subject to the provisions below:

1. For each foot the height of the structure exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by one foot (1’).

2. For each story which exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by 11 feet (11’).

3. In no case shall the height of a structure exceed the secondary height limitation established for the district.

D. In all nonresidential zones and the R3 zone, all structures located within 100 feet of an R1 zoned property shall not exceed forty feet (40’) in height.

E. Where a multi-unit or nonresidential structure has a height in excess of twenty feet (20’) and adjoins a low-density residential district, the structure shall meet an additional setback of one- and one-half feet (1 ½’) for each foot in height above twenty feet (20’).

F. If a structure is located at an elevation of 3000 feet above mean sea level and 500 feet above the valley floor, in no case shall the height of such structure exceed forty feet (40’) above the mean natural grade.

G. The following features are not included in calculating the height of a structure for the purposes of applying the district height limitations set forth in this Article, except that on a corner lot in any residential district no planting, structures, fence, wall or obstruction to vision more than three feet (3’) in height measured from the street center line shall be placed or maintained within the triangular area formed by the
intersection street lines and a straight line connecting points on said street lines each if which is twenty-five feet (25') from the point of intersection.

1. Belfries, chimneys, church spires, cupolas, domes and similar structural appendages not intended or used as places of storage or occupancy; and

2. Accessory antennas, flagpoles, and similar equipment fixtures and devices provided that such features do not exceed 15% of the maximum height requirements; and

3. Except as provided at Subsection 14.19.04(F)(7)(b), parapets which do not exceed five feet (5’) past the maximum building height; by way of clarification, the height of parapets above 5’ shall be counted toward the building height for purposes of applying building height; and

4. Elevator and mechanical equipment and penthouses; and

5. Utility transmission poles and cables; and

6. Limited structures to enable recreation uses of open rooftops (Accessory Use A-27). As used in this provision, “limited structure” does not include areas that are simply decking to be used for standing or sitting.

7. The features listed above are exempt from the height limitations subject to the following requirements:
   a. Not more than one-third (1/3) of the total roof area may be consumed by such features.
   b. The features must be set back from the edge of the roof at primary and secondary facades a minimum of one foot for every foot which such features extend above the roof surface to which they are attached.

(Ord. PL05272-110121, 12-08-2021)

14.03.08 Minimum Building Spacing

A. The minimum spacing between any two (2) buildings located on a single lot, which contain residential uses, shall be the sum of the spacing distances required for the walls of each building or portion thereof as follows:

1. The required spacing between buildings for any wall containing windows shall be the horizontal distance equal to the minimum interior setback applicable to the lot or district in which it is located, plus one (1) additional foot for each foot the height of the building exceeds thirty-five feet (35’).

2. The required spacing distance for a windowless wall shall be in accordance with the applicable building codes.

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-2021; Ord. PL05688-050322, 06-08-2022)
14.04 Residential Occupancy Controls

14.04.01 Except for authorized group living, residential occupancy is limited in the Town’s jurisdiction as enumerated each district within this Article. Review Appendix B to view comparative tables that comprehensively list the occupancy controls set forth for the zoning districts enumerated in Section 14.01.

14.04.02 For purposes of the occupancy regulations set forth in this Article:

A. A “family” means individuals related by blood, marriage, domestic partnership, or adoption occupying a premise and living as a single, non-profit housekeeping unit, which may include live-in help but does not include roomers or boarders. A “single, non-profit housekeeping unit” means individuals who live and cook together, as with or similar to a traditional family, on a single lease if renting the premises. The following individuals may constitute a family: a single person or a couple that is married or are domestic partners; that person’s or persons’ children, parents, siblings, grandparents, great-grandparents, grandchildren, or great-grandchildren; and the spouses of any of the foregoing persons. “Domestic partners” means two persons who are both at least 18 years of age, are each other’s sole domestic partner, have a common residence, and intend to maintain a common residence together indefinitely. “Child” and “children” shall for these purposes include a biological, foster, step- or adopted child, legal ward or other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, group of students rooming together, institutional group or the like.

B. “Unrelated” individuals are persons who are not members of the same family as defined above. For clarification, cousins are deemed “unrelated” for purposes of these occupancy regulations unless part of a single housekeeping unit that includes a parent, grandparent or great-grandparent of one of the cousins.

C. A person shall be presumed to be an “occupant” of a dwelling if their clothes or other daily living supplies such as items of personal hygiene are maintained at the dwelling unit.
   a. The absence of such described items does not prevent a finding that a person is an occupant.
   b. That a person regularly and recurrently lives in, sleeps at, or possesses another dwelling unit does not prevent a finding that a person is an occupant.

14.04.03 The number or identity of occupants in a dwelling, whether consisting of family or of unrelated individuals, does not constitute a use and cannot create a legal nonconformity.

A. To clarify, occupancy violations arising after the effective date of this ordinance (January 1, 2014) cannot give rise to a legal nonconformity; and
B. With respect to any current, continuing occupancy violation proven by the property owner to pre-date the 2014 ordinance, such violation must be remedied within two years from the date that written notification of the violation is made by the Administrator to the record owner of the dwelling unit. To the extent practicable, all occupants of such dwelling units, as of the date of notification of the record owner, shall also be provided written notice of the nonconformity and the deadline for bringing the dwelling unit into compliance. This section shall not be construed to prevent immediate enforcement of any building or health code regulations regarding the number of occupants that may inhabit a dwelling unit.

14.04.04 A residential dwelling unit shall contain at least one (1) bedroom for each two (2) unrelated occupants. For purposes of these occupancy regulations, an efficiency dwelling unit shall be considered a one-bedroom dwelling unit.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821; 11-18-2021)

Part 2 District Regulations

14.05 R1 Single-Family Residential District

14.05.01 The R1 Single Family Residential District is established to provide a low-density living area consisting only of single-family dwelling units and other related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a comfortable, healthy, safe, aesthetically pleasing and pleasant living environment for family life that promotes peaceful quiet enjoyment sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.05.02 R1 Permissible Uses

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<td>Vehicular Gate</td>
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<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
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**Allowable Accessory Uses**

| A-1   | Secondary suite                                    | L  | 15.45       |
| A-2   | Home occupation                                    | L  | 15.46       |
| A-11  | Poultry                                            | L  | 15.54       |
| A-12  | Livestock, small                                   | L  | 15.55       |
| A-14  | Bees                                               | L  | 15.57       |
| A-15  | Garden, residential                                | L  | 15.58       |
| A-16  | Satellite receiving antennas less than 1 meter in diameter | P |             |
| A-20  | Swimming pools, spas, and hot tubs                 | L  | 15.59       |
| A-22  | Vehicular Gate                                     | L  | 15.61       |
| A-25  | Open air market, accessory                         | L  | 15.22       |
| A-26  | Daycare, small                                     | P  |             |
| A-28  | Solar Energy System                                | L  | 15.64       |
| A-29  | Electric-Vehicle Charging Station                  | L  | 15.65       |

**Allowable Temporary Uses**

| T-1   | Temporary family health care structure             | L  | 15.62       |
| T-2   | Temporary construction or repair dwelling          | L  | 15.62       |
| T-3   | Temporary construction trailer                     | L  | 15.62       |
| T-6   | Temporary portable storage containers              | L  | 15.62       |
| T-9   | Carrier on wheels (COW)                            | L  | 15.62       |
| T-10  | Yard sales                                         | L  | 15.62       |
| T-11  | Itinerant merchant/ peddler                        | L  | 15.62       |
14.05.03 **R1 Development Standards**

A. Minimum Gross Land Area: 8,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 70 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 56 feet (see Subsection 14.03.04)

D. Minimum Livability Space Ratio: .53 (see Subsection 14.03.05)

E. Minimum Setbacks (see Subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 14 feet

F. Maximum Building Height: 3 stories (see Subsection 14.03.07)

14.05.04 **Occupancy:** One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.06 **R1S Small Home Residential District**

14.06.01 The R1S Small Home Residential District is established to provide a medium density living area consisting of detached single-family dwellings at a higher density than other residential zoning districts. The regulations for this district are intended to maintain the essential character of traditional single-family neighborhoods while allowing new single-family dwellings at a higher density, which also may serve as a transition to higher density residential and nonresidential districts.

14.06.02 **R1S Permissible Uses**

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<td>1.0 Household Living</td>
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<td>Single-Family Dwelling</td>
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<td>2.0 Group Living</td>
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<tr>
<td>2.01</td>
<td>Family Care Home</td>
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<td>15.07</td>
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<td>3.0 Transient Living</td>
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<td>3.07</td>
<td>Homestay Rental</td>
<td>L</td>
<td>15.05</td>
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<td>4.0 Institutional</td>
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<td>4.04</td>
<td>Cemetery</td>
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<td><strong>5.0 Government Uses</strong></td>
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<tr>
<td>5.13</td>
<td>Utility Facility, Town</td>
<td>L</td>
<td>15.16</td>
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<tr>
<td>5.14</td>
<td>Utility Facility, Government, Neighborhood</td>
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<td>15.16</td>
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<tr>
<td><strong>6.0 Non-Government Utility Facility</strong></td>
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### 7.0 Wireless Communication

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<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>7.05</td>
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### 13.0 Agriculture

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<td>Garden, Residential</td>
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### Allowable Accessory Uses

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<tr>
<td>A-14</td>
<td>Bees</td>
<td>L</td>
<td>15.57</td>
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<tr>
<td>A-15</td>
<td>Garden, residential</td>
<td>L</td>
<td>15.58</td>
</tr>
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<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
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<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
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<td>A-22</td>
<td>Vehicular Gate</td>
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<td>A-26</td>
<td>Daycare, small</td>
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<td>A-28</td>
<td>Solar Energy System</td>
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### Allowable Temporary Uses

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<td>T-3</td>
<td>Temporary construction trailer</td>
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<td>T-6</td>
<td>Temporary portable storage containers</td>
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<td>T-9</td>
<td>Carrier on wheels (COW)</td>
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<td>Yard sales</td>
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<td>T-11</td>
<td>Itinerant merchant/ peddler</td>
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### 14.06.03 R1S Development Standards

A. Minimum Gross Land Area: 5,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 35 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 28 feet (see Subsection 14.03.04)

D. A maximum building footprint of 800 square feet is allowed, exclusive of decks, porches, steps, carports, and standalone garages (with no living space above or below).

- Buildings shall be oriented to the primary public way.
2. An attic story or a basement of no more than 400 square feet is permissible for a maximum of 1,200 square feet of total living space.

3. A garage within the building footprint is counted as living space for the purposes of calculating the 1,200 square foot limit.

E. Minimum Setbacks (see Subsection 14.03.06)

1. Street: 20 feet

2. Interior: 7’

   a. Whenever a lot in a R1S district has a common boundary line with a lot in a different zoning district, the interior setback requirement applicable to that boundary of the R1S lot shall be the interior setback required for the adjacent lot. By way of illustration, if the R1S lot shares a common boundary with a lot zoned so as to require a 14-foot interior setback, the R1S lot would be required to have a 14-foot interior setback along its common boundary with that different-zoned lot.

F. Maximum Building Height: 1 story with an attic story of basement/25’; see Subsection 14.05.03(D) above for clarification.

1. In the R1S district, building height and maximum number of stories shall be measured from the mean elevation of the finished grade along the primary façade of the building.

14.06.04 Occupancy. One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.07 R1A Single-Family Residential with Accessory Dwelling District

14.07.01 The R1A Single-Family Residential with Accessory Dwelling District is established to provide a low-density living area consisting of single-family dwellings with or without subordinate, accessory dwellings. The regulations for this district are intended to maintain the essential character of a single-family neighborhood but allow for the establishment of accessory dwellings which are clearly subordinate to the single-family dwelling. The regulations for this district are designed to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.07.02 R1A Permissible Uses

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<td>Satellite receiving antennas less than 1 meter in diameter</td>
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<td>Satellite receiving antennas less than 2 meters in diameter</td>
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<td>Satellite receiving antennas 2 meters and greater in diameter</td>
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**Allowable Temporary Uses**

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<td>Temporary portable storage containers</td>
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<td>T-9</td>
<td>Carrier on wheels (cow)</td>
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<td>15.62</td>
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**14.07.03 R1A Development Standards**

A. Minimum Gross Land Area: 8,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 70 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 56 feet (see Subsection 14.03.04)

D. Minimum Livability Space: .53 (see Subsection 14.03.05)

E. Minimum Setbacks (see Subsection 14.03.06)
1. Street: 20 feet
2. Interior: 14 feet

F. Maximum Building Height: 3 stories (see UDO Subsection 14.03.07)

14.07.04 Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

A. Exception: The following properties subject to Town-initiated rezoning by ordinance adopted October 21, 2021 will be permitted to have occupancy of up to 4 unrelated persons for five years starting from the foregoing date of adoption of the rezoning:

- 2901-70-1108-000 146 STRAIGHT ST
- 2901-70-0286-000 160 STRAIGHT ST
- 2901-70-1306-000 489 QUEEN ST
- 2901-70-1196-000 132 BENT ST
- 2901-70-2017-000 145 BENT ST
- 2901-70-2222-000 431 QUEEN ST

B. This exception applies upon the following additional conditions:

1. The Administrator shall notify eligible property owners by regular and certified mail of the availability of this exception;
2. The property owner must submit a written request to take advantage of this exception to the Administrator within 6 months of the adoption of the rezoning; and provide evidence sufficient to show to the reasonable satisfaction of the Administrator that the property had been occupied by more than 2 unrelated persons prior to adoption of the referenced rezoning ordinance;
3. This exception is available only with respect to existing structures and does not apply to new construction, including any additions.

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.08 RR Residential Rehabilitation District

14.08.01 The RR Residential Rehabilitation District is designed to recognize the need to preserve existing housing stock for low income occupants through rehabilitation efforts. Residential Rehabilitation Districts shall possess the following three characteristics:

A. The majority of the housing stock in the district shall have been constructed before the Town adopted zoning regulations; and

B. The area must qualify under U.S. Department of Housing and Urban Development standards as a blighted area; and
C. The district must be a designated target area for which public money has been appropriated for the purpose of rehabilitating housing stock for low- and moderate-income persons. All existing nonconforming uses and uses with nonconforming structures, within the Residential Rehabilitation District, shall comply with Article 7 Nonconformities.

14.08.02 RR Permissible Uses

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<td><strong>3.0 Transient Living</strong></td>
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<td>3.07</td>
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<td>15.05</td>
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<td><strong>4.0 Institutional</strong></td>
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<td>5.12</td>
<td>Police Substation</td>
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<td>5.13</td>
<td>Utility Facility, Town</td>
<td>L</td>
<td>15.16</td>
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<td><strong>6.0 Non-Government</strong></td>
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<td>6.01</td>
<td>Utility Facility, Neighborhood</td>
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<td>15.16</td>
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<td><strong>7.0 Wireless Communication</strong></td>
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<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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### Table 14.03 Uses

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<td>Bees</td>
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<td>A-16</td>
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<td>A-20</td>
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### Allowable Temporary Uses

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<td>T-11</td>
<td>Itinerant merchant/peddler</td>
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#### Section 14.03 RR Development Standards

**A.** Minimum Gross Land Area: 6,000 square feet (see UDO Subsection 14.03.02)

**B.** Minimum Lot Width: 70 feet (see UDO Subsection 14.03.03)

**C.** Minimum Street Frontage: 56 feet (see UDO Subsection 14.03.04)

**D.** Minimum Livability Space: .48 (see UDO Subsection 14.03.05)

**E.** Minimum Setbacks (see UDO Subsection 14.03.06)

1. Street: 20 feet
2. Interior: 13 feet

**F.** Maximum Building Height: 3 stories (see UDO Subsection 14.03.07)

#### Section 14.04 Occupancy

**Occupancy:** One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roofer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)
14.09 **R2 Two-Family Residential District**

14.09.01 The R2 Two-Family Residential District is established to provide a medium density living area consisting of single-family and two-family dwellings, and other related uses necessary for a sound neighborhood. The regulations for this district are intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.09.02 **R2 Permissible Uses**

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**13.0 Agriculture**

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**Allowable Accessory Uses**

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<tr>
<td>A-2</td>
<td>Home occupation</td>
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<td>A-3</td>
<td>Accessory dwelling unit</td>
<td>L</td>
<td>15.47</td>
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<tr>
<td>A-11</td>
<td>Poultry</td>
<td>L</td>
<td>15.54</td>
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<tr>
<td>A-12</td>
<td>Livestock, small</td>
<td>L</td>
<td>15.55</td>
</tr>
<tr>
<td>A-14</td>
<td>Bees</td>
<td>L</td>
<td>15.57</td>
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<tr>
<td>A-15</td>
<td>Garden, residential</td>
<td>L</td>
<td>15.58</td>
</tr>
<tr>
<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
<td>15.59</td>
</tr>
<tr>
<td>A-21</td>
<td>Caretaker's residence</td>
<td></td>
<td>15.60</td>
</tr>
<tr>
<td>A-22</td>
<td>Vehicular gate</td>
<td>L</td>
<td>15.61</td>
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<tr>
<td>A-25</td>
<td>Open air market, accessory</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>A-26</td>
<td>Daycare, small</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-28</td>
<td>Solar Energy System</td>
<td>L</td>
<td>15.64</td>
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<tr>
<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
<td>L</td>
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**Allowable Temporary Uses**

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<tr>
<th>Use</th>
<th>Specific Use</th>
<th>R2</th>
<th>Reference</th>
</tr>
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<tbody>
<tr>
<td>T-1</td>
<td>Temporary care provider dwelling</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-2</td>
<td>Temporary construction or repair dwelling</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-3</td>
<td>Temporary construction trailer</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-6</td>
<td>Temporary portable storage containers</td>
<td>L</td>
<td>15.62</td>
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<tr>
<td>T-9</td>
<td>Carrier on wheels (cow)</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-10</td>
<td>Yard sales</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
<td>15.62</td>
</tr>
</tbody>
</table>

**14.09.03 R2 Development Standards**

- **A.** Minimum Gross Land Area: 6,000 square feet (see Subsection 14.03.02)
- **B.** Minimum Lot Width: 70 feet (see Subsection 14.03.03)
- **C.** Minimum Street Frontage: 56 feet (see Subsection 14.03.04)
- **D.** Minimum Livability Space: .48 (see Subsection 14.03.05)
- **E.** Minimum Setbacks (see Subsection 14.03.06)
  - 1. Street: 20 feet
  - 2. Interior: 13 feet
F. Maximum Building Height: 3 stories (see Subsection 14.03.07)

14.09.04 Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.10 R3 Multiple-Family Residential District

14.10.01 The R3 Multiple-Family Residential District is established to provide a high-density area consisting of three or more dwelling units per lot plus limited service use. The regulations for this district are intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.10.02 R3 Permissible Uses

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<tbody>
<tr>
<td>Allowable Principal Uses</td>
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<td>1.0 Household Living</td>
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<tr>
<td>1.06</td>
<td>Duplex (one duplex building per lot)</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>1.07</td>
<td>Duplex (more than one duplex building per lot)</td>
<td>L</td>
<td>15.03</td>
</tr>
<tr>
<td>1.08</td>
<td>Townhouse (up to 30 bedrooms)</td>
<td>L&lt;sup&gt;T30&lt;/sup&gt;</td>
<td>15.03</td>
</tr>
<tr>
<td>1.09</td>
<td>Townhouse (31-100 bedrooms)</td>
<td>L&lt;sup&gt;T75&lt;/sup&gt;</td>
<td>15.03</td>
</tr>
<tr>
<td>1.10</td>
<td>Townhouse (&gt; 100 bedrooms)</td>
<td>L&lt;sup&gt;T25&lt;/sup&gt;</td>
<td>15.03</td>
</tr>
<tr>
<td>1.11</td>
<td>Multi-Family Dwelling (up to 30 bedrooms)</td>
<td>L&lt;sup&gt;T125&lt;/sup&gt;</td>
<td>15.03</td>
</tr>
<tr>
<td>1.12</td>
<td>Multi-Family Dwelling (31-100 bedrooms)</td>
<td>L&lt;sup&gt;T200&lt;/sup&gt;</td>
<td>15.03</td>
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<tr>
<td>1.13</td>
<td>Multi-Family Dwelling (&gt; 100 bedrooms)</td>
<td>L&lt;sup&gt;T300&lt;/sup&gt;</td>
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<td>1.17</td>
<td>Adult Living Community</td>
<td>P&lt;sup&gt;T300&lt;/sup&gt;</td>
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<td>2.0 Group Living</td>
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<td></td>
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<td>2.01</td>
<td>Family Care Home</td>
<td>L</td>
<td>15.06</td>
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<tr>
<td>2.06</td>
<td>Fraternity or Sorority Dwelling</td>
<td>S&lt;sup&gt;T300&lt;/sup&gt;</td>
<td>15.09</td>
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<tr>
<td>2.07</td>
<td>Boarding House</td>
<td>L</td>
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<td>3.0 Transient Living</td>
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<td>3.02</td>
<td>Shelter for Homeless, Category 1</td>
<td>L&lt;sup&gt;T30&lt;/sup&gt;</td>
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<td>3.03</td>
<td>Shelter for Homeless, Category 2</td>
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<td>Vacation Rental</td>
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<td>Homestay Rental</td>
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<td>15.05</td>
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<td>4.0 Institutional</td>
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<td>4.04</td>
<td>Cemetery</td>
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<td>Utility Facility, Government, Neighborhood</td>
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<td>Utility Facility, Government, Regional</td>
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<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>Non-stealth Wireless Support Structure</td>
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<td>Accessory dwelling unit</td>
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<td>A-9</td>
<td>Automated teller machine (ATM), freestanding</td>
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<td>Poultry</td>
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<td>Livestock, small</td>
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<td>Bees</td>
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<td>15.57</td>
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<tr>
<td>A-15</td>
<td>Garden, residential</td>
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<td>15.58</td>
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<tr>
<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
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<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
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<td>15.59</td>
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<td>A-22</td>
<td>Vehicular gate</td>
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<td>15.61</td>
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<td>A-23</td>
<td>Vehicle washing station</td>
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<td>Open air market, accessory</td>
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<td>A-26</td>
<td>Daycare, small</td>
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</tr>
<tr>
<td>A-27</td>
<td>Limited structure to enable recreational use of open rooftops</td>
<td>L</td>
<td>14.03.07(G)</td>
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</table>
Use # | Specific Use | R3 | Reference
--- | --- | --- | ---
A-28 | Solar Energy System | L | 15.64
A-29 | Electric-Vehicle Charging Station | L | 15.65

Allowable Temporary Uses

| T-1 | Temporary care provider dwelling | L | 15.62
| T-2 | Temporary construction or repair dwelling | L | 15.62
| T-3 | Temporary construction trailer | L | 15.62
| T-6 | Temporary portable storage containers | L | 15.62
| T-9 | Carrier on wheels (cow) | L | 15.62
| T-10 | Yard sales | L | 15.62
| T-11 | Itinerant merchant/peddler | L | 15.62

14.10.03 R3 Development Standards

A. Minimum Gross Land Area: 20,000 square feet (see Subsection 14.03.02)
B. Minimum Lot Width: 80 feet (see Subsection 14.03.03)
C. Minimum Street Frontage: 64 feet (see Subsection 14.03.04)
D. Minimum Livability Space: .40 (see Subsection 14.03.05)
E. Minimum Setbacks (see Subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 13 feet
F. Maximum Building Height: 3 stories (see Subsection 14.03.07)

14.10.04 Occupancy: One (1) family or up to four (4) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers.

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.11 R4 Two-Family/Manufactured Home Residential District

14.11.01 The R4 Two-Family/Manufactured Home Residential District is established to provide a medium density area consisting of two-family uses, and manufactured homes on single lots. The regulations for this district are intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.11.02 R4 Permissible Uses
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<td>1.01</td>
<td>Single-Family Dwelling</td>
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<td>1.02</td>
<td>Manufactured Home “Class A”</td>
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<tr>
<td>1.06</td>
<td>Duplex (one duplex building per lot)</td>
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<tr>
<td>1.08</td>
<td>Townhouse (up to 30 bedrooms)</td>
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<td>L&lt;sup&gt;T50&lt;/sup&gt;</td>
</tr>
<tr>
<td>1.09</td>
<td>Townhouse (31-100 bedrooms)</td>
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<td>L&lt;sup&gt;T50&lt;/sup&gt;</td>
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<td>1.10</td>
<td>Townhouse (&gt; 100 bedrooms)</td>
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<td>L&lt;sup&gt;T75&lt;/sup&gt;</td>
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<td><strong>2.0 Group Living</strong></td>
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<td>2.01</td>
<td>Family Care Home</td>
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<td>L</td>
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<tr>
<td><strong>3.0 Transient Living</strong></td>
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<td>Home for Survivors of Domestic Violence</td>
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<td>Utility Facility, Town</td>
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<td>7.03</td>
<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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### Use # Specific Use R4 Reference

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<td>13.09</td>
<td>Forestry</td>
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### Allowable Accessory Uses

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<tr>
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<td>Secondary suite</td>
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<td>A-2</td>
<td>Home occupation</td>
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<td>A-3</td>
<td>Accessory dwelling unit</td>
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<td>A-11</td>
<td>Poultry</td>
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<tr>
<td>A-12</td>
<td>Livestock, small</td>
<td>L</td>
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<tr>
<td>A-14</td>
<td>Bees</td>
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<tr>
<td>A-15</td>
<td>Garden, residential</td>
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<tr>
<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
<td>P</td>
</tr>
<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
</tr>
<tr>
<td>A-22</td>
<td>Vehicular gate</td>
<td>L</td>
</tr>
<tr>
<td>A-25</td>
<td>Open air market, accessory</td>
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</tr>
<tr>
<td>A-26</td>
<td>Daycare, small</td>
<td>P</td>
</tr>
<tr>
<td>A-28</td>
<td>Solar Energy System</td>
<td>L</td>
</tr>
<tr>
<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
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### Allowable Temporary Uses

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<tr>
<td>T-1</td>
<td>Temporary care provider dwelling</td>
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<tr>
<td>T-2</td>
<td>Temporary construction or repair dwelling</td>
<td>L</td>
</tr>
<tr>
<td>T-3</td>
<td>Temporary construction trailer</td>
<td>L</td>
</tr>
<tr>
<td>T-6</td>
<td>Temporary portable storage containers</td>
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</tr>
<tr>
<td>T-9</td>
<td>Carrier on wheels (cow)</td>
<td>L</td>
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<tr>
<td>T-10</td>
<td>Yard sales</td>
<td>L</td>
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<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
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</table>

### 14.11.03 R4 Development Standards

- **A.** Minimum Gross Land Area: 6,000 square feet (see Subsection 14.03.02)
- **B.** Minimum Lot Width: 70 feet (see Subsection 14.03.03)
- **C.** Minimum Street Frontage: 56 feet (see Subsection 14.03.04)
- **D.** Minimum Livability Space: .48 (see Subsection 14.03.05)
- **E.** Minimum Setbacks: (see Subsection 14.03.06)
  1. Street: 20 feet
  2. Interior: 13 feet
- **F.** Maximum Building Height: 3 stories (see Subsection 14.03.07)

### 14.11.04 Occupancy:

**One (1) family or up to two (2) unrelated persons (see Section 14.04).** A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.
(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-21; Ord. PL05168-100621, 12-08-2021; Ord. PL-5272-110121, 12-08-2021)

14.12 R5 55+ Housing Residential District

14.12.01 The R5 55+ Housing Residential District is established to provide a medium to high density area consisting of residential housing for persons who are 55+. The regulations for this district are intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.12.02 R5 Permissible Uses

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<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
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<td>Allowable Principal Uses</td>
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<td>1.0 Household Living</td>
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<td>1.17</td>
<td>Adult Living Community</td>
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<td>2.0 Group Living</td>
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<tr>
<td>2.05</td>
<td>Residential Care Facility</td>
<td>CD</td>
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<tr>
<td>13.09</td>
<td>Forestry</td>
<td>L</td>
<td>15.31</td>
</tr>
<tr>
<td>3.0 Transient Living</td>
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<tr>
<td>3.07</td>
<td>Homestay Rental</td>
<td>L</td>
<td>15.05</td>
</tr>
<tr>
<td>7.0 Wireless Communication</td>
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<td></td>
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<tr>
<td>7.08</td>
<td>Emergency Response Communication Antenna</td>
<td>P</td>
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<tr>
<td>Allowable Accessory Uses</td>
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<td></td>
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<tr>
<td>A-28</td>
<td>Solar Energy System</td>
<td>L</td>
<td>15.64</td>
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<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
<td>L</td>
<td>15.65</td>
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</table>

14.12.03 R5 Development Standards

A. Minimum Gross Land Area: 10,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 70 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 56 feet (see Subsection 14.03.04)

D. Minimum Livability Space: .27 (see Subsection 14.03.05)

E. Minimum Setbacks: (see Subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 17 feet

F. Maximum Building Height: 4 stories/56’ (see Subsection 14.03.07)

14.12.04 Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04).

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL-5272-110121, 12-08-2021)
14.13 RA Residential/Agricultural District

14.13.01 The RA Residential/Agricultural District is established as a district in which the principal use of the land is for low density residential and agricultural purposes. Low-density commercial and service uses which serve the day-to-day convenience needs of the surrounding area are permissible so long as the uses are of such nature as to minimize conflicts with the area they serve. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment. The regulations for this district are intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

14.13.02 RA Permissible Uses

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<tr>
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<td>Single-Family Dwelling</td>
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<td>Manufactured Home “Class A”</td>
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<td>15.01</td>
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<td>1.03</td>
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<tr>
<td>1.06</td>
<td>Duplex (one duplex building per lot)</td>
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<td>2.0</td>
<td><strong>Group Living</strong></td>
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<td>2.01</td>
<td>Family Care Home</td>
<td>L</td>
<td>15.06</td>
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<td>3.0</td>
<td><strong>Transient Living</strong></td>
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<td></td>
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<td>3.01</td>
<td>Home for Survivors of Domestic Violence</td>
<td>L</td>
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<td>3.04</td>
<td>Bed and Breakfast, Category 1</td>
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<td>15.13</td>
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<tr>
<td>3.06</td>
<td>Vacation Rental</td>
<td>L</td>
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<td>Homestay Rental</td>
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<td>Heliport</td>
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<td>Cemetery</td>
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<td>4.07</td>
<td>Animal Sanctuary</td>
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<td>Police Substation</td>
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<td>Utility Facility, Town</td>
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<td>Utility Facility, Government, Neighborhood</td>
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<td>Small Wireless Collocation</td>
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<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>Club/Lodge Which Does Not Serve Alcohol</td>
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<td>Child Daycare, Large</td>
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<td>Adult Daycare, Large</td>
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<td>Kennel</td>
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<td>Veterinary Office/Hospital with Outdoor Kennels</td>
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<td>Veterinary Office/Hospital without Outdoor Kennels</td>
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<td>Open Air Market, Recurring</td>
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<td>Gas Station</td>
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<td>Seasonal Retail Activities and Amusements</td>
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<td>Indoor Shooting Range</td>
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<td>Outdoor Theater</td>
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<td>Campground and Recreational Vehicle Park</td>
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<td>Garden, Community</td>
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<td>Garden, Residential</td>
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<td>Agricultural Operation Excluding Livestock</td>
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<td>Custom Slaughterhouse</td>
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<td>Forestry</td>
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<td>Winery Associated with a Vineyard</td>
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<td>Parking</td>
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### Use # Specific Use RA Reference

| 15.03 | Park and Ride Lots | L | 15.39 |

#### 16.0 Storage

| 16.01 | Self-Storage Facilities | $T^{125}$ | 15.41 |

#### 18.0 Waste Related Uses

| 18.01 | Recycling Drop-off Station | $T^{300}$ | 15.42 |

#### Allowable Accessory Uses

| A-1 | Secondary suite | L | 15.45 |
| A-2 | Home occupation | L | 15.46 |
| A-10 | Produce stand | L | 15.53 |
| A-11 | Poultry | L | 15.54 |
| A-12 | Livestock, small | L | 15.55 |
| A-13 | Livestock, large | L | 15.56 |
| A-14 | Bees | L | 15.57 |
| A-15 | Garden, residential | L | 15.58 |
| A-16 | Satellite receiving antennas less than 1 meter in diameter | P |
| A-17 | Satellite receiving antennas less than 2 meters in diameter | P |
| A-19 | Helistop | $S^{T300}$ |
| A-20 | Swimming pools, spas, and hot tubs | L | 15.59 |
| A-22 | Vehicular gate | L | 15.61 |
| A-23 | Vehicle washing station | P |
| A-25 | Open air market, accessory | L | 15.22 |
| A-26 | Daycare, small | P |
| A-28 | Solar Energy System | L | 15.64 |
| A-29 | Electric-Vehicle Charging Station | L | 15.65 |

#### Allowable Temporary Uses

| T-1 | Temporary care provider dwelling | L | 15.62 |
| T-2 | Temporary construction or repair dwelling | L | 15.62 |
| T-3 | Temporary construction trailer | L | 15.62 |
| T-6 | Temporary portable storage containers | L | 15.62 |
| T-8 | Temporary non-fixed site event venue | L | 15.62 |
| T-9 | Carrier on wheels (cow) | L | 15.62 |
| T-10 | Yard sales | L | 15.62 |
| T-11 | Itinerant merchant/peddler | L | 15.62 |
| T-12 | Open air market, temporary | L | 15.62 |

### 14.13.03 RA Development Standards

**A.** Minimum Gross Land Area: (see Subsection 14.03.02)

1. RA, no public water or sewer available: 20,000 square feet
2. RA, public water available: 15,000 square feet
3. RA, public water and sewer available: 10,000 square feet

B. Minimum Lot Width: (see Subsection 14.03.03)
   1. RA, no public water or sewer available: 100 feet
   2. RA, public water available: 80 feet
   3. RA, public water and sewer available: 65 feet

C. Minimum Street Frontage: (see Subsection 14.03.04)
   1. RA, no public water or sewer available: 80 feet
   2. RA, public water available: 64 feet
   3. RA, public water and sewer available: 52 feet

D. Minimum Livability Space: .65 (see Subsection 14.03.05)

E. Minimum Setbacks (see Subsection 14.03.06)
   1. Street: 20 feet
   2. Interior:
      a. RA, no public water or sewer available: 18 feet
      b. RA, public water available: 18 feet
      c. RA, public water and sewer available: 14 feet

F. Maximum Building Height: 3 stories (see Subsection 14.03.07)

14.13.04 Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.14 MH Manufactured Home Park District

14.14.01 The MH Manufactured Home Park District is established to encourage well planned, attractive land development in the Town by providing fair standards and beneficial requirements for the siting, operation, and maintenance of manufactured homes. The regulations for this district are intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.14.02 MH Permissible Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>MH</th>
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<tbody>
<tr>
<td>Allowable Principal Uses</td>
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<tr>
<td>1.0 Household Living</td>
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<td>1.02</td>
<td>Manufactured Home “Class A”</td>
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<td>Manufactured Home “Class B”</td>
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<td>Manufactured Home Park</td>
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<td>Cemetery</td>
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<td>Transient Living</td>
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<td>3.07</td>
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<td>Event Venue, Category 1</td>
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<td>5.14</td>
<td>Utility Facility, Government, Neighborhood</td>
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<td>5.15</td>
<td>Utility Facility, Government, Regional</td>
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<tr>
<td>5.16</td>
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<td>6.0</td>
<td>Non-Government Utility Facility</td>
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<td>Utility Facility, Neighborhood</td>
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<td>Wireless Communication</td>
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<td>Small Wireless Collocation</td>
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<td>7.02</td>
<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>Stealth Wireless Support Structure</td>
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<td>Emergency Response Communication Antenna</td>
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<td>Religious Assembly, Category 2</td>
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<td>Agriculture</td>
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<td></td>
<td>Allowable Accessory Uses</td>
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<tr>
<td>A-1</td>
<td>Secondary suite</td>
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<tr>
<td>A-2</td>
<td>Home occupation</td>
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<td>A-11</td>
<td>Poultry</td>
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<td>A-12</td>
<td>Livestock, small</td>
<td>L</td>
<td>15.55</td>
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<td>A-14</td>
<td>Bees</td>
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<td>15.57</td>
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<td>A-15</td>
<td>Garden, residential</td>
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<tr>
<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
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<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
<td>15.59</td>
</tr>
<tr>
<td>A-22</td>
<td>Vehicular Gate</td>
<td>L</td>
<td>15.61</td>
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<tr>
<td>A-25</td>
<td>Open air market, accessory</td>
<td>L</td>
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<td>A-26</td>
<td>Daycare, small</td>
<td>P</td>
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<tr>
<td>A-28</td>
<td>Solar Energy System</td>
<td>L</td>
<td>15.64</td>
</tr>
</tbody>
</table>
14.03 MH Development Standards

A. Minimum Gross Land Area: 87,120 square feet (see Subsection 14.03.02)
B. Minimum Lot Width: None (see Subsection 14.03.03)
C. Minimum Street Frontage: 56 feet (see Subsection 14.03.04)
D. Minimum Livability Space: .51 (see Subsection 14.03.05)
E. Minimum Setbacks: (see subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 20 feet
F. Maximum Building Height: 35’ (see subsection 14.03.07)

14.04 Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.15 Reserved

(Ord. PL04727-050721, 07-01-2021)

14.16 Reserved

(Ord. PL04727-050721, 07-01-2021)

14.17 Reserved

(Ord. PL04727-050721, 07-01-2021)

14.18 Reserved

(Ord. PL04727-050721, 07-01-2021)
14.19 **B1 Downtown Districts**

14.19.01 The B1 Downtown Core and the B1 Downtown Interface Districts encompass the Town of Boone’s downtown area and represent, in large measure, the remaining vestiges of the Town’s historic character. Regulations in these districts are intended to preserve and maintain a small town, high country atmosphere. Preservation and adaptive reuse of existing historic buildings are encouraged and new construction shall be appropriately scaled to be sympathetic to the existing built environment. Design and regulatory standards for these districts reinforce the character of the downtown as a pedestrian friendly area by encouraging architectural solutions that are visually interesting, and are compatible in scale and character to the surrounding area. To help accomplish this, the area is divided into two (2) districts, each with its own character and scale which contribute to the overall vitality of the downtown area. Identification of the districts is listed below:

A. **B1 Downtown Core District:** The Downtown Core District is the center of the downtown area and contains the greatest concentration of historic commercial buildings. This district establishes a continuous building facade at the street frontage to strengthen the identity of downtown as a pedestrian destination where pedestrians feel comfortable through the careful selection of building materials, human scale design, and ground floor fenestration. Standards in this district reinforce the historic nature of the existing built environment through regulation of appearance, height, scale and mass.

B. **B1 Downtown Interface District:** The Downtown Interface District serves as a gateway into the downtown area and as the transition between the B1 Downtown Core District and adjacent zoning districts. Development in this district must be sensitive to issues of compatibility with the Downtown Core District as well as surrounding zoning districts, many which are low-density residential.

14.19.02 **Relationship to Other Regulations:**

A. Where there is a conflict between this Article and other provisions in the Unified Development Ordinance, with the exception of any Historic District overlay or Historic Landmark designation, the provisions in this Article shall govern.

14.19.03 **B1 Permissible Uses**

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>B1-DC</th>
<th>B1-DI</th>
<th>Reference</th>
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<tbody>
<tr>
<td>1.0 Household Living</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>1.14</td>
<td>Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)</td>
<td>L</td>
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<td>15.04</td>
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<tr>
<td>1.15</td>
<td>Multi-Family Dwelling in Mixed Use (31-100 bedrooms)</td>
<td>CD</td>
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<td>15.04</td>
</tr>
<tr>
<td>1.16</td>
<td>Multi-Family Dwelling in Mixed Use (&gt; 100 bedrooms)</td>
<td></td>
<td>T125</td>
<td>15.04</td>
</tr>
<tr>
<td>3.0 Transient Living</td>
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<td></td>
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<tr>
<td>3.01</td>
<td>Home for Survivors of Domestic Violence</td>
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<td>T125</td>
</tr>
<tr>
<td>3.02</td>
<td>Shelter for Homeless, Category 1</td>
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<td></td>
<td>T200</td>
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<td>3.04</td>
<td>Bed and Breakfast, Category 1</td>
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<td>3.05</td>
<td>Bed and Breakfast, Category 2</td>
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<td>L</td>
<td>15.13</td>
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<tr>
<td>3.06</td>
<td>Vacation Rental</td>
<td>L T75</td>
<td>L T75</td>
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<td>3.07</td>
<td>Homestay Rental</td>
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<td>3.09</td>
<td>Hotel, Small</td>
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### 4.0 Institutional

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<td>Funeral Home Establishment</td>
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<td>Cemetery</td>
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<td>Post Office</td>
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### 5.0 Government Uses

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<td>Government Cultural Facility</td>
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<td>5.02</td>
<td>Government Neighborhood Cultural Facility, Indoor Activity Only</td>
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<td>5.03</td>
<td>Government Neighborhood Cultural Facility, Includes Outdoor Activity</td>
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<td>5.04</td>
<td>Recreation Facility, Category 1</td>
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<td>5.12</td>
<td>Police Substation</td>
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<td>Utility Facility, Town</td>
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<td>Utility Facility, Government, Neighborhood</td>
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### 6.0 Non-Government

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### 7.0 Wireless Communication

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<td>Small Wireless Collocation</td>
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<td>7.02</td>
<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<tr>
<td>7.03</td>
<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<tr>
<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>7.06</td>
<td>Stealth Wireless Support Structure</td>
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<td>L</td>
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<td>7.08</td>
<td>Emergency Response Communication Antenna</td>
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### 8.0 Assembly

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<td>Religious Assembly, Category 1</td>
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<td>8.02</td>
<td>Religious Assembly, Category 2</td>
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<td>8.03</td>
<td>Religious Assembly, Category 3</td>
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<td>T200</td>
<td></td>
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<tr>
<td>8.04</td>
<td>Club/Lodge, Category 1</td>
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<td>p T75</td>
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### 9.0 Education

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<td>9.07</td>
<td>College- or university-operated community enterprise</td>
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### 11.0 General Sales and Service

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<td>11.03</td>
<td>Veterinary Office/Hospital without Outdoor Kennels</td>
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14-38
<table>
<thead>
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<th>B1-DI</th>
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<td>11.04</td>
<td>Financial Institution ≤ 5,000 ft²</td>
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<tr>
<td>11.05</td>
<td>Financial Institution &gt; 5,000 ft²</td>
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<td>P</td>
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</tr>
<tr>
<td>11.06</td>
<td>Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P T125</td>
<td>P T200</td>
<td></td>
</tr>
<tr>
<td>11.07</td>
<td>Other Restaurants ≤ 2,500 ft²</td>
<td>P</td>
<td>P</td>
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</tr>
<tr>
<td>11.08</td>
<td>Restaurant &gt; 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P T125</td>
<td>P T200</td>
<td></td>
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<tr>
<td>11.09</td>
<td>Other Restaurants &gt; 2,500 ft²</td>
<td>P T75</td>
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<td>11.14</td>
<td>Personal Service Establishment open to the public during 10 pm-6 am</td>
<td>P T125</td>
<td>P T125</td>
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<td>11.15</td>
<td>Other Personal Service Establishments</td>
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<tr>
<td>11.16</td>
<td>Retail Store up to 5,000 ft²</td>
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<tr>
<td>11.17</td>
<td>Retail Store more than 5,000 but less than 25,000 ft²</td>
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<td>P T300</td>
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<td>Business or Professional Office open to the public during 10 pm - am</td>
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<td>P T125</td>
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<td>11.21</td>
<td>Other Business or Professional Office</td>
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<td>11.22</td>
<td>Medical Office, Category 1</td>
<td>P T300</td>
<td>P T300</td>
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</tr>
<tr>
<td>11.23</td>
<td>Medical Office, Category 2</td>
<td>P T125</td>
<td>P T125</td>
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<td>11.25</td>
<td>Medical Office, Category 4</td>
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<td>11.27</td>
<td>Medical Emergency Response</td>
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<td>11.31</td>
<td>Moped Sales and Service</td>
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<td>11.36</td>
<td>Seasonal Retail Activities and Amusements</td>
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<td>11.37</td>
<td>Electric-Vehicle Charging Station</td>
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### 12.0 Recreation & Entertainment Uses

<table>
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<th>B1-DI</th>
<th>Reference</th>
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<tbody>
<tr>
<td>12.03</td>
<td>Indoor Theater</td>
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<td>12.04</td>
<td>Outdoor Theater</td>
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<td>P T125</td>
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<tr>
<td>12.05</td>
<td>Event Venue, Category 1</td>
<td>P</td>
<td>P</td>
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</tr>
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<td>12.06</td>
<td>Event Venue, Category 2</td>
<td>P T50</td>
<td>P T50</td>
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<td>12.07</td>
<td>Event Venue, Category 3</td>
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<td>12.10</td>
<td>Recreation Facility, Category 1</td>
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### 13.0 Agriculture

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<th>B1-DI</th>
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<td>Garden, Community</td>
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<td>Garden, Residential</td>
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### 14.0 Manufacturing

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<td>Microbrewery</td>
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<td>14.02</td>
<td>Brewpub</td>
<td>L T75</td>
<td>L T125</td>
<td>15.32</td>
</tr>
</tbody>
</table>

### 15.0 Parking

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>B1-DC</th>
<th>B1-DI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.01</td>
<td>Parking Lot</td>
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<td>CD</td>
<td>15.39</td>
</tr>
<tr>
<td>15.02</td>
<td>Parking Structure</td>
<td>CD</td>
<td>CD</td>
<td>15.40</td>
</tr>
<tr>
<td>15.03</td>
<td>Park and Ride Lots</td>
<td>CD</td>
<td>CD</td>
<td>15.49</td>
</tr>
</tbody>
</table>

### Allowable Accessory Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>B1-DC</th>
<th>B1-DI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Secondary suite</td>
<td>L</td>
<td></td>
<td>15.45</td>
</tr>
<tr>
<td>A-2</td>
<td>Home occupation</td>
<td>L</td>
<td>L</td>
<td>15.46</td>
</tr>
<tr>
<td>A-3</td>
<td>Accessory dwelling unit</td>
<td>L</td>
<td></td>
<td>15.47</td>
</tr>
<tr>
<td>A-5</td>
<td>Outdoor display</td>
<td>L</td>
<td>L</td>
<td>15.49</td>
</tr>
</tbody>
</table>
### Use # | Specific Use | B1-DC | B1-DI | Reference
--- | --- | --- | --- | ---
A-7 | Outdoor dining | L | L | 15.51
A-8 | Automated teller machine (ATM) | P | P | 15.52
A-9 | Automated teller machine (ATM), freestanding | L | L | 15.57
A-14 | Bees | L | L | 15.58
A-15 | Garden, residential | L | L | 15.59
A-16 | Satellite receiving antennas less than 1 meter in diameter | P | P | 15.60
A-17 | Satellite receiving antennas less than 2 meters in diameter | P | P | 15.61
A-20 | Swimming pools, spas, and hot tubs | L | L | 15.62
A-22 | Vehicular gate | L | L | 15.63
A-25 | Open air market, accessory | L | L | 15.64
A-26 | Daycare, small | P | P | 15.65
A-27 | Limited structures to enable recreational use of open rooftops | L T300 | L T300 | 14.03.07(G) 14.19.06(H)(8)(d)
A-28 | Solar Energy System | L | L | 15.66
A-29 | Electric-Vehicle Charging Station | L | L | 15.67

### Allowable Temporary Uses

| T-1 | Temporary care provider dwelling | L | L | 15.68
| T-2 | Temporary construction or repair dwelling | L | L | 15.69
| T-3 | Temporary construction trailer | L | L | 15.70
| T-6 | Temporary portable storage containers | L | L | 15.71
| T-9 | Carrier on wheels (cow) | L | L | 15.72
| T-10 | Yard sales | L | L | 15.73
| T-11 | Itinerant merchant/peddler | L | L | 15.74
| T-12 | Open air market, temporary | L | L | 15.75

### 14.19.04 B1 Development Standards

**A. Minimum Gross Land Area:** (see Subsection 14.03.02)

1. B1 Downtown Core: 2,500 square feet
2. B1 Downtown Interface: 5,000 square feet

**B. Minimum Lot Width:** (see Subsection 14.03.03)

1. B1 Downtown Core: 25 feet
2. B1 Downtown Interface: 50 feet

**C. Minimum Street Frontage:** (See Subsection 14.03.04)

1. B1 Downtown Core: 20 feet
2. B1 Downtown Interface: 40 feet

**D. Minimum Building Footprint:**
1. B1 Downtown Core: 50% of lot
2. B1 Downtown Interface: None

E. Minimum Setbacks: (See Subsection 14.03.06)

1. Street:
   a. Downtown Core: Buildings in the B1 Downtown Core District shall be constructed to the build-to line. The build-to line is the back of the required public sidewalk or the back of the street right-of-way along the primary public way. The building may be set back farther if the area created by an additional setback is designated as plaza space and/or landscaped greenspace that retains the intended connection between the publicly accessible pedestrian realm and ground-level internal portions of the building.
   b. Downtown Interface: Buildings in the B1 Downtown Interface District shall be subject to a minimum fifteen-foot (15') street setback, measured from the back of the required public sidewalk. Additional setback is allowed if the area created by an additional setback is designated as plaza space and/or landscaped greenspace that retains the intended connection between the publicly accessible pedestrian realm and ground-level internal portions of the building.

2. Interior: 0', except whenever a lot in a B1 Downtown District has a common boundary line with a lot in an adjacent zoning district, the interior setback requirement applicable to the B1 lot shall be the minimum set forth for the adjacent lot.

3. In the B1 district, the minimum street setback distance shall not apply to a projecting theater marquee, canopy or roof overhang supports as long as such supports do not go beyond the edge of the sidewalk. This exemption shall not obviate the need for an encroachment agreement.

F. Maximum Building Height: (See Subsection 14.03.07)
1. Buildings which front on King Street as shown on the map above are limited to thirty feet (30’), as measured from the average elevation of the existing or proposed public sidewalk facing King Street to the highest point of the building or structure.

2. Buildings which front King Street on corner lots shall be limited to thirty feet (30’), as measured from the average elevation of the existing or proposed public sidewalk facing King Street to the highest point of the building or structure.

3. Buildings which front on King Street as shown on the map above and Howard Street are limited to thirty feet (30’) at the King Street elevation, and thirty-three feet (33’) at the Howard Street elevation. Building height shall be measured from the average elevation of the existing or proposed public sidewalk facing the street to the highest point of the building or structure subject to the limitations below. The building height limitation for the King Street elevation may extend horizontally from the building frontage on King Street toward Howard Street not more than 75% of the lot length.

4. Buildings which front on King Street as shown on the map above and Queen Street are limited to thirty feet (30’) at the King Street elevation, and thirty-three feet (33’) at the Queen Street elevation. Building height shall be measured from the average elevation of the existing or proposed public sidewalk facing the street to the highest point of the building or structure. The applicable building height shall apply
for each street and the building height limitation shall terminate at the midpoint of the lot.

5. Buildings fronting streets in the B1 Districts, outside of the area governed by Subsection 14.19.03(G)(1) above, are limited to thirty-three feet (33’), as measured from the average elevation of the existing or proposed public sidewalk facing the street to the highest point of the building or structure containing the primary entrance.

6. Buildings in the B1 Districts located on interior lots with no street frontage are limited to thirty-three feet (33’), with height being the vertical distance measured from the average elevation of the finished grade at the primary façade of the building to the highest point of the building or structure.

7. Building Height Limitations:
   a. Flat roofs shall be capped by parapets of sufficient height to screen rooftop equipment and penthouses from view when standing at ground level twenty feet (20’) from the structure.
      i. The building height limitations for buildings on King Street governed by Subsection 14.19.03(F)(1) above shall include parapet walls.
      ii. The building height limitations for buildings governed by Subsections 14.19.03(F)(2) and 14.19.04(F)(3) above shall not include parapet walls so long as the parapet walls do not exceed 4’ above the maximum building height of thirty-three feet (33’). The height of parapet walls above 4’ shall be counted toward the building height.
   b. The height of a building existing as of April 26, 2018 may not be increased, whether by demolition and rebuilding or reconstruction, renovation, or improvement, unless approved under the Conditional District Zoning Map Amendment process set forth in Article 9 herein. Provided, however, that an addition or modification of the features exempted in Subsection 14.03.07(G) does not trigger the requirement for the Conditional District Zoning Map Amendment process.

14.19.05 Occupancy

A. One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

B. Specified properties subject to Town-initiated rezoning by ordinance adopted October 21, 2021 will be permitted to have occupancy of up to 4 unrelated persons until such time the property is redeveloped to a conforming use; provided, this exception is available only with respect to existing structures and does not apply to new construction, including any additions.

14.19.06 Appearance Standards:
A. The B1 Downtown Core and the B1 Downtown Interface Zoning districts are located within the Central Fire District which is regulated by the most recent edition of the NC Building Code. Applicants will be required to submit sufficient information during the zoning permit process for Staff to determine compliance of the proposed development with the requirements of the Central Fire District.

B. **Purpose:** For purposes of this Section the term “historic” shall mean any building, building material, or feature fifty years or older as of May 1, 2018.

C. **Intent:** When the Administrator is in doubt that a development meets the intent of the regulations of this Section, the permit shall be denied. The applicant may challenge this determination by appeal to the Town of Boone Board of Adjustment, in conformity with the procedures of Article 6.

D. **Applicability:** This section is applicable to the primary and secondary facades and to any other publicly visible portions of building pursuant to UDO Subsection 25.01.01.

E. **Rhythm, Proportion, and Building Massing**

   1. Rhythm and proportion are critical elements in an architectural composition, and it is vital that applicants understand and employ these principles when planning and designing additions and new construction. By following these principles, a project is more likely to achieve compatibility with the historic context of the downtown area. The principles of rhythm and proportion—which may refer to an individual building on one lot or several buildings that comprise a streetscape—are important to ensuring that renovations, additions and new construction projects are compatible with the surrounding neighborhood.

      a. Rhythm refers to the regular, or rhythmic, occurrence of building design elements such as windows and doors across a facade. Rhythm also refers to the pattern of buildings along a street.

      b. Proportion refers to a relationship between building design elements with respect to size and/or quantity. Proportion also refers to the height of a building in relation to its width and the dimensions of the structure in relation to the dimension of nearby buildings.

   2. Building massing refers to the general shape and size of a building. Building massing in the Downtown Districts should be similar to the massing patterns of buildings within the Downtown Core. These buildings have relatively modest massing. They have few, if any, building setbacks or projections and are almost always built straight up to the parapet, with the exception of recessed entries and architectural features listed herein.

      a. Applicants should utilize a segmented façade on larger buildings which breaks up the building’s façade such that it appears as several different buildings. Changes in the segmented façade should occur at the first-floor tenant
demising lines. Tenants may take up single or multiple segments. See photograph below for example.

b. The segment widths shall be similar to the general widths of the buildings in the Downtown Core. See Graphic below.

G. Compatibility with Existing District. For purposes of this Article, when a development standard requires an element to be “similar or compatible” with Downtown historic buildings, the applicant shall reference the following group of buildings, herein after referred to as “desired downtown design” for the identified features:
Graphic 14.19.06-2 Desired Downtown Design: 593-603 West King Street Identified Features: Original brick materials, brick detailing and coping; fenestration percentages

Graphic 14.19.06-3 Desired Downtown Design: 607 West King Street Identified Features: Original brick materials, brick detailing and coping; fenestration percentages; transom over door
Graphic 14.19.06-4 Desired Downtown Design 627 West King Street Identified Features: Original brick materials, brick detailing and coping; medallions; fenestration percentages; transom over door

Graphic 14.19.06-5 Desired Downtown Design 630 West King Street Identified Features: Original brick materials, brick detailing; fenestration percentages; clerestory windows; doors; storefront window; awnings
Graphic 14.19.06-6 Desired Downtown Design 659-661 West King Street Identified Features: Original brick materials and brick detailing; original concrete detailing; fenestration percentages; transom over door at 659 West King Street

Graphic 14.19.06-7 Desired Downtown Design 671 West King Street Identified Features: Building demonstrates sympathetic renovation with brick materials, brick detailing, fenestration percentages, transoms over doors and awnings
Graphic 14.19.06-8 Desired Downtown Design 680 West King Street Identified Features: Original stone material; window detailing
Graphic 14.19.06-9 Desired Downtown Design 685 West King Street Identified Features: Original brick materials, brick detailing, fenestration percentages, windows; and storefront window

Graphic 14.19.06-10 Desired Downtown Design 718 West King Street Identified Features: Original stone materials, fenestration percentages; door; storefront window
H. Design Standards for New Construction and Additions

1. Purpose. The purpose of this section is to provide standards for the design of new building construction in the B1 districts in order to retain the historic context of the area while providing new opportunities for design. New building design must be sympathetic to existing buildings in the B1 Downtown Core, and respect the traditional qualities that make downtown unique, such as use of storefront detailing and choice of materials. Applicants shall use the design elements that pay tribute to what was historically present in Boone’s architecture. Compatible contemporary designs rather than historic duplications or replications are acceptable when new construction is considered.

   a. Inclusion of the following architectural features supports the determination that a design is sympathetic or compatible with the area:

   ![Architectural Features Diagram]

   i. First floor display windows.
   ii. Recessed entrance doors where the door will not extend past the front of the building.
   iii. Transoms or clerestory windows above doors and windows.
   iv. Cornices
   v. Decorative Masonry Elements:
      A. Belt course: a course of bricks which runs the entire length of the façade and is laid in a pattern different to the stretcher or common course (examples include soldier or sailor course).
B. Stone belt course: a course of stone (such as granite) which runs the entire length of the façade and is in a different material than the remainder of the façade.

C. Masonry lintels or sills

D. Quoins

b. The features below will assist with contributing to the determination that a building is sympathetic or compatible but to a lesser degree than the list above:

i. Kick plates when used as base to the windows and the entrance doors along a façade.

ii. Angled entrances on corners,

iii. Vertical window patterns and shapes between upper stories,

iv. Pilasters,

v. Friezes and fasciae,

vi. Medallions,

vii. Sunbursts,

viii. Corbels,

ix. Decorative molding

c. **B1 Downtown Interface District.** Additional contemporary architectural features allowed within the B1 Downtown Interface District that are not allowed within the B1 Downtown Core District include but are not limited to:

i. Large glass windows on upper floors

ii. Metal detail and metal roof elements

iii. Accordion or garage-style window/doors

3. **Fenestrations**

a. The rhythm, placement, size and proportion of window and door openings shall be designed to be similar or compatible with the desired downtown designs. See Subsection 14.19.06(G).

b. All buildings shall have storefront windows along all ground-floor level primary and secondary facades.

i. There shall be a higher ratio of window to wall along the ground floor than the upper stories of the same building as detailed in Graphic 14.19.06-12.
ii. The bottom of ground floor windows must be no more than thirty inches (30") above the sidewalk.

iii. The top of ground floor windows should be no less than eight feet (8’) above the sidewalk.

iv. The window to wall ratio should not exceed 75% of the ground floor façade area as detailed in Graphic 14.19.06-12 is measured from the average final grade of the façade to the roof for single-story buildings and to the lowest point of the second-story floor support for multi-story buildings.

v. Any below-ground story which has a visible façade at the public sidewalk shall install windows similar in style and trim to the windows on the other levels of the same façade to the extent practical as to provide natural light into the below-ground story.

c. The window to wall ratio of an upper story shall meet the percentages outlined below. Parapets should not be included in the window to wall ratio for upper stories:

<table>
<thead>
<tr>
<th>District</th>
<th>Upper Floor Window Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1 Downtown Core</td>
<td>20-40%</td>
</tr>
<tr>
<td>B1 Downtown Interface</td>
<td>20-60%</td>
</tr>
</tbody>
</table>

d. The use of clear or lightly-tinted colored glass on windows and doors (minimum 70% VLT) is required. Spandrel glass is prohibited.
Town of Boone
Unified Development Ordinance
Article 14 Zoning Districts Regulations

Graphic 14.19.06-12 Window to Wall Ratio

B1 Downtown Core: 20-40%
B1 Downtown Interface: 20-60%

75% or less

Note: Pursuant to Subsection 14.19.06(H)(3)(b)(i) above, there shall be more windows and a higher ratio of window to wall along the ground floor than the upper story.

e. Exterior Doors

i. B1 Downtown Interface: All entrance doors off of the primary and secondary facades must be architecturally compatible/sympathetic with the storefront of the building.

ii. B1 Downtown Core: All entrance doors on the primary and secondary facades shall be made of a solid wood frame and must be architecturally compatible/sympathetic with the storefront of the building.

iii. Following are photographs of acceptable and unacceptable doors based upon use.
Acceptable Door Gallery for Any Use:
Acceptable Door Gallery for Office and Residential Access (directly into unit):

Acceptable Door Gallery for Residential Access (entrance into common area or directly into unit):
4. **Materials.**

a. **Acceptable Materials:** The use of materials that are similar or compatible in dimension, durability, and finish to the desired downtown designs. See Subsection 14.19.06(G).

i. **Acceptable Field Materials:**
   A. Brick or stone, unglazed and unpainted
   B. Stucco finishes, but only (1) on non-primary or non-secondary facades; (2) the stucco finish must be similar or compatible to historic examples found in the B1 Downtown Core District, and (3) the stucco finish is not the primary building material.

ii. **Acceptable Trim Materials:**
   A. Brick or stone, unglazed and unpainted.
   B. Noncombustible wood details (Allowable wood detailed in the most recent NC Building Code)
   C. Metal (only on window and door trim)
   D. Copper
   E. Brick, Clay, or Ceramic Pavers
   F. Concrete and stone lintels
   G. Concrete, stone, or brick caps or cornices

b. **Prohibited Materials:** The following exterior building materials are prohibited:
i. Prohibited Field Materials:
   A. Fiber-cement,
   B. Metal,
   C. Vinyl,
   D. PVC composites,
   E. Fiber reinforced concrete (FRC),
   F. Glass curtain walls,
   G. Mirrored glass,
   H. Plexi-glass,
   I. Concrete blocks,
   J. Simulated brick or stone,
   K. Stacked stone with no mortar,
   L. Thin-stacked stone,
   M. Stucco finishes except as allowed in Subsection 14.19.06(H)(4)(a)(i)(B), and
   N. Dryvit, EIFS

ii. Prohibited Trim Materials (includes trim on doors and windows):
   A. Fiber-cement
   B. Metal (except on window and door trim),
   C. Vinyl,
   D. PVC composites,
   E. Fiber reinforced concrete (FRC),
   F. Concrete blocks,
   G. Simulated brick or stone,
   H. Stacked stone with no mortar,
   I. Thin-stacked stone, and
   J. Stucco finishes

iii. Any materials not listed are prohibited.

iv. Exceptions for prohibited materials. An otherwise prohibited material may be used in an addition if the applicant demonstrates that the same material is a historic material used on the existing building.
5. **Color**
   a. Cornices, doors, door and window trim, awnings, canopies, and kickplates can be any color.

6. **Roofs**: Historically, most of Boone’s downtown commercial buildings had flat roofs. This theme should be carried forward in new construction and additions using the following guidelines:
   a. The roof planes should be hidden from view on the façade, and rooflines should be decorated using historic decorative details. Use historic photographs and/or neighboring buildings as a guide.
   b. Terracotta tile or limestone roof coping is required in the B1 Downtown Core District and encouraged in the B1 Downtown Interface District.
   c. Residential roof types are prohibited.
   d. Pitched roofs are prohibited, with the exception of decorative roof elements such as clock towers and cupolas.

7. **Awnings and Canopies**: Awnings and canopies shall be designed in relationship to the historic context of the surrounding district.
   a. **B1 Downtown Core:**
      i. Design should be complementary to the shape and color of the building façade.
      ii. Awnings and canopies that are illuminated from within must be covered or finished with fully opaque materials.
      iii. Acceptable awning and canopy styles are listed below (see Graphic 1 below):
          A. Metal frame covered with UV protected non-shiny cloth or canvas; or
          B. Cable-hung awning or canopies
b. B1 Downtown Interface:

i. Design should be complementary to the shape and color of the building façade.

ii. Awnings and canopies that are illuminated from within must be covered or finished with fully opaque materials.

iii. Acceptable awning and canopy styles are listed below (See Graphics below):

   A. Metal frame covered with UV protected non-shiny cloth or canvas;
   
   B. Cable-hung awning or canopies;
   
   C. Decorative wood frame awnings or canopies with copper roofing are allowed in the B1 Interface district; (allowable wood detailed in the most recent NC Building Code)
   
   D. Canopies with vertical supports are only allowed where the vertical supports do not encroach in the public way (sidewalk, alley, etc.).

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8. Additions:

   a. New additions should be designed and constructed so that the character-defining features of a building are not radically changed, obscured, damaged, or destroyed. New design should always be clearly differentiated so that the addition does not appear to be part of the original building. Do not attempt to duplicate form, material, style, wall plane, roofline, cornice height.
b. Exterior materials for additions shall be compatible with those on the original building.

c. The addition should complement the scale, massing, materials, and window spacing of the adjacent building(s).

d. Rooftop Additions: Rooftop additions to existing commercial buildings, including those intended to accommodate elevator shafts, bars, decks, kitchen prep areas, social areas, or to otherwise enable recreational use of open rooftops, are generally not appropriate if any portion of the rooftop addition is visible from the street-level right of way adjacent to the primary façade.

i. For buildings located on corner lots, additions should not be visible from the street-level secondary façade, either. In the vast majority of cases, this will mean positioning the addition within the one-third portion of the rooftop located closest to the non-primary or non-secondary facade of the existing building.

ii. Rooftop additions should never destroy or damage character-defining features of an existing building, and they should be designed to be compatible with both the size, scale, color, material, form, style, and character of the building on which they are erected. Rooftop additions should be subordinate to the existing building in size and design, and compatible with its massing, scale, materials, and features. Nevertheless, additions should be sufficiently differentiated as new elements from original components of the existing building.

iii. Rooftop additions should maintain the lowest possible profile in their construction, so that walkways, decks, seating areas, solar arrays, and similar components are built as close as functionally possible to the original roof surface of the existing building.

iv. The additions shall not be visible when viewed at eye level (5'-6" from grade) from the opposite side of the right-of-way adjacent to the primary façade (directly in front of the building; for corner properties, said additions shall also not be visible when viewed at eye level (5'6" from grade) from the opposite side of the side of the right-of-way adjacent to the secondary façade directly in front of the secondary façade.

A. When a building on a corner lot has more than one secondary façade, this standard shall only apply to the secondary façade with the higher level of vehicular traffic.

I. **Design Standards for Renovation of Existing Buildings.**

1. **Purpose:** A building may need renovation for a number of reasons. A building may be in poor condition, or may have been insensitively remodeled in the past.
Similarly, certain changes may be desired in order to add either modern conveniences to a building or to bring the building up to current building code standards. Renovations to existing buildings shall be consistent with guidelines set forth herein.

2. Applicants should exercise caution when undertaking renovations of buildings and building facades within the B1 Districts because once a nonconforming material or feature has been removed, the applicant will only be able to proceed with new materials and features which meet the requirements of this Section. Renovations are prohibited if they will destroy historic features or otherwise preclude subsequent preservation efforts.

3. Distinctive or historic materials, features, finishes, construction techniques or examples of building craftsmanship of a building shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property shall be prohibited.

4. Applicants shall identify, retain, and preserve masonry features that are important in defining the overall historic character of the building (such as, but not limited to: walls, brackets, railings, cornices, window and door surrounds, steps and columns), as well as decorative ornament and other details, such as tooling and bonding patterns, coatings, and color.

5. Applicants shall identify, retain and preserve wood features that are important in defining the overall historic character of the building (such as, but not limited to: siding, cornices, brackets, window and door surrounds, and steps) and their paints, finishes and colors.

6. Applicants shall identify, retain and preserve storefronts and their functional and decorative features that are important in defining the overall historic character of the building. The storefront materials (including wood, masonry, metals, ceramic tile, clear glass, and pigmented structural glass) and the configuration of the storefront are significant, as are features, such as, but not limited to: display windows, base panels, bulkheads, signs, doors, transoms, clerestory windows, kick plates, corner posts, piers, and entablatures. The removal of inappropriate, non-historic cladding, false mansard roofs, and other more recent, non-historic or insignificant alterations can help reveal the historic character of the storefront. If the original façade has been covered, then it should be uncovered if structurally feasible.

7. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinct feature, the new feature will match the old in design, color, texture, and where possible, materials. Missing features will be substantiated by documentary and physical evidence and
shall only be replaced with new materials that match the existing historic material in composition, size, shape, texture, pattern, color and detail.

8. Materials that are not visually compatible with the original façade, such as shiny metals, mirror glass, plastic panels, and vinyl windows or doors are prohibited, unless they can be documented through historic images or similar documentation.

9. A historic material found on the existing building used for the same purpose or location will be found to be acceptable. Where necessary or desirable due to lack of historic materials, equivalency of alternative materials, or other reasons demonstrated to the satisfaction of the Administrator, applicants may use a compatible substitute material that reproduces the overall appearance and aesthetic of the historic material.

10. Non-historic buildings (building built less than fifty years ago) in the B1 and buildings previously renovated or altered so that no historic features or materials remain shall be renovated in accordance with the standards set forth in Subsection 14.09.06(H).
   a. Non-historic materials or features may be repaired.
   b. Original materials to non-historic buildings may be replaced with materials that are similar in design, workmanship and composition. Field Materials.

11. Color
   a. Field Materials
      i. If paint removal is not structurally feasible, painted field materials may be repainted.
      ii. Non-painted field materials may not be painted.
      iii. Paint color should be similar to the original color of the field material, the existing painted color of the field material, or a color from the Benjamin Moore Historical Collection series or equivalent.
   b. Trim Materials
      i. If paint removal is not structurally feasible, painted trim materials may be repainted.
      ii. Non-painted trim materials may not be painted.
      iii. When previously painted brick or stone trim, such as window lintels or sills must be repainted, paint color should be similar to the original color of the field material, the existing painted color of the field material, or a color from the Benjamin Moore Historical Collection series or equivalent.
      iv. All other cornices, doors, door and window trim, awnings, canopies, and kickplates can be any color.
12. Awnings and Canopies:

a. B1 Downtown Core: Awning and canopies shall only be allowed in cases where their use can be historically documented in relationship to the historic context of the existing building.
   i. Design should be complementary to the shape and color of the building façade.
   ii. Existing awnings and shed roof canopies on historic properties should be evaluated for their historical accuracy. In those cases where they are not appropriate, they should be removed and the original building façade appearance and orientation restored.
   iii. Shed roof canopies are not historically appropriate to downtown Boone and are prohibited in renovations.
   iv. Awnings and canopies that are illuminated from within must be covered or finished with fully opaque materials.
   v. Acceptable awning and canopy styles are listed below (see Graphic 1 Acceptable Awning and Canopy Types in the B1 Downtown Core and B1 Downtown Interface):
      i. Metal frame covered with UV protected non-shiny cloth or canvas; or
      ii. Cable-hung awning or canopies

b. B1 Downtown Interface: Awning and canopies should only be installed in cases where their use can be historically documented in relationship to the historic context of an existing building and/or the surrounding district.
   i. In these instances, their design should be complementary to the shape and color of the building façade.
   ii. Existing awnings and shed roof canopies on historic properties should be evaluated for their historical accuracy. In those cases where they are not appropriate, they should be removed and the original building façade appearance and orientation restored.
   iii. Shed roof canopies are not historically appropriate to Boone and are prohibited in renovations.
   iv. Awnings and canopies that are illuminated from within must be covered or finished with fully opaque materials.
   v. Acceptable awning and canopy styles are listed below:
      A. Metal frame covered with UV protected non-shiny cloth or canvas;
      B. Cable-hung awning or canopies;
C. Decorative wood frame awnings or canopies with copper roofing are allowed in the B1 Interface district; (allowable wood detailed in the most recent NC Building Code)

D. Canopies with vertical supports are only allowed where the vertical supports do not encroach in the public way (sidewalk, alley, etc.).

13. Exterior Doors
   a. Original exterior doors historic to the building shall be repaired and retained.
   b. The reuse of historic hardware and locks is encouraged.
   c. Renovations to facades shall retain recessed door areas or recreate recessed door areas, if historically appropriate, to the extent practicable.
   d. Renovations which require new doors or replacement of doors on the primary or secondary facades shall meet the standards set forth in UDO Subsection 14.09.06(H)(3)(e).

J. Fencing
   1. Decorative fencing is permissible within the B1 downtown districts. Decorative fencing does not refer to the screening elements required for solid waste and recycling enclosures, HVAC units or similar items.
   2. Materials:
      a. Chain link, solid, barbed, razor wire, plastic, cloth, or electrified fences are prohibited in the B1 zoning districts.
      b. Materials may be of coated aluminum, wrought iron, or welded steel.
      c. Solid masonry pillars are allowed if made of the same brick or rock used on the principal structure.
      d. The fence must be installed with a decorative side facing away from the façade.
   3. Height:
      a. Fences placed fifteen feet (15’) or less from any public way including streets, sidewalks, alleys, and greenways shall not exceed forty-two inches (42”) in height and shall be screened with evergreen planting materials so that no more than ½ of the surface area will be visible from the public way.
      b. Fences over fifteen feet (15’) from any public way including streets, sidewalks, alleys, and greenway may not exceed six feet (6’) in height and shall be screened with evergreen planting materials so that no more than ½ of the surface area will be visible from the public way.

K. Retaining Walls
1. All publicly visible retaining walls within a B1 zoning district shall be faced with brick or rock material that is compatible with material on the principal structure. Retaining walls may not be faced with any kind of simulated brick, stone, or rock, or with concrete.

2. Retaining walls within fifteen feet (15’) of the public sidewalk are prohibited in the B1 Downtown Core zoning district.

3. Retaining walls within fifteen feet (15’) of the public sidewalk in the B1 Downtown Interface zoning district shall not exceed four feet (4’) in height.

4. All other retaining walls shall not exceed six feet (6’) in height except for retaining walls in series where an eight-foot (8’) landscape buffer has been installed in front of the wall. In those cases, the wall may increase to a maximum height of eight feet (8’).

5. Buildings located near the top of site retaining walls shall be set back a minimum of four feet (4’) horizontally from the top of the retaining wall.

6. Landscape buffer required:
   a. A series of two (2) or more retaining walls must have a minimum four foot (4’) landscaped buffer between each wall. See Graphic below.
   b. Retaining walls in series which collectively exceed twelve feet (12’) in height shall have a minimum of one (1), eight foot (8’) wide landscape buffer, between the first two (2). Retaining walls which are separated by a building, a road, or a parking area shall be exempt from this requirement. See Graphic below.

**Graphic 14.19.06-16 Retaining Wall Buffers**

- Dash lines indicate building, road, parking or other element.
- This wall may be a retaining wall.
- 4’ Min.
- 8’ Max. Height
- 6’ Max. Height
- Can’t exceed 4’ in height when within 15’ of public sidewalk in B1 Downtown Interface.
c. The landscape buffer as described above shall contain at a minimum the number of plantings as described in Graphic 14.19.06-17 Retaining Wall Landscape Buffer Standards. Number of plantings are based upon the linear measurement of the retaining wall. These buffers shall be maintained in accordance with the provisions of Section 31.12.

Graphic 14.19.06-17 Retaining Wall Landscape Buffer Standards

<table>
<thead>
<tr>
<th>Total Number of Plants per 100 linear feet (Minimum)</th>
<th>4' Landscape Buffer</th>
<th>8' Landscape Buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of shrubs (at least 75% shall be evergreen)</td>
<td>25</td>
<td>-</td>
</tr>
<tr>
<td>Number of evergreen trees</td>
<td>-</td>
<td>7</td>
</tr>
<tr>
<td>Number of small deciduous trees</td>
<td>5</td>
<td>3</td>
</tr>
</tbody>
</table>

L. **Landscaping:** Development within the B1 zoning districts is exempt from the landscape standards set forth in UDO Article 31 except all development must comply with UDO Section 31.02 General Screening Standard, the requirements as set forth in UDO Sections 31.12 Compliance and Maintenance and 31.13 Preservation of Existing Trees and Vegetation and Appendix B in its entirety.

1. **B1 Downtown Core:** The following landscape requirements apply within the B1 Downtown Core:
   a. Each development is required to provide street trees in accordance with the approved Downtown Streetscape Plan.
   b. Full landscape buffers are required where a lot in the B1 Downtown Core abuts a lot in another zoning district (except for B1 Interface and U1). These landscape buffers shall meet the requirements set forth in UDO Sections 31.04, 31.05 and 31.06 and Appendix B.
   c. No portion of any vehicular surface area shall be further than sixty feet (60’) from the trunk of a large deciduous tree.

2. **B1 Downtown Interface:** The following landscape requirements apply within the B1 Downtown Interface:
   a. Applicants are required to provide large deciduous trees within the area set aside for the street setback and for any space dedicated to plaza space or landscaped greenspace at a rate of one (1) tree per every twenty-five (25’) linear feet with a minimum of two (2) trees per street frontage in accordance with the approved Downtown Streetscape Plan. Trees must be placed in areas which contribute to the overall health of the trees.
b. Full landscape buffers are required where a lot in the B1 Downtown Interface abuts a lot in another zoning district (except for B1 Historic Core and U1). These landscape buffers shall meet the requirements set forth in UDO Sections 31.04, 31.05 and 31.06 and Appendix B.

c. No portion of any vehicular surface area shall be further than sixty feet (60’) from the trunk of large deciduous tree.

M. Utilities

1. All utilities are required to meet the standards set forth in UDO Article 22 Utilities in addition to the standards set forth herein.

2. Utility meters and vents should be located where they are not visible or the least publicly visible. Locations in order of acceptability are as follows:
   a. Any façade that is not considered a primary- or secondary-façade.
   b. Secondary-facades.
   c. Primary-facades for renovated buildings only.
   d. Utility meters and vents are only allowed on the primary façade of renovated buildings when it is impossible to place the utility meters and vents on any other façade.

3. Unless prohibited by NC Building Code, utility meters and vents should be painted to match or blend with the color of the building or surroundings.

4. Exterior mechanical and/or HVAC equipment:
   a. Preferred location shall be the roof.
   b. For those not located on the roof the equipment shall follow the location guidelines set forth in Subsection 14.09.06(M)(2) above and shall be screened in accordance with UDO Subsection 31.06.05.

5. Installation of any utility shall not obscure or cover windows or any other distinguishing architectural features.


14.20 B2 Neighborhood Business District

14.20.01 The B2 Neighborhood Business District is intended to accommodate low intensity office, retail, and personal service and upper story residential uses within or abutting residential areas. The district is established to provide convenient locations for businesses on small to mid-sized sites which serve the needs of surrounding residents without disrupting the character of the neighborhood. The regulations for this district are intended to create a
comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>B2</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Allowable Principal Uses</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1.0 Household Living</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.14</td>
<td>Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)</td>
<td>LT75</td>
<td>15.04</td>
</tr>
<tr>
<td><strong>3.0 Transient Living</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.01</td>
<td>Home for Survivors of Domestic Violence</td>
<td>L</td>
<td>15.11</td>
</tr>
<tr>
<td>3.04</td>
<td>Bed and Breakfast, Category 1</td>
<td>L</td>
<td>15.13</td>
</tr>
<tr>
<td>3.06</td>
<td>Vacation Rental</td>
<td>LT75</td>
<td>15.14</td>
</tr>
<tr>
<td>3.07</td>
<td>Homestay Rental</td>
<td>L</td>
<td>15.05</td>
</tr>
<tr>
<td><strong>4.0 Institutional</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.03</td>
<td>Funeral Home Establishment</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>4.04</td>
<td>Cemetery</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>4.05</td>
<td>Post Office</td>
<td>P</td>
<td></td>
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<tr>
<td><strong>5.0 Government Uses</strong></td>
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<tr>
<td>5.02</td>
<td>Government Neighborhood Cultural Facility, Indoor Activity Only</td>
<td>P</td>
<td></td>
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<tr>
<td>5.04</td>
<td>Recreation Facility, Category 1</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>5.05</td>
<td>Recreation Facility, Category 2</td>
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<td></td>
</tr>
<tr>
<td>5.06</td>
<td>Recreation Facility, Category 3</td>
<td>P750</td>
<td></td>
</tr>
<tr>
<td>5.07</td>
<td>Event Venue, Category 1</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>5.08</td>
<td>Event Venue, Category 2</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>5.09</td>
<td>Event Venue, Category 3</td>
<td>P750</td>
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<tr>
<td>5.12</td>
<td>Police Substation</td>
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<tr>
<td>5.13</td>
<td>Utility Facility, Town</td>
<td>L</td>
<td>15.16</td>
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<tr>
<td>5.14</td>
<td>Utility Facility, Government, Neighborhood</td>
<td>L</td>
<td>15.16</td>
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<td>5.16</td>
<td>Government Facility</td>
<td>P</td>
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<td><strong>6.0 Non-Government</strong></td>
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<td>6.01</td>
<td>Utility Facility, Neighborhood</td>
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<td>15.16</td>
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<tr>
<td><strong>7.0 Wireless Communication</strong></td>
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<td>7.01</td>
<td>Small Wireless Collocation</td>
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<td>7.02</td>
<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>15.17</td>
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<td>7.03</td>
<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>15.17</td>
</tr>
<tr>
<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
<td>L</td>
<td>15.17</td>
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<tr>
<td>7.06</td>
<td>Stealth Wireless Support Structure</td>
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<td>15.17</td>
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<td>7.08</td>
<td>Emergency Response Communication Antenna</td>
<td>P</td>
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<tr>
<td><strong>8.0 Assembly</strong></td>
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<tr>
<td>8.01</td>
<td>Religious Assembly, Category 1</td>
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<tr>
<td><strong>10.0 Daycare</strong></td>
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<tr>
<td>10.01</td>
<td>Child Daycare, Large</td>
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<td>15.19</td>
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<tr>
<td>10.03</td>
<td>Adult Daycare, Large</td>
<td>L</td>
<td>15.19</td>
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<tr>
<td><strong>11.0 General Sales and Service</strong></td>
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<tr>
<td>Use #</td>
<td>Specific Use</td>
<td>B2</td>
<td>Reference</td>
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<td>-----------------------------------------------------------------------------</td>
<td>----</td>
<td>-----------</td>
</tr>
<tr>
<td>11.03</td>
<td>Veterinary Office/Hospital without Outdoor Kennels</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.04</td>
<td>Financial Institution ≤ 5,000 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.06</td>
<td>Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P</td>
<td>T775</td>
</tr>
<tr>
<td>11.07</td>
<td>Other Restaurants ≤ 2,500 ft²</td>
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<td></td>
</tr>
<tr>
<td>11.15</td>
<td>Other Personal Service Establishments</td>
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<tr>
<td>11.16</td>
<td>Retail Store up to 5,000 ft²</td>
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<td></td>
</tr>
<tr>
<td>11.17</td>
<td>Retail Store more than 5,000 but less than 25,000 ft²</td>
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<td>T200</td>
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<tr>
<td>11.21</td>
<td>Other Business or Professional Office</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.25</td>
<td>Medical Office, Category 4</td>
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<tr>
<td>11.29</td>
<td>Vehicle Sales and Service</td>
<td>L</td>
<td>T125</td>
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<tr>
<td>11.31</td>
<td>Moped Sales and Service</td>
<td>P</td>
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<tr>
<td>11.34</td>
<td>Gas Station</td>
<td>P</td>
<td>T125</td>
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<tr>
<td>11.35</td>
<td>Car Wash</td>
<td>P</td>
<td>T125</td>
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<tr>
<td>11.36</td>
<td>Seasonal Retail Activities and Amusements</td>
<td>P</td>
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<tr>
<td>11.37</td>
<td>Electric-Vehicle Charging Station</td>
<td>L</td>
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**12.0 Recreation & Entertainment Uses**

<table>
<thead>
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<th>Use #</th>
<th>Specific Use</th>
<th>B2</th>
<th>Reference</th>
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<tbody>
<tr>
<td>12.05</td>
<td>Event Venue, Category 1</td>
<td>P</td>
<td>T775</td>
</tr>
<tr>
<td>12.06</td>
<td>Event Venue, Category 2</td>
<td>P</td>
<td>T125</td>
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<tr>
<td>12.10</td>
<td>Recreation Facility, Category 1</td>
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</table>

**13.0 Agriculture**

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>B2</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.01</td>
<td>Garden, Community</td>
<td>L</td>
<td>15.29</td>
</tr>
<tr>
<td>13.02</td>
<td>Garden, Residential</td>
<td>L</td>
<td>15.30</td>
</tr>
<tr>
<td>13.09</td>
<td>Forestry</td>
<td>L</td>
<td>15.31</td>
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**Allowable Accessory Uses**

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>B2</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Secondary suite</td>
<td>L</td>
<td>15.45</td>
</tr>
<tr>
<td>A-2</td>
<td>Home occupation</td>
<td>L</td>
<td>15.46</td>
</tr>
<tr>
<td>A-3</td>
<td>Accessory dwelling unit</td>
<td>L</td>
<td>15.47</td>
</tr>
<tr>
<td>A-5</td>
<td>Outdoor display</td>
<td>L</td>
<td>15.49</td>
</tr>
<tr>
<td>A-7</td>
<td>Outdoor dining</td>
<td>L</td>
<td>15.51</td>
</tr>
<tr>
<td>A-8</td>
<td>Automated teller machine (ATM)</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-9</td>
<td>Automated teller machine (ATM), freestanding</td>
<td>L</td>
<td>15.52</td>
</tr>
<tr>
<td>A-11</td>
<td>Poultry</td>
<td>L</td>
<td>15.54</td>
</tr>
<tr>
<td>A-14</td>
<td>Bees</td>
<td>L</td>
<td>15.57</td>
</tr>
<tr>
<td>A-15</td>
<td>Garden, residential</td>
<td>L</td>
<td>15.58</td>
</tr>
<tr>
<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-17</td>
<td>Satellite receiving antennas less than 2 meters in diameter</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
<td>15.59</td>
</tr>
<tr>
<td>A-22</td>
<td>Vehicular gate</td>
<td>L</td>
<td>15.61</td>
</tr>
<tr>
<td>A-23</td>
<td>Vehicle washing station</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-25</td>
<td>Open air market, accessory</td>
<td>L</td>
<td>15.22</td>
</tr>
</tbody>
</table>
### Use # | Specific Use | B2 | Reference
---|---|---|---
A-26 | Daycare, small | P | 
A-28 | Solar Energy System | L | 15.64
A-29 | Electric-Vehicle Charging Station | L | 15.65

<table>
<thead>
<tr>
<th>Allowable Temporary Uses</th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>T-1</td>
<td>Temporary care provider dwelling</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-2</td>
<td>Temporary construction or repair dwelling</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-3</td>
<td>Temporary construction trailer</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-6</td>
<td>Temporary portable storage containers</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-9</td>
<td>Carrier on wheels (cow)</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-10</td>
<td>Yard sales</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-12</td>
<td>Open air market, temporary</td>
<td>L</td>
<td>15.62</td>
</tr>
</tbody>
</table>

### 14.20.03 B2 Development Standards

- **A.** Minimum Gross Land Area: 5,000 square feet
- **B.** Minimum Lot Width: 50 feet
- **C.** Minimum Street Frontage: 40 feet
- **D.** Minimum Livability Space: .27
- **E.** Minimum Setbacks:
  1. Street: 20 feet
  2. Interior: 17 feet
- **F.** Maximum Building Height: 3 stories/40’

### 14.20.04 Occupancy

Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL-5272-110121, 12-08-2021)

### 14.21 B3 General Business

#### 14.21.01

The B3 General Business District is primarily intended to accommodate a wide range of office, restaurant, retail, service, and multi-family residential uses in a mixed-use environment. The regulations for this district are intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

<table>
<thead>
<tr>
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<td>1.0 Household Living</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>1.14</td>
<td>Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)</td>
<td>L</td>
<td>15.04</td>
</tr>
<tr>
<td>1.15</td>
<td>Multi-Family Dwelling in Mixed Use (31-100 bedrooms)</td>
<td>L</td>
<td>15.04</td>
</tr>
</tbody>
</table>
## Town of Boone
### Unified Development Ordinance
#### Article 14 Zoning Districts Regulations

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>Zoner</th>
<th>Reference</th>
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<tbody>
<tr>
<td>1.16</td>
<td>Multi-Family Dwelling in Mixed Use (&gt; 100 bedrooms)</td>
<td></td>
<td>L T200</td>
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<tr>
<td>2.05</td>
<td>Residential Care Facility</td>
<td></td>
<td>P T300</td>
</tr>
<tr>
<td>2.07</td>
<td>Boarding House</td>
<td></td>
<td>L</td>
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<tr>
<td>3.02</td>
<td>Shelter for Homeless, Category 1</td>
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<td>Utility Facility, Town</td>
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<td>Utility Facility, Government, Regional</td>
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<td>Small Wireless Collocation</td>
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<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>7.03</td>
<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>Stealth Wireless Support Structure</td>
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<td>Non-stealth Wireless Support Structure</td>
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<td>Emergency Response Communication Antenna</td>
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<td>Religious Assembly, Category 1</td>
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<td>Religious Assembly, Category 2</td>
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<td>Religious Assembly, Category 3</td>
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<td>Club/Lodge, Category 1</td>
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<td>Club/Lodge Which Does Not Serve Alcohol</td>
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<td>10.01</td>
<td>Child Daycare, Large</td>
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<td>Child Daycare Center</td>
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<td>Adult Daycare, Large</td>
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<td>Kennel</td>
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<td>Veterinary Office/Hospital with Outdoor Kennels</td>
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<td>Veterinary Office/Hospital without Outdoor Kennels</td>
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<td>11.04</td>
<td>Financial Institution ≤ 5,000 ft²</td>
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<tr>
<td>11.05</td>
<td>Financial Institution &gt; 5,000 ft²</td>
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<td>Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am</td>
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<td>Other Restaurants ≤ 2,500 ft²</td>
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<td>Other Restaurants &gt; 2,500 ft²</td>
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<td>Retail Store 25,000 ft² and greater</td>
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<td>ABC Store</td>
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<td>Personal Service Establishment open to the public during 10 pm-6 am</td>
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<td>Other Personal Service Establishments</td>
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<td>11.16</td>
<td>Retail Store up to 5,000 ft²</td>
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<td>11.17</td>
<td>Retail Store more than 5,000 but less than 25,000 ft²</td>
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<td>11.18</td>
<td>Medical Office, Category 1</td>
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<td>11.21</td>
<td>Other Business or Professional Office</td>
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<td>11.22</td>
<td>Medical Office, Category 2</td>
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<td>11.23</td>
<td>Medical Office, Category 3</td>
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<td>11.24</td>
<td>Medical Office, Category 4</td>
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<td>Medical Emergency Response</td>
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<td>Open Air Market, Recurring</td>
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<td>Vehicle Sales and Service</td>
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<td>11.30</td>
<td>Equipment Sales and Service</td>
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<td>11.31</td>
<td>Moped Sales and Service</td>
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<td>11.32</td>
<td>Boat or Marine Craft Sales and Service</td>
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<tr>
<td>11.33</td>
<td>Impound Lot/Towing Service</td>
<td>L&lt;sub&gt;T125&lt;/sub&gt;</td>
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<td>11.34</td>
<td>Gas Station</td>
<td>P&lt;sub&gt;T125&lt;/sub&gt;</td>
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<td>11.35</td>
<td>Car Wash</td>
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<td>11.36</td>
<td>Seasonal Retail Activities and Amusements</td>
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<td>11.37</td>
<td>Electric-Vehicle Charging Station</td>
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### 12.0 Recreation & Entertainment Uses

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<td>Indoor Shooting Range</td>
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<td>Indoor Theater</td>
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<td>Outdoor Theater</td>
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<td>12.08</td>
<td>Campground and Recreational Vehicle Park</td>
<td>L&lt;sub&gt;T200&lt;/sub&gt;</td>
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<td>12.09</td>
<td>Coliseum</td>
<td>S&lt;sub&gt;T300&lt;/sub&gt;</td>
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### 13.0 Agriculture

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<td>13.01</td>
<td>Garden, Community</td>
<td>L</td>
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<td>13.02</td>
<td>Garden, Residential</td>
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<td>Forestry</td>
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### 14.0 Manufacturing

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<td>Brewpub</td>
<td>L&lt;sub&gt;T125&lt;/sub&gt;</td>
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<td>Brewery/Distillery</td>
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<td>14.06</td>
<td>Winery</td>
<td>L&lt;sub&gt;T125&lt;/sub&gt;</td>
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<td>Machine/Welding Shop</td>
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### 15.0 Parking

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<td>Parking Structure</td>
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<td>Park and Ride Lots</td>
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### 16.0 Storage

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<td>Self-Storage Facilities</td>
<td>L&lt;sub&gt;T75&lt;/sub&gt;</td>
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<td>Fuel Storage Facility</td>
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### 17.0 Transportation

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<td>Passenger Terminals</td>
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<td>17.02</td>
<td>Trucking or freight terminal ≤ 10,000 ft&lt;sup&gt;2&lt;/sup&gt;</td>
<td>P&lt;sub&gt;T125&lt;/sub&gt;</td>
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### 19.0 Particular Activities Which Pose Particular Concern About Public Health

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<td>19.01</td>
<td>Electronic and Internet Gaming</td>
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<td>19.02</td>
<td>Adult Establishments</td>
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### Allowable Accessory Uses

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<td>A-1</td>
<td>Secondary suite</td>
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<tr>
<td>A-2</td>
<td>Home occupation</td>
<td>L</td>
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<td>A-3</td>
<td>Accessory dwelling unit</td>
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<td>Drive-through</td>
<td>L</td>
<td>15.48</td>
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<td>A-5</td>
<td>Outdoor display</td>
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<td>15.49</td>
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<td>A-6</td>
<td>Outdoor storage</td>
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<td>A-7</td>
<td>Outdoor dining</td>
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<td>A-8</td>
<td>Automated teller machine (ATM)</td>
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<td>Automated teller machine (ATM), freestanding</td>
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<td>Poultry</td>
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<td>Livestock, small</td>
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<td>Bees</td>
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<td>A-15</td>
<td>Garden, residential</td>
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<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
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<tr>
<td>A-17</td>
<td>Satellite receiving antennas less than 2 meters in diameter</td>
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<tr>
<td>A-18</td>
<td>Satellite receiving antennas 2 meters and greater in diameter</td>
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<td>A-19</td>
<td>Helistop</td>
<td>S</td>
<td>T300</td>
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<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
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<td>A-21</td>
<td>Caretaker’s residence</td>
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<td>Vehicular gate</td>
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<td>Vehicle washing station</td>
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<td>Chemical storage facility</td>
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<td>Open air market, accessory</td>
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<td>Daycare, small</td>
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<td>A-27</td>
<td>Limited structure to enable recreational uses of open rooftop</td>
<td>L</td>
<td>15.64</td>
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<td>A-28</td>
<td>Solar Energy System</td>
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<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
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</table>

**Allowable Temporary Uses**

| T-1   | Temporary care provider dwelling                  | L  | 15.62              |
| T-2   | Temporary construction or repair dwelling         | L  | 15.62              |
| T-3   | Temporary construction trailer                    | L  | 15.62              |
| T-4   | Temporary mobile medical unit                     | L  | 15.62              |
| T-5   | Temporary classroom                               | L  | 15.62              |
| T-6   | Temporary portable storage containers             | L  | 15.62              |
| T-7   | Temporary staging                                 | L  | 15.62              |
| T-8   | Temporary non-fixed site event venue              | L  | 15.62              |
| T-9   | Carrier on wheels (cow)                           | L  | 15.62              |
| T-10  | Yard sales                                        | L  | 15.62              |
### 14.21.03 B3 Development Standards

A. Minimum Gross Land Area: 5,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 50 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 40 feet (see Subsection 14.03.04)

D. Minimum Livability Space: .27 (see Subsection 14.03.05)

E. Minimum Setbacks: (see subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 17 feet

F. Maximum Building Height: 3 stories/45 feet (primary) – 4 stories/56 feet (secondary) (see subsection 14.03.07)

### 14.21.04 Occupancy: One (1) family or up to four (4) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers.

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-2021; Ord. PL05188-100821, 11-18-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

### 14.22 OI Office/Institutional District

14.22.01 The OI Office/Institutional District is established to provide a zoning district which promotes the development of moderately intensive office and institutional uses which are oriented toward the provision of services versus the sale of products. Appropriate small-scale residential uses are allowed in this district to the point they support allowable office and institutional uses. The regulations for this district are intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.
### Use # | Specific Use | OI | Reference
---|---|---|---
3.03 | Shelter for Homeless, Category 2 | LT300 | 15.12
3.07 | Homestay Rental | L | 15.05

#### 4.0 Institutional

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
4.03 | Funeral Home Establishment | P | |
4.04 | Cemetery | P | |
4.05 | Post Office | P | |

#### 5.0 Government Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
5.01 | Government Cultural Facility | P | |
5.02 | Government Neighborhood Cultural Facility, Indoor Activity Only | P | |
5.03 | Government Neighborhood Cultural Facility, Includes Outdoor Activity | P | |
5.04 | Recreation Facility, Category 1 | P | |
5.05 | Recreation Facility, Category 2 | P | |
5.06 | Recreation Facility, Category 3 | PT50 | |
5.07 | Event Venue, Category 1 | P | |
5.08 | Event Venue, Category 2 | P | |
5.09 | Event Venue, Category 3 | PT50 | |
5.12 | Police Substation | P | |
5.13 | Utility Facility, Town | L | 15.16
5.14 | Utility Facility, Government, Neighborhood | L | 15.16
5.15 | Utility Facility, Government, Regional | LT300 | 15.16
5.16 | Government Facility | P | |

#### 6.0 Non-Government

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
6.01 | Utility Facility, Neighborhood | L | 15.16
6.02 | Utility Facility, Regional | LT300 | 15.16

#### 7.0 Wireless Communication

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
7.01 | Small Wireless Collocation | L | 15.18
7.02 | Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole | L | 15.17
7.03 | Stealth Wireless Facility Attached to Existing Building or Structure | L | 15.17
7.05 | Non-stealth Wireless Facility Collocation on Electrical Transmission Towers | L | 15.17
7.06 | Stealth Wireless Support Structure | L | 15.17
7.07 | Non-stealth Wireless Support Structure | L | 15.17
7.08 | Emergency Response Communication Antenna | P | |

#### 8.0 Assembly

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
8.01 | Religious Assembly, Category 1 | P | |
8.02 | Religious Assembly, Category 2 | PT75 | |

#### 10.0 Daycare

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
10.02 | Child Daycare Center | L | 15.19
10.04 | Adult Daycare Center | L | 15.19
10.05 | All Other Daycare | CD | |

#### 11.0 General Sales and Service

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
</table>
11.02 | Veterinary Office/Hospital with Outdoor Kennels | LT125 | 15.20
### Article 14 Zoning Districts Regulations

#### Use # Specific Use OI Reference

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.03</td>
<td>Veterinary Office/Hospital without Outdoor Kennels</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.04</td>
<td>Financial Institution ≤ 5,000 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.05</td>
<td>Financial Institution &gt; 5,000 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.06</td>
<td>Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.07</td>
<td>Other Restaurants ≤ 2,500 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.08</td>
<td>Restaurant &gt; 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.09</td>
<td>Other Restaurants &gt; 2,500 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.14</td>
<td>Personal Service Establishment open to the public during 10 pm-6 am</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.15</td>
<td>Other Personal Service Establishments</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.16</td>
<td>Retail Store up to 5,000 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.20</td>
<td>Business or Professional Office open to the public during 10 pm - am</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.21</td>
<td>Other Business or Professional Office</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.22</td>
<td>Medical Office, Category 1</td>
<td>P</td>
<td>T750</td>
</tr>
<tr>
<td>11.23</td>
<td>Medical Office, Category 2</td>
<td>P</td>
<td>T125</td>
</tr>
<tr>
<td>11.24</td>
<td>Medical Office, Category 3</td>
<td>P</td>
<td>T125</td>
</tr>
<tr>
<td>11.25</td>
<td>Medical Office, Category 4</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.26</td>
<td>Hospital</td>
<td>P</td>
<td>T300</td>
</tr>
<tr>
<td>11.27</td>
<td>Medical Emergency Response</td>
<td>P</td>
<td>T300</td>
</tr>
<tr>
<td>11.28</td>
<td>Open Air Market, Recurring</td>
<td>L</td>
<td>T50 15.22</td>
</tr>
<tr>
<td>11.36</td>
<td>Seasonal Retail Activities and Amusements</td>
<td>P</td>
<td></td>
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</tbody>
</table>

#### 12.0 Recreation & Entertainment Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.10</td>
<td>Recreation Facility, Category 1</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>12.11</td>
<td>Recreation Facility, Category 2</td>
<td>P</td>
<td>T50</td>
</tr>
</tbody>
</table>

#### 13.0 Agriculture

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.01</td>
<td>Garden, Community</td>
<td>L</td>
<td>15.29</td>
</tr>
<tr>
<td>13.02</td>
<td>Garden, Residential</td>
<td>L</td>
<td>15.30</td>
</tr>
<tr>
<td>13.09</td>
<td>Forestry</td>
<td>L</td>
<td>15.31</td>
</tr>
</tbody>
</table>

#### 15.0 Parking

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.01</td>
<td>Parking Lot</td>
<td>L</td>
<td>15.39</td>
</tr>
<tr>
<td>15.02</td>
<td>Parking Structure</td>
<td>L</td>
<td>15.40</td>
</tr>
<tr>
<td>15.03</td>
<td>Park and Ride Lots</td>
<td>L</td>
<td>15.39</td>
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</tbody>
</table>

#### Allowable Accessory Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Secondary suite</td>
<td>L</td>
<td>15.45</td>
</tr>
<tr>
<td>A-2</td>
<td>Home occupation</td>
<td>L</td>
<td>15.46</td>
</tr>
<tr>
<td>A-3</td>
<td>Accessory dwelling unit</td>
<td>L</td>
<td>15.47</td>
</tr>
<tr>
<td>A-4</td>
<td>Drive-through</td>
<td>L</td>
<td>15.48</td>
</tr>
<tr>
<td>A-5</td>
<td>Outdoor display</td>
<td>L</td>
<td>15.49</td>
</tr>
<tr>
<td>A-7</td>
<td>Outdoor dining</td>
<td>L</td>
<td>15.51</td>
</tr>
<tr>
<td>A-8</td>
<td>Automated teller machine (ATM)</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-9</td>
<td>Automated teller machine (ATM), freestanding</td>
<td>L</td>
<td>15.52</td>
</tr>
<tr>
<td>A-11</td>
<td>Poultry</td>
<td>L</td>
<td>15.54</td>
</tr>
</tbody>
</table>
## Use # Specific Use Reference

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-12</td>
<td>Livestock, small</td>
<td>L</td>
<td>15.55</td>
</tr>
<tr>
<td>A-14</td>
<td>Bees</td>
<td>L</td>
<td>15.57</td>
</tr>
<tr>
<td>A-15</td>
<td>Garden, residential</td>
<td>L</td>
<td>15.58</td>
</tr>
<tr>
<td>A-16</td>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-17</td>
<td>Satellite receiving antennas less than 2 meters in diameter</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-18</td>
<td>Satellite receiving antennas 2 meters and greater in diameter</td>
<td>S</td>
<td></td>
</tr>
<tr>
<td>A-19</td>
<td>Helipad</td>
<td>S</td>
<td>T300</td>
</tr>
<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
<td>15.59</td>
</tr>
<tr>
<td>A-21</td>
<td>Caretaker’s residence</td>
<td>L</td>
<td>15.60</td>
</tr>
<tr>
<td>A-22</td>
<td>Vehicular gate</td>
<td>L</td>
<td>15.61</td>
</tr>
<tr>
<td>A-23</td>
<td>Vehicle washing station</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-25</td>
<td>Open air market, accessory</td>
<td>L</td>
<td>15.22</td>
</tr>
<tr>
<td>A-26</td>
<td>Daycare, small</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>A-28</td>
<td>Solar Energy System</td>
<td>L</td>
<td>15.64</td>
</tr>
<tr>
<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
<td>L</td>
<td>15.65</td>
</tr>
</tbody>
</table>

### Allowable Temporary Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>OI</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-1</td>
<td>Temporary care provider dwelling</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-2</td>
<td>Temporary construction or repair dwelling</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-3</td>
<td>Temporary construction trailer</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-4</td>
<td>Temporary mobile medical unit</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-5</td>
<td>Temporary classroom</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-6</td>
<td>Temporary portable storage containers</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-7</td>
<td>Temporary staging</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-8</td>
<td>Temporary non-fixed site event venue</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-9</td>
<td>Carrier on wheels (cow)</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-10</td>
<td>Yard sales</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-12</td>
<td>Open air market, temporary</td>
<td>L</td>
<td>15.62</td>
</tr>
<tr>
<td>T-13</td>
<td>Temporary Use 9.01 Public Colleges and Universities</td>
<td>L</td>
<td>15.62</td>
</tr>
</tbody>
</table>

### 14.22.03 OI Development Standards

A. Minimum Gross Land Area: 10,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 100 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 80 feet (see Subsection 14.03.04)

D. Minimum Livability Space: .27 (see Subsection 14.03.05)

E. Minimum Setbacks: (see Subsection 14.03.06)

3. Street: 20 feet
4. Interior: 17 feet

F. Maximum Building Height: 4 stories/67’ (see Subsection 14.03.07)

14.22.04 Occupancy: One (1) family or up to two (2) unrelated persons (see Section 14.04). Dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.23 WD Wellness District

14.23.01 The Wellness District (WD) is established to provide an area-specific zoning district located around the local hospital to promote a diverse mixture of medical, education, office, retail and residential uses within a compact, vibrant pedestrian oriented center while encouraging community interaction and transportation options. The Wellness District is guided by the goals, objectives, policies, and standards of the Wellness District Small Area Plan.

14.23.02 Figure 14.23.02 below shows the boundaries of the WD. No provision in this section shall be applicable to any property lying outside of the boundaries of the WD.

14.23.03 This section shall govern in the event of conflict with other regulation of this Ordinance.

14.23.04 WD Permissible Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>WD</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0 Household Living</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.14</td>
<td>Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)</td>
<td>L</td>
<td>15.04</td>
</tr>
<tr>
<td>1.15</td>
<td>Multi-Family Dwelling in Mixed Use (31-100 bedrooms)</td>
<td>L</td>
<td>15.04</td>
</tr>
<tr>
<td>1.16</td>
<td>Multi-Family Dwelling in Mixed Use (&gt; 100 bedrooms)</td>
<td>L</td>
<td>15.04</td>
</tr>
<tr>
<td>2.0 Group Living</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.05</td>
<td>Residential Care Facility</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>3.0 Transient Living</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.07</td>
<td>Homestay Rental</td>
<td>L</td>
<td>15.05</td>
</tr>
<tr>
<td>3.09</td>
<td>Hotel, Small</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>4.0 Institutional</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.05</td>
<td>Post Office</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>5.0 Government Uses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.12</td>
<td>Police Substation</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>7.0 Wireless Communication</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.08</td>
<td>Emergency Response Communication Antenna</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>8.0 Assembly</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.01</td>
<td>Religious Assembly, Category 1</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>9.0 Education</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.01</td>
<td>Public colleges and universities (no residential uses allowed)</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Use #</td>
<td>Specific Use</td>
<td>WD</td>
<td>Reference</td>
</tr>
<tr>
<td>-------</td>
<td>--------------</td>
<td>----</td>
<td>-----------</td>
</tr>
<tr>
<td>9.02</td>
<td>Private colleges and universities (no residential uses allowed)</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td><strong>10.0 Daycare</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.01</td>
<td>Child Daycare, Large</td>
<td>L</td>
<td>15.19</td>
</tr>
<tr>
<td>10.02</td>
<td>Child Daycare Center</td>
<td>L</td>
<td>15.19</td>
</tr>
<tr>
<td>10.04</td>
<td>Adult Daycare Center</td>
<td>L</td>
<td>15.19</td>
</tr>
<tr>
<td><strong>11.0 General Sales and Service</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.04</td>
<td>Financial Institution ≤ 5,000 ft²</td>
<td>P</td>
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</tr>
<tr>
<td>11.05</td>
<td>Financial Institution &gt; 5,000 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.06</td>
<td>Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.07</td>
<td>Other Restaurants ≤ 2,500 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.08</td>
<td>Restaurant &gt; 2,500 ft² open to the public during 10 pm – 6 am</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.09</td>
<td>Other Restaurants &gt; 2,500 ft²</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>11.14</td>
<td>Personal Service Establishment open to the public during 10 pm-6 am</td>
<td>P</td>
<td></td>
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<td>11.15</td>
<td>Other Personal Service Establishments</td>
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<tr>
<td>11.16</td>
<td>Retail Store up to 5,000 ft²</td>
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<tr>
<td>11.17</td>
<td>Retail Store more than 5,000 but less than 25,000 ft²</td>
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<tr>
<td>11.18</td>
<td>Retail Store 25,000 ft² and greater</td>
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<td>11.20</td>
<td>Business or Professional Office open to the public during 10 pm - am</td>
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<tr>
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<td>Other Business or Professional Office</td>
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<td><strong>12.0 Recreation &amp; Entertainment Uses</strong></td>
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<td><strong>15.0 Parking</strong></td>
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<td>Parking Structure</td>
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**Allowable Accessory Uses**

<p>| A-2 | Home occupation | L | 15.46 |
| A-4 | Drive-through (limited to non-restaurant drive-through) | L | 15.48 |
| A-7 | Outdoor dining | L | 15.51 |
| A-8 | Automated teller machine (ATM) | P | |
| A-9 | Automated teller machine (ATM), freestanding | L | 15.52 |
| A-19 | Helistop | P | |
| A-20 | Swimming pools, spas, and hot tubs | L | 15.59 |
| A-27 | Limited structures to enable recreational use of open rooftops | L | 14.03.07(G) 14.19.06(H)(8)(d) |
| A-28 | Solar Energy System | L | 15.64 |
| A-29 | Electric-Vehicle Charging Station | L | 15.65 |</p>
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<tr>
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<td>Temporary construction trailer</td>
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<tr>
<td>T-4</td>
<td>Temporary mobile medical unit</td>
<td>L</td>
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<td>T-5</td>
<td>Temporary classroom</td>
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<tr>
<td>T-8</td>
<td>Temporary non-fixed site event venue</td>
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<td>T-9</td>
<td>Carrier on wheels (cow)</td>
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<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
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</table>

14.23 **WD Development Standards**

A. Minimum Gross Land Area: 10,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 50 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 40 feet (see Subsection 14.03.04)

D. Minimum Landscaped Area: Twenty percent (20%) of gross land area excluding street right(s)-of-way which meets the requirements of Section 17.06.

E. Minimum Setbacks: (see Subsection 14.03.06)

1. Build-to-lines are 0-foot minimum/20-foot maximum from the edge of the public realm and/or any public space.

2. If the required public walkway encroaches onto private property, the build-to-zone will be measured from the walkway edge.

3. Interior setbacks shall be based on minimum fire separation required between buildings.

F. Maximum Building Height:

1. Minimum building height shall be two (2) stories.

2. Maximum building height shall be six (6) stories.

3. Building height shall be measured by the number of stories from the first floor (defined as the street level floor).
   a. Equipment penthouses or building parapets are exempt from building height measurements.

4. Corner buildings may exceed the maximum building height by 15% for 20% of the building frontage along each corresponding street as measured from the corner of the building.

G. Building Scale: Buildings greater than four (4) stories must adhere to at least one of the following design standards:
1. Building planes extending above four (4) stories shall be less than 50% of the total building facade along the street,

![Building Scale Over 4 Stories]

or

2. Buildings greater than four (4) stories shall step back the building plane at a 1:1 ratio along the street façade. For every foot above the maximum permitted building height, the building plane may extend upward one foot for every additional foot setback.

![Building Setback Over 4 Stories]

H. Appearance Standards

1. **Façades:** Building facades facing a publicly accessible street or other public space shall incorporate the following design standards:
   a. Buildings may have up to 3 different types of façades:
      i. The primary façade is the side of the building which faces the public street and which contains the building’s primary pedestrian entrance.
      ii. The secondary façade is the side of the building which faces a public street and which may contain additional pedestrian entrances.
      iii. All other façades are those which do not face a public street.
b. **Facade Variation:** Buildings shall have architectural features and patterns that provide visual interest while supporting a clear and unified image throughout the development and include:

i. Building façades shall be constructed parallel to the street frontage to the greatest extent possible.

ii. Secondary façades shall be treated with the same design and materials as the primary façade.

iii. Purposeful variation or accents in materials, textures and colors are required.

iv. Horizontal and vertical divisions such as banding and repetitive window patterns.

v. Primary and secondary façades shall include clear delineation between the first or second level and the upper levels with a cornice, canopy, awning, balcony, arcade or other architectural feature.

vi. The mass of the building shall be reduced by changing building planes through offsets and recesses, changing the building heights and varying the parapet or roof heights.

vii. All building façades shall have perceivable, repetitive features and patterns such as windows, columns or other vertical features.

viii. All building façades shall avoid long and monotonous wall and roof planes. Windows and doors are to front onto the street, with direct pedestrian access to the street front sidewalk.

ix. Blank walls and non-transparent windows are prohibited along pedestrian areas and public spaces to help provide for pedestrian comfort, security and points of interest.

x. For large projects, each sequential block of new construction shall contain unique building facades so as to encourage architectural variety within large projects. While the use of similar architectural elements on multiple buildings is acceptable, large visually monotonous projects with repeating exterior building design(s) does not contribute to visual diversity and human-scale character and therefore is inappropriate.

xi. Buildings along the public rights-of-way shall be a minimum of 60% of the primary property frontage.

2. **Building Materials:** Building materials shall be in harmony with the rest of the development to create a sense of place and attraction with the surrounding community. The following material standards apply to all structures, including parking structures, in the district:

a. Permitted building façade materials include: brick, natural stone, cast stone architectural precast stone, glazed curtain wall and window wall systems,
architectural precast concrete and architectural-grade metal panels (galvanized, painted or ornamental).

b. Wood: Porches, balconies, breezeways, pergolas, deep eaves, eyebrows, corbels, trellis and other features are encouraged to be made of wood with a natural finish which generally should not exceed 10% of the major façade.

c. All other materials not mentioned in 17.05.01(C)(1) and (2) above shall be a compliment or an accent application not to exceed 10% of building facade.

d. The use of clear or lightly tinted colored glass (30% maximum tint) is required.

e. Large uninterrupted expanses of a single material are prohibited.

f. Spandrel glass is permissible only to hide the structural features between the floors of a building.

g. Vinyl or aluminum siding and colored or mirrored/reflective glass is prohibited.

3. Building Color: Building colors shall be in harmony with the rest of the development to create a sense of place and attraction with the surrounding community. The following color standards apply to all structures, including parking structures:

a. Building materials colors (brick, stone, tile, precast stone) shall be subtle, neutral and nature blending.

b. Colors for other manufactured building materials shall be subtle and neutral and shall be compatible with the colors identified in Figure 17-2.

c. Stark white and black are prohibited as field colors.

d. Building accent colors, including awning and canopy colors, should complement the primary materials and colors used on the building. Accent colors are limited to no more than 10% of each separate façade and shall be compatible with the colors identified in Figure 17-2.

e. Generally, no more than four colors are allowed per building (including all materials).

f. Corporate branding colors are permitted on logos and signage.
4. **Building Fenestration:** Fenestrations (windows and doors) should maximize the views and allowable daylight into spaces.

   a. For all street level/ground floor uses located along public streets and other public spaces, 60-90% of all wall area between two (2) and twelve (12) feet shall consist of transparent glazing (clear windows and doors). Upper floors fronting public rights-of-way shall consist of 30-70% windows.

   b. Fenestrations shall be spaced thirty (30) linear feet maximum between features.

   c. Ground floor restaurants are encouraged to provide windows and doors that can be opened to provide direct access to the sidewalk when weather permits.

5. **Pedestrian Entrances:**

   a. All buildings shall have their main pedestrian entrance opening to a street, courtyard garden or square. When street level uses have entries from more than one street or from other public spaces, the primary entrance will be from the street.

   b. A pedestrian entrance is required to access public spaces which adjoin the building.
c. Retail uses with exterior ground level visibility along a street or public space shall have individual public entries from the street or public space in addition to internal entries.

d. Street level retail uses located on building corners shall locate entrances at the corner.

e. Buildings adjacent to existing or planned trails, open spaces or parks shall provide public entries along the façade fronting these amenities.

f. Entrances shall provide shelter from inclement weather.

6. **Roofs:** Roof lines should have visual interest and features complementing the overall character of the building and the development.

   a. Rooftop penthouse enclosures should be architecturally compatible and predominantly of the same material as the building.

   b. Single-sloped shed roofs, mansard or vaulted/arched roofs are prohibited.

   c. Flat roofs shall be concealed from pedestrian view with a parapet wall.

   d. Publicly visible roof materials shall be standing seam metal, asphalt shingles, shakes or tile.

   e. Publicly visible plumbing vent stacks shall be colored to match the roofing material.

   f. “Green” roofs utilizing plants to absorb rainwater and reduce ambient air temperatures are strongly encouraged.

   g. Rooftop amenities such as sun decks are encouraged.

5. **Mechanical/ Service Equipment & Solid Waste Enclosure Screening:** All properties shall minimize the visual impact of mechanical/ service equipment and solid waste facilities from the public right-of-way.

   a. Service areas, storage areas, restaurant grease receptacles and refuse enclosures should be oriented away from public view and screened from public areas.

   b. Service and refuse areas are encouraged to be clustered together where feasible at the rear of the building.

   c. Solid waste and recycling enclosures and all other waste storage or containers, other than streetscape and site furnishing trash receptacles, shall be designed into a structure or building, or shall be screened from adjacent public streets by an opaque enclosed structure (see detail in UDO Subsection 22.13.03) compatible with the building architecture.

   i. Additional landscape plantings compatible with the overall landscape plan may be required outside of the enclosures to soften the appearance from public view.
d. Utility cabinets and pedestals should not be located within parking lot landscape islands or the public right-of-way where they cannot be screened, are exposed to damage from vehicles and/or present a hazardous visual obstruction to drivers or pedestrians.

e. Meter boxes shall not be located along the front of buildings and screened if located on the side of a building.

f. Ground level mechanical equipment shall be screened by a structure that complements the design of the building through the use of similar materials, colors, finishes and architectural details. Additional landscape plantings compatible with the overall landscape plan shall be required outside of the structure to soften the appearance from public view.

g. All rooftop mechanical equipment should be screened from view from adjacent properties and adjacent right-of-way by use of parapet walls or screens designed to be compatible with the building architecture.

h. Elevator penthouses shall be screened by a structure that is architecturally compatible with the design of the building through the use of similar materials, colors, finishes and architectural details used on the primary building façade.

I. Landscape Standards

1. Landscaping promotes sustainable development, minimizing negative impacts on natural resources and is vital to softening the harshness of paved areas and buildings while enhancing a sense of place.

2. All plant material must comply with the Guide for Landscaping as found in Appendix C, Town of Boone Details and Specifications Manual. All plant material must comply with the latest edition of the American Standard for Nursery Stock published by the American Nursery and Landscape Association.

3. Plant material must be locally adaptable species and hardy to Zone 6 in accordance with the US Department of Agriculture’s Plant Hardiness Zone Map and comply with the Town of Boone Approved Plant List in Appendix C, Town of Boone Details and Specifications Manual.

   a. Xeriscaping and water conservation landscaping is an encouraged alternative. The practice of Xeriscaping includes the use of native grasses, low-water need plant material, and the addition of soil amendments and mulching. Refer to the plant list in Appendix C, Town of Boone Details and Specifications Manual for a list of Xeriscaping compatible plant material.

5. All plants and materials fulfilling the landscape requirements shall meet the following minimum installation sizes and types:
   
a. Large deciduous shade trees shall be a minimum three-inch (3”) caliper with a height of fourteen to sixteen feet (14’ – 16’) at planting.

b. Small to medium sized deciduous ornamental trees shall be a minimum two-inch (2”) caliper with a height of ten to twelve feet (10’ – 12’) at planting.

c. Evergreen trees shall be a minimum of eight feet (8’) in height at planting.

d. Shrubs shall be a minimum of twenty-four inches (24”) in height and spread at the time of planting.

e. All sodded or seeded lawn areas must be comprised of a Bluegrass/Fescue blend.

f. Mulch shall be dark hardwood three inches (3”) in thickness.

g. Landscaping shall not obstruct the views of motorists using any street, driveway or parking aisle and comply with a ten-foot (10’) by seventy-foot (70’) sight distance triangle.

6. **Street Yard Landscaping**

   a. Although no street yard setback is required (0’ minimum, 20’ maximum build-to-zone), where the building is setback, a front street yard is required. A street yard consists of a landscape area parallel to the public right-of-way, typically between the sidewalk and the development, designed to provide continuity of vegetation along the public realm and soften the impact of the development by providing a pleasing view form the street. A street yard must contain:

   i. An average of one (1) large deciduous tree three inch (3”) minimum caliper (unless subject to overhead power lines) per thirty feet (30’) of street frontage. Innovative design in tree arrangement is encouraged.

   ii. An average of one (1) low growing small shrub, ornamental grasses per five feet (5’) of street frontage with a minimum of twenty-four inches (24”) in height and spread at the time of planting. A minimum 60% of the shrubs must be evergreen.

   iii. A minimum twenty percent (20%) of the front street shall be turf and must be sodded. Turf shall be located on the street side of the front street yard.

   iv. Seasonal color is encouraged in the front street yard with an emphasis on the entrance areas.

   b. Parking areas fronting a street or side street shall be separated from the sidewalk and/or right-of-way with a ten-foot (10’) minimum planting yard consisting of a minimum three feet (3’) height screen, except where vehicular sight lines may be impaired. Screening should consist of one or more of the following:
i. A decorative, opaque masonry wall (2’ minimum/3’ maximum height) compatible in composition, appearance, color and architectural detail with the proposed building and landscaping.

ii. An undulating earthen berm (3’ minimum height) and landscaping not exceed a slope of 3H:1V.

iii. A continuous hedge row of evergreen shrubs (3’ minimum/4’ maximum height), shade trees (1/30lf) and groundcover. Understory ornamental trees, small evergreen trees, flowering shrubs, ornamental grasses, and/or perennials must be supplemented for color and visual interest.

c. The following trees are required based upon location:

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<tr>
<th>Street Tree Planting Schedule</th>
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<tr>
<td>Street Tree</td>
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<tr>
<td>‘Allee’ Lacebark Elm</td>
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<td>‘Hightower’ Willow Oak</td>
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<td>Bald Cypress</td>
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<tr>
<td>‘October Glory’ Red Maple</td>
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<td>‘Panache’ Shumard Oak</td>
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<th>Alternate Compliance Ornamental Trees</th>
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<tr>
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<td>‘Forest Pansy’ Redbud</td>
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<tr>
<td>‘Kwanzan Cherry’</td>
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<td>Kousa Dogwood</td>
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7. **Interior Landscaped Areas**: Landscaped areas other than street yards, must meet the following standards must be met:

   a. Areas must be a minimum of eight feet (8) in width.

   b. A minimum of 5 Large Deciduous Trees per one-hundred feet (100’) of linear landscaped area length, or more based on the need to provide additional trees to meet tree canopy coverage requirements.

   c. A minimum of 2 Small Deciduous/Ornamental Trees per one-hundred feet (100’) of linear landscaped area length, or more based on the need to provide additional trees to meet tree canopy coverage requirements.

   d. A minimum of 8 Large Evergreen Trees per one-hundred feet (100’) of linear buffer length.

   e. A minimum of 12 Shrubs per one-hundred feet (100’) of linear buffer length.
f. Required buffers shall not be disturbed for any reason except for open/public spaces, driveway openings or connectors, pedestrian or bike paths, designated greenways, utilities, drainage ways, bio-retention areas, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met.

8. **Foundation Landscaping**
   a. Vehicular surface areas shall be separated from building facades by both a five foot (5’) minimum foundation planting area and pedestrian walks leading to building entrances.
   b. This area shall contain small ornamental and evergreen trees, low growing shrubs (minimum 60% evergreen), ornamental grasses, ground cover, turf or combination thereof complimentary of the architectural façade and shall sufficiently mass the landscaped area.

9. **Tree Pit/Plaza Landscaping**
   a. A minimum six (6) foot by six (6) foot opening, clear of utilities, shall be provided for all trees.
   b. Root barriers shall be provided for all tree plantings.
   c. Tree grates or other approved devices shall be provided around all trees in hard surfaced areas to ensure adequate water and air penetration.
   d. Structural soils are encouraged within tree pit areas.

10. **Parking Area Landscaping.** To break up large expanses of parking and to provide shading, landscaping shall be installed in and around parking areas. Required plantings shall be located within or adjacent to parking areas, in parking islands, medians, at the end of parking bays, or between rows of parking.
   a. Landscape islands are required so that no parking space is more than fifty feet (50’) from the trunk of a large deciduous tree.
   b. Shrubs shall be planted at the rate of one (1) eighteen inch (18”) minimum height evergreen shrub, deciduous shrub or ornamental grass per every two-hundred-fifty square feet (250 ft²) of vehicle surface area.
   c. Parking islands shall be planted as to facilitate safe sight distances.
   d. Shrubs shall not be planted within six feet (6’) of a trunk of a new tree, nor within the drip line of a protected/preserved tree.
   e. Planting islands within parking areas shall be a minimum of ten feet (10’) in width and two-hundred-fifty square feet (250 ft²) protected by curbs, bollards, wheel stops, walls, etc.

11. **Tree Canopy Preservation and Planting Requirements.** Reserving trees and the overall tree canopy can improve the aesthetic quality of the site and Town as a whole, provide environmental benefits, and mitigate the impacts of development
on the community. In addition to compliance with UDO Section 31.13, a Tree Canopy Preservation Plan must be provided demonstrating the following requirements:

a. Every parcel shall retain existing trees or provide new trees to equal thirty percent (30%) tree canopy coverage.

b. The plan must show pre and post development canopy calculations and trees by common and botanical name, size, quantity, and health of tree(s) and tree canopy coverage provided by each tree. Canopy coverage is the area beneath the drip line of the existing trees on the lot/parcel. For onsite trees if the canopy extends into a neighboring property, credit for that portion of the canopy may also be taken. Canopy coverage can only be credited from healthy trees or stands of trees.

c. Credit for newly planted trees shall be calculated as follows:
   i. Large Deciduous Tree – 620 square feet of canopy coverage
   ii. Small Deciduous Tree – 225 square feet of canopy coverage
   iii. Large Evergreen Tree – 250 square feet of canopy coverage
   iv. Small Evergreen Tree – 100 square feet of canopy coverage

d. When calculating how much existing tree canopy coverage is already present on the parcel, you may multiply this by 1.25. This additional credit is to encourage the preservation of existing tree canopy.

J. Parking Standards. Except as provided herein, development within the WD district shall meet the standards in Article 24 Parking.

1. Vehicular Parking:

   a. All parking serving the site and counted toward minimum parking requirements shall be located on the site or within 1,200 feet of the building entrance if located off-site.

   b. Parking between the public street and the building is not permissible. Exceptions: no more than one bay of parking is to be permitted to avoid large expanses of parking separating the building from the sidewalk.

   c. Wellness District Education Use Minimum Parking Requirements:

      i. Instructional Labs / Classrooms: 4 spaces/classroom
      ii. Lecture Halls: 1 space/3 seats

2. Parking Reductions: In order to promote a pedestrian-oriented, human-scale, urban form and multi-modal access, parking reductions are allowed as provided below. The permit-issuing authority may adjust the minimum/maximum number of parking spaces required when one or more of the following is applicable:

   a. The Planning Administrator may approve parking reductions for live-work
developments or residential units specifically designated for Wellness District business.

b. A 10% reduction in the number of required parking spaces for businesses oriented to pedestrian traffic.

c. A 10% reduction in the number of required parking spaces for developments located adjacent to a public greenway system with pedestrian/ bike linkages and designated bicycle parking areas.

d. A 20% reduction in the number of required parking spaces is permitted for developments located along a public transit line with designated transit stops located within a walking distance of 1,320 feet and operating service from 6:00 AM to 6:00 PM where service intervals are no longer than 15 minutes during peak commute hours.

e. To limit the amount of impervious surfaces dedicated to parking on each lot, shared parking is encouraged. A shared parking analysis prepared by a registered licensed professional transportation engineer in North Carolina using the Urban Land Institute (ULI) Shared Parking Model (latest edition) or a study showing excessive, unused parking by one owner to be shared with another owner must be submitted. A written agreement between landowners acknowledging the number of shared parking spaces must be submitted and agreed to by the permit-issuing authority.

f. A parking study, prepared by a licensed professional engineer, illustrating the required parking ratios do not accurately apply to a specific development.

g. If the number of required off-street parking spaces cannot be reasonably provided on the property associated with the principal use, then spaces may be provided on adjacent or nearby lots, satellite parking lots may be located up to a half-mile (0.5 mi) from the principal use building if served by a transit line, shuttle, or located along a dedicated pedestrian sidewalk or greenway trail. Written permission from the owner/person responsible for the satellite parking spaces must be provided. The applicant shall provide written acknowledgement that continuing the validity of his permit depends on his continuing ability to provide the requisite number of parking spaces.

3. **Parking Structures:** Parking structures are strongly encouraged to consolidate parking, and to encourage walking and better utilization of the land.

a. Parking structures are encouraged to be located at the interior of a block or under buildings, not visible from the public right-of-way. Ground floor commercial uses, or space adaptable for future commercial use, are encouraged to be integrated into the structure located along the public street.

b. Parking structures shall not have exposed structured parking at the ground floor level along street frontages.

c. If parking structures are located along the public right-of-way, building
setbacks, scale, height requirements and architectural design standards are applicable with trees and foundation plantings installed to soften the parking structure façade.

d. Parking structures should be designed so ramps are hidden from view of the street or public right-of-way.

e. Structures should be constructed of the same building materials as the district buildings.

4. Drive-Through Facilities:
   a. Non-restaurant drive-throughs are allowed.
   b. Drive-through and stacking lanes shall not be located along facades facing a public street.
   c. Drive-through and pick up windows shall be placed to the side or rear of buildings and screened.
   d. Architectural elements, landscaping and/or other screening elements shall be used to minimize the visual impacts of the drive-through facility.
   e. Screening shall be a minimum four (4) foot height wall compatible with the building architecture, material, color and details or a continuous compact evergreen hedge (36” minimum height at the time of planting reaching 48” minimum height within three years).
   f. The design and location of the facility shall not impede vehicular flow or pedestrian movement and safety.
   g. Drive-through and pick-up window canopy materials, design and color shall be the same as the primary building.

K. Loading/ Unloading Areas:
   1. Loading and unloading areas are regulated by Section 24.08.
   2. Loading and unloading activities are not permitted in the public right-of-way unless specifically designated by the Town.
   3. All loading/unloading areas shall be located to the side or rear of buildings and shall be screened from public view.
   4. Screening shall be a minimum four (4) foot height wall compatible with the building architecture, material, color and details or a continuous compact evergreen hedge (36” minimum height at the time of planting reaching 48” minimum height within three years).
   5. Loading and unloading activities may not encroach on or interfere with the use of sidewalks, drive aisles, stacking spaces or parking areas.

L. Streets, Driveways and Sidewalks. Except as provided herein, streets, driveways and sidewalks shall meet the standards set forth in Article 23.
1. **Driveways**

   a. Site access drives shall be consolidated and located across from intersections for the safety of motorists and pedestrians.

   b. Developments are required to provide drive aisles to the edge of the property in order to provide for future cross-access between sites.

   c. Sites are required to provide cross-access easements between properties for circulation.

   d. Driveway crossing should maintain the same elevation of the sidewalk. The appearance of the sidewalk (scoring pattern or special paving) should be maintained across the driveway to indicate that though a vehicle may cross, the area traversed by a vehicle remains part of the pedestrian travel way.

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-2021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

14.24 **M1 Manufacturing District Established**

14.24.01 The M1 Manufacturing District is established primarily to accommodate appropriate light industrial and warehouse enterprises engaged in the assembly, fabrication, finishing, packaging, warehousing or distribution of goods and materials, including the storage and processing of raw materials into other products, as well as and (related and/or compatible commercial uses. The intent in allowing related and/or compatible commercial uses is to promote flexible and creative use of the District while still serving the primary intent of accommodating light industrial, warehousing, and distribution uses.

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<td>4.06</td>
<td>Post Office, Distribution</td>
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<td>Police Substation</td>
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<td>Utility Facility, Government, Neighborhood</td>
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14-96
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<td>6.01</td>
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<td>6.02</td>
<td>Utility Facility, Regional</td>
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<td>7.01</td>
<td>Small Wireless Collocation</td>
<td>L</td>
<td>15.18</td>
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<td>7.02</td>
<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am</td>
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<td>Other Restaurants ≤ 2,500 ft²</td>
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<td>Restaurant ≤ 3,500 ft² open to the public during 10 pm-6 am</td>
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<td>Other Restaurants ≤ 3,500 ft²</td>
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<td>11.13</td>
<td>ABC Store</td>
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<td>11.14</td>
<td>Personal Service Establishment open to the public during 10 pm-6 am</td>
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<td>Other Personal Service Establishments</td>
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<td>11.16</td>
<td>Retail Store up to 5,000 ft²</td>
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<td>11.20</td>
<td>Business or Professional Office open to the public during 10 pm - am</td>
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<td>11.21</td>
<td>Other Business or Professional Office</td>
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<td>11.30</td>
<td>Equipment Sales and Service</td>
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<td>15.24</td>
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<td>11.32</td>
<td>Boat or Marine Craft Sales and Service</td>
<td>LT75</td>
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<td>11.33</td>
<td>Impound Lot/Towing Service</td>
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<td>11.34</td>
<td>Gas Station</td>
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<td>Car Wash</td>
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<td>11.36</td>
<td>Seasonal Retail Activities and Amusements</td>
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<td>11.37</td>
<td>Electric-Vehicle Charging Station</td>
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<td>12.05</td>
<td>Event Venue, Category 1</td>
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<tr>
<td>13.09</td>
<td>Forestry</td>
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<td>15.31</td>
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<tr>
<td>14.01</td>
<td>Microbrewery</td>
<td>LT125</td>
<td>15.32</td>
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<td>14.02</td>
<td>Brewpub</td>
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<td>15.32</td>
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<tr>
<td>14.03</td>
<td>Brewery/Distillery</td>
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<td>Winery Associated with a Vineyard</td>
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<td>Winery</td>
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## Use # Specific Use Reference

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<tr>
<td>14.09</td>
<td>Machine/Welding Shop</td>
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<td>14.10</td>
<td>Manufacturing, Other</td>
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<td>15.03</td>
<td>Park and Ride Lots</td>
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<td>15.39</td>
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<td>16.01</td>
<td>Self-Storage Facilities</td>
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<td>16.02</td>
<td>Outdoor Storage</td>
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<td>Warehouse</td>
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<td>17.01</td>
<td>Passenger Terminals</td>
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<td>17.02</td>
<td>Trucking or freight terminal ≤ 10,000 ft\textsuperscript{2}</td>
<td>P\textsuperscript{7125}</td>
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<td>Trucking or freight terminal &gt; 10,000 ft\textsuperscript{2}</td>
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<td>18.01</td>
<td>Recycling Drop-off Station</td>
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<td>Recycling and Salvage</td>
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### Allowable Accessory Uses

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<tbody>
<tr>
<td>Drive-through</td>
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<tr>
<td>Outdoor display</td>
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<tr>
<td>Outdoor storage</td>
<td>L</td>
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<tr>
<td>Outdoor dining</td>
<td>L\textsuperscript{300}</td>
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<tr>
<td>Automated teller machine (ATM)</td>
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<td>Automated teller machine (ATM), freestanding</td>
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<tr>
<td>Garden, residential</td>
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<td>15.58</td>
</tr>
<tr>
<td>Satellite receiving antennas less than 1 meter in diameter</td>
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<td></td>
</tr>
<tr>
<td>Satellite receiving antennas less than 2 meters in diameter</td>
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</tr>
<tr>
<td>Satellite receiving antennas 2 meters and greater in diameter</td>
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</tr>
<tr>
<td>Helistop</td>
<td>S\textsuperscript{300}</td>
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<tr>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
<td>15.59</td>
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<tr>
<td>Caretaker’s residence</td>
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<td>15.60</td>
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<tr>
<td>Vehicular gate</td>
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<td>15.61</td>
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<tr>
<td>Vehicle washing station</td>
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<tr>
<td>Chemical storage facility</td>
<td>P\textsuperscript{7125}</td>
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<tr>
<td>Open air market, accessory</td>
<td>L</td>
<td>15.22</td>
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<tr>
<td>Daycare, small</td>
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<tr>
<td>Limited structure to enable recreational use of open rooftops</td>
<td>L\textsuperscript{300}</td>
<td>14.03.07(G)</td>
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<td>Solar Energy System</td>
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<td>Electric-Vehicle Charging Station</td>
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<tr>
<td>T-2</td>
<td>Temporary construction or repair dwelling</td>
<td>L</td>
</tr>
<tr>
<td>T-3</td>
<td>Temporary construction trailer</td>
<td>L</td>
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<tr>
<td>T-6</td>
<td>Temporary portable storage containers</td>
<td>L</td>
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<tr>
<td>T-7</td>
<td>Temporary staging</td>
<td>L</td>
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<tr>
<td>T-9</td>
<td>Carrier on wheels (cow)</td>
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<td>T-10</td>
<td>Yard sales</td>
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</tr>
<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
</tr>
<tr>
<td>T-12</td>
<td>Open air market, temporary</td>
<td>L</td>
</tr>
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<td>T-13</td>
<td>Temporary Use 9.01 Public Colleges and Universities</td>
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</table>

**14.24.03 M1 Development Standards**

A. Minimum Gross Land Area: 17,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 80 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 64 feet (see Subsection 14.03.04)

D. Minimum Livability Space: .30 (see Subsection 14.03.05)

E. Minimum Setbacks: (see Subsection 14.03.06)
   6. Street: 20 feet
   7. Interior: 22 feet

F. Maximum Building Height: 67’ (see Subsection 14.03.07)

**14.24.04 Occupancy:** One (1) family or up to four (4) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers/boarders.

(Ord. PL04727-050721, 07-01-2021; PL05188-100821, 11-182021; Ord. PL05168-100621, 12-08-2021; Ord. PL05272-110121, 12-08-2021)

**14.25 Reserved**

(Ord. PL04727-050721, 07-01-2021)

**14.26 Reserved**

(Ord. PL04727-050721, 07-01-2021)

**14.27 Reserved**

(Ord. PL04727-050721, 07-01-2021)
14.28 Reserved

(Ord. PL04727-050721, 07-01-2021)

14.29 U1 University District

14.29.01 The U1 University District is established for the main campus of Appalachian State University (ASU). This district is intended to provide for the planning and expansion of ASU’s main campus that is consistent with the Town’s overall planning objectives. In the event that a property or portion of property zoned U-1 is sold to a non-university third party, the property must be rezoned. The third-party landowner shall submit a petition to rezone the property within 6 months of closing on its purchase of the property.

14.29.02 U1 Table of Permissible Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
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<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.01</td>
<td>Small Wireless Collocation</td>
<td>L</td>
<td>15.18</td>
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<tr>
<td>7.02</td>
<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
<td>L</td>
<td>15.17</td>
</tr>
<tr>
<td>7.03</td>
<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
<td>L</td>
<td>15.17</td>
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<tr>
<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
<td>L</td>
<td>15.17</td>
</tr>
<tr>
<td>7.06</td>
<td>Stealth Wireless Support Structure</td>
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<td>15.17</td>
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<td>7.07</td>
<td>Non-stealth Wireless Support Structure</td>
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<td>15.17</td>
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<td>7.08</td>
<td>Emergency Response Communication Antenna</td>
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<tr>
<td>9.01</td>
<td>Public colleges and universities</td>
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<td>T200</td>
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</tbody>
</table>

14.29.03 U1 Development Standards

A. Minimum Livability Space: .27 (see Subsection 14.03.05)

1. University campus land will be considered as a whole for purposes of computing land use intensities. This provision does not apply to satellite tracts; however, land separated from the main campus only by a public street or thoroughfare will be deemed part of the main campus.

B. Minimum Setbacks:

1. Street: 10 feet when development is adjacent to Town maintained streets

2. Interior: 14’ when development is proposed adjacent to R1 zoned property and 0’ when development is proposed adjacent to B1 zoned property.

3. Additional setback provisions in Section 14.03.07(E) do not apply in the U1 district.

C. Maximum Building Height: In the U1 district, building heights for structures internal to the main campus shall be generally limited only by the Town’s firefighting capability.
except for those structures located immediately adjacent to property in a non-
University district. In this instance:

1. All buildings proposed within 100 feet of an R1, R1A, RR, R2, R4, or RA zoned
   property shall be limited to a maximum height of thirty-five feet (35’).

2. All buildings proposed within fifty feet (50’) of an R3, OI, B1, B2, or B3 zoned
   property shall be limited to the maximum height allowed in the adjoining district.
   Additional height restrictions in Subsections 14.03.07(D) and (E) shall not apply in
   the U1 district.

14.29.04  Occupancy: Unlimited

14.29.05  Landscaping

A. New development in the U1 district shall provide street trees along Town maintained
   streets in accordance with Section 31.09 and shall be consistent with the University’s
   treatment of streets on or adjacent to the main campus.

B. New development in the U1 district shall provide a ten-foot (10’) Type “A” Standard
   Buffer adjacent to all non-university property in accordance with Subsection
   31.05.02(A) and Section 31.06.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05688-050322, 06-08-2022)

14.30  E1 Educational District

14.30.01  The E1 Educational District is established to provide for appropriate uses by colleges or
   universities outside of the ASU main campus. Such uses shall not include residential uses.
   The owner of a property zoned E1 must be a college or university. In the event that a
   property or portion of property zoned E1 is sold to a third party that is not a college or
   university, no use of the property shall be permitted until the property is rezoned.

14.30.02  E1 Table of Permissible Uses

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<thead>
<tr>
<th>Use #</th>
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<td>7.01</td>
<td>Small Wireless Collocation</td>
<td>L</td>
<td>15.18</td>
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<tr>
<td>7.02</td>
<td>Wireless Facility Collocation on Existing Wireless Support Structure or</td>
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<tr>
<td></td>
<td>Utility Pole</td>
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<td></td>
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<tr>
<td>7.03</td>
<td>Stealth Wireless Facility Attached to Existing Building or Structure</td>
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<td>7.05</td>
<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>7.06</td>
<td>Stealth Wireless Support Structure</td>
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14.30.03  E1 Development Standards
A. Minimum Gross Land Area: 5,000 square feet (see Subsection 14.03.02)
B. Minimum Lot Width: 50 feet (see Subsection 14.03.03)
C. Minimum Street Frontage: 40 feet (see Subsection 14.03.04)
D. Minimum Livability Space: .27 (see Subsection 14.03.05)
E. Minimum Setbacks: (see subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 17 feet
F. Maximum Building Height: 3 stories/45 feet (primary) – 2 stories/67 feet (secondary) (see subsection 14.03.07)

(Ord. PL04727-050721, 07-01-2021)

14.31 E2 Education District

14.31.01 The E2 Educational District is established to provide for appropriate uses by colleges or universities outside of the ASU main campus, which uses may include residential uses. The owner of a property zoned E2 must be a college or university. In the event that a property or portion of a property zoned E2 is sold to a third party that is not a college or university, no use of the property shall be permitted until the property is rezoned.

14.31.02 E2 Table of Permissible Uses

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<td>Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole</td>
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<td>Non-stealth Wireless Facility Collocation on Electrical Transmission Towers</td>
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<td>7.06</td>
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14.31.03 E2 Development Standards

A. Minimum Gross Land Area: 5,000 square feet (see Subsection 14.03.02)
B. Minimum Lot Width: 50 feet (see Subsection 14.03.03)
C. Minimum Street Frontage: 40 feet (see Subsection 14.03.04)
D. Minimum Livability Space: .27 (see Subsection 14.03.05)
E. Minimum Setbacks: (see subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 17 feet

F. Maximum Building Height: 3 stories/45 feet (primary) – 2 stories/67 feet (secondary)
   (see subsection 14.03.07)

14.31.04 One (1) family or up to two (2) unrelated persons (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have one (1) roomer.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05188-100821, 11-18-2021)

14.32 E3 Educational District

14.32.01 The E3 Educational District is established to provide for planning and appropriate expansion of trade schools and public or private elementary and secondary educational institutions. Such uses shall not include residential uses unless such are approved through a CD process. The owner of a property zoned E3 must be a public or private educational institution. In the event that a property or portion of property zoned E3 is sold to a third party that is not such an educational institution, no use of the property shall be permitted until the property is rezoned.

14.32.02 E3 Table of Permissible Uses

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9.0 Education

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14.32.03 E3 Development Standards

A. Minimum Gross Land Area: 5,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 50 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 40 feet (see Subsection 14.03.04)
D. Minimum Livability Space: .27 (see Subsection 14.03.05)

E. Minimum Setbacks: (see subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 17 feet

F. Maximum Building Height: 3 stories/45 feet (primary) – 2 stories/67 feet (secondary) (see subsection 14.03.07)

(Ord. PL04727-050721, 07-01-2021; Ord. PL05272-110121, 12-08-2021)

14.33 E4 Educational Child Daycare District

14.33.01 The E4 Educational Child Daycare District is established to provide for a zoning district in which the use allowed within the district is limited to a University- or College-operated Child Daycare Center. The owner of a property zoned E4 must be a public or private educational institution. In the event that a property or portion of property zoned E4 is sold to a third party that is not a college or university, no use of the property shall be permitted until the property is rezoned.

14.33.02 E4 Table of Permissible Uses

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14.33.03 E4 Development Standards

A. Minimum Gross Land Area: 5,000 square feet (see Subsection 14.03.02)

B. Minimum Lot Width: 50 feet (see Subsection 14.03.03)

C. Minimum Street Frontage: 40 feet (see Subsection 14.03.04)

D. Minimum Livability Space:.27 (see Subsection 14.03.05)

E. Minimum Setbacks: (see subsection 14.03.06)
   1. Street: 20 feet
   2. Interior: 17 feet

F. Maximum Building Height: 3 stories/45 feet (primary) – 2 stories/67 feet (secondary) (see subsection 14.03.07)

(Ord. PL04727-050721, 07-01-2021)

14.34 Reserved

(Ord. PL04727-050721, 07-01-2021)
14.35 Reserved
(Ord. PL04727-050721, 07-01-2021)

14.36 Reserved
(Ord. PL04727-050721, 07-01-2021)

14.37 Reserved
(Ord. PL04727-050721, 07-01-2021)

14.38 Special Flood Hazard Area
14.38.01 The Special Flood Hazard Area is an overlay district intended to regulate the Special Flood Hazard Area pursuant to Article 30 Flood Damage Prevention.
(Ord. PL04727-050721, 07-01-2021)

14.39 Watershed Districts
14.39.01 The watershed districts are established as overlay districts intended to regulate the water supply watershed areas pursuant to Article 29 Watershed Protection.
(Ord. PL04727-050721, 07-01-2021)

14.40 Corridor Overlay Districts
14.40.01 The corridor districts are established overlay district intended to protect the main thoroughfares though Town.

14.40.02 The following corridor district(s) are hereby established, with the limits of each district being 550’ on either side of the centerline of each of the following thoroughfares, and shall apply to all development other than single-family dwellings along the thoroughfare:

A. **US Hwy 421 East**: Beginning at the intersection with US Hwy 321 (Hardin Street) and extending east along the centerline of US Hwy 421 to the farthest extent of the Town’s planning jurisdiction. This Corridor District includes both the old two-lane portion of US Hwy 421 and the new four lane portion of US Hwy 421 located in the Town’s extraterritorial jurisdiction.

B. **US Hwy 421 West**: Beginning at the intersection with Poplar Grove Connector and extending west along the centerline of US Hwy 421 to the farthest extent of the Town’s planning jurisdiction.

C. **US Hwy 321**: Beginning at the intersection with US Hwy 421 (East King Street) and extending south along the centerline of US Hwy 321 to the farthest extent of the Town’s planning jurisdiction.
D. **NC Hwy 105**: Beginning at the intersection with US Hwy 321 (Blowing Rock Road) and extending west along the centerline with NC Hwy 105 to the intersection of NC Hwy 105 Bypass (SR 1107).

E. **NC Hwy 105 Extension**: Beginning at the intersection with US 321 (Blowing Rock Road) and extending north along the centerline with NC Hwy 105 Extension to the intersection of US Hwy 421.

F. **NC Hwy 105 Bypass** (SR1107): Beginning at the intersection with NC Hwy 105 and extending north along the centerline of NC Hwy 105 Bypass to the farthest extent of the Town’s planning jurisdiction.

G. **NC Hwy 194**: Beginning at the intersection with US Hwy 421 (East King Street) and extending north along the centerline with NC Hwy 194 to the farthest extent of the Town’s planning jurisdiction.

14.40.03 Site development requirements shall apply to all developments within the established corridor district with the exception of single-family residences.

14.40.04 The requirements for all properties are listed below.

A. Allowed Access: All lots recorded and shown on tax maps at the Watauga County Register of Deeds and Tax Office as of the effective date of this Ordinance shall be permitted one driveway access.

   1. A development that encompasses more than one parcel shall be permitted only one driveway access on the protected thoroughfare for the project.

   2. If any street(s) or road(s) other than the thoroughfare(s) protected by this Ordinance is (are) available for access to any parcel, tract or development, access must be taken from the alternate street(s).

      a. If the alternate street access is not adequate to serve the parcel, tract or development, a single access point to the regulated thoroughfare may be allowed.

B. Transition Tapers and Deceleration Lanes: These may be required for any driveway or development if the size of the development and/or traffic volume warrants, and shall be constructed in accordance with NCDOT standards. Transition tapers and deceleration lanes shall be required in accordance with standard engineering practices which analyze the results of the cumulative impacts of site distance, type of development and size of development.

C. Corner Clearance: No driveway, except single-family residential access, shall be allowed within 150’ of the centerline of an intersecting street.

D. Driveway Spacing: The distance between any two [2] drives shall be 150’ on the protected thoroughfare[s].
1. The driveway spacing requirement shall be measured along the right-of-way line from the centerline of the driveway.

E. Subdivision Frontage: Any tract proposed for subdivision which borders the protected thoroughfare(s) shall provide sufficient frontage on another street [either pre-existing or created as part of the subdivision] for all lots created out of such tract so that direct access to lots does not need to be provided on the protected thoroughfare[s].

F. Access Driveways: All developments (greater than 50,000 square feet of gross floor area) and fronting the protected thoroughfare[s] shall provide landscaped median[s] within the access driveway.

G. Access not Prohibited: Any parcel of record on the effective date of this Ordinance that has been prohibited all vehicular access based on the provisions herein shall be allowed one (1) access point to its street frontage while meeting the intent of the technical requirements as is practical.

H. Coordination of Access: Access shall be coordinated between adjoining properties for vehicles, pedestrians and bicycles. Pedestrian linkages must be in an acceptable form such as sidewalks, maintained gravel paths and paved walks.

I. Transit Shelters and Stops: All developments (having greater than 50,000 square feet of gross floor area) shall provide transit shelters and stops as needed after consultation with local transit officials.

14.40.05 No requirement of the corridor district shall repeal, modify or amend any federal or state law or regulation, but shall replace any specific regulation or Ordinance provision pertaining to the specific requirement within this Ordinance.

(Ord. PL04727-050721, 07-01-2021)

14.41 Neighborhood Conservation Districts

14.41.01 Neighborhood Conservation Districts are established as overlay districts to stabilize and maintain a suitable low-density living environment for family life.

14.41.02 Neighborhood Conservation Districts shall be depicted on the Town’s Official Zoning Map, which will be posted at the Town’s Planning and Inspections Department and on the Town of Boone’s website.

14.41.03 The requirements of all rental property within Neighborhood Conservation Districts shall be as follows:

A. All tenants of rental property must complete and file a Residential Parking Registration Form with the Administrator. Tenants must provide personal identification, vehicle registration, and proof of residency within a designated Neighborhood Conservation District.
B. Tenants meeting eligibility requirements will be issued parking stickers for their vehicle(s) for the appropriate neighborhood district which must be permanently attached to eligible vehicles. Annual renewal and nominal fees are required.

C. No more than two unrelated persons per dwelling unit will be issued parking stickers.

D. Owners of rental property residing more than fifty (50) miles from Boone must designate in writing a local managing agent residing within Watauga County that will be responsible for all matters concerning occupancy of such rental property, and must provide the Administrator with the agent’s name, address and telephone number.

E. Owners or local managing agents of rental property must notify tenants of applicable Neighborhood Conservation District requirements.

(Ord. PL04727-050721, 07-01-2021)

14.42 Viewshed Protection District

14.42.01 The Viewshed Protection District is established as an overlay district intended to protect the scenic beauty and natural environment of Boone’s hillside areas vital to preservation of a high quality of life and continued economic development by minimizing the visual impact of building construction and land disturbing activities.

14.42.02 Protection Map. The presumed boundaries of the Viewshed Protection District shall be depicted on a “Viewshed Map,” which will be posted at the Town’s Planning and Inspections Department and on the Town of Boone’s website. This map shall show the areas of the Town’s zoning jurisdiction which exceed the one-hundred-foot line which defines the lower most boundary of the viewshed. However, when an owner of property which is either partly or wholly above the depicted line files an application for development to take place within the presumed viewshed, and contends that the property is not within the viewshed, the Administrator or his designee shall determine if the development, as proposed, can be seen during any season of the year from one of the major traffic corridors. If the Administrator determines that the property cannot be thus seen, the requirements of the overlay district shall not apply.

14.42.03 The requirements for the development of properties wholly or partly within the Viewshed Protection District shall be as follows:

A. The maximum allowable land disturbance on property within the viewshed shall be as follows:

1. Property up to two (2) acres in size shall be limited to three-quarters (3/4) of an acre of land disturbance. Therefore, a three-quarter (3/4) acre or smaller property in the viewshed is unrestricted by this Section with regard to land disturbing activity.

2. The maximum allowable land disturbance for property in the viewshed which is larger than two (2) acres shall be limited to three-quarters (3/4) of an acre for the
first two (2) acres, plus thirty percent (30%) of the additional property. For example, a tract of land of four (4) acres can be developed with three-quarters (3/4) acre, or 32,670 square feet, of land disturbed based upon the first two acres, and an additional thirty percent (30%), or 26,136 square feet of land disturbed, based on the additional two (2) acres. Therefore, a total of 58,806 square feet can be disturbed in the development of the four (4) acres, and this total amount of land disturbance may be consolidated in one area of the property. In this example, the land in one (1) acre can be 100% disturbed, in a second acre, partly disturbed, and in the remaining two (2) acres, undisturbed.

3. Land disturbance of portions of a property below the viewshed are unrestricted by this Section, but do not increase the amount of land disturbance which can take place on the portion of the property in the viewshed.

B. The intensity of development of property zoned RA within the viewshed shall be as established for the RA district. The intensity, including height limitations, of development of property in all other zoning districts within the viewshed shall be as established for the R1 zoning district.

C. With respect to development existing before the effective date of this amendment:

1. When the intensity of the existing development does not exceed the limits established by Subsection 14.42.03(B), the existing development may be increased in size up to ten percent (10%) greater than the limits established by Subsection 14.42.03(B).

2. When the intensity of the existing development already exceeds the limits established by Subsection 14.42.03(B), additional development is permitted up to a size 10% greater than the existing structure, and likewise, an additional ten percent (10%) of impervious surface may be created.

3. The limits on land disturbing activity created by Subsection 14.42.03(A) shall be calculated as if no development on the property has yet taken place. In other words, the Administrator shall exclude from the calculations of allowable land disturbance that portion of the property upon which an impervious surface exists at the time this amendment is effective. For example, if a house with a 2,000 square foot footprint and 2,000 square feet of driveway already exists on a three (3) acre tract, and the owner wishes to construct an addition, the Administrator will first add the square footage of the house’s footprint and the square footage of the driveway to determine that there is already 4,000 square feet of impervious surface on the property. This existing square footage of impervious surface will be subtracted from the total land area of the property to calculate how much of the remaining property can be disturbed. In the example, the property will be viewed not as a three (3) acre tract, but as a tract of two (2) acres, plus 39,560 square feet (an acre = 43,560 square feet, minus 4,000 square feet of existing impervious
surface). The amount of allowable land disturbance to put in the addition ends up being 44,538 square feet.

D. Persons developing property in the viewshed shall strive to reasonably site any structures to be developed on the property in such way as to minimize their visual impact from the major corridors. To this end, the Administrator may request a redesign of the development to accomplish this goal.

E. Persons developing property in the viewshed shall strive to reasonably preserve and protect foliage and trees on the property, without placing the construction in danger, with a goal of minimizing the visual impact of the development from the major corridors.

F. All development in the viewshed shall include a plan for landscape buffering, using the techniques and vegetation authorized in in Appendix C, Town of Boone Details and Specifications Manual, in the line of sight from the major corridors, to reduce to the extent reasonably possible the visual impact of the development from the major corridors. Such plans, in the case of the construction of a single-family home, need not be “formal” or prepared by a landscape professional, but must be in writing sufficiently detailed to allow the Administrator to know what is planned.

G. All development along ridgelines must be designed in an effort to reasonably minimize the visual impact of such development from the major corridors. To this end, the Administrator may require a redesign of the development to accomplish this goal or may require specific landscape buffering, such as trees and other plant material, to be installed. This requirement by the Administrator shall be considered an appealable decision to the Board of Adjustment, and may be appealed in conformity with the procedures of Article 6.

H. All requirements of the particular zoning district or development in the viewshed otherwise established by the UDO shall remain in full force and effect.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05688-050322, 06-08-2022)

14.43 Historic Districts

14.43.01 Historic districts are established as overlay districts intended to preserve historic landmarks and districts within the Town pursuant to Article 8 Historic Preservation.

(Ord. PL04727-050721, 07-01-2021)
### ARTICLE 15  LIMITED USE REQUIREMENTS

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15.01 Manufactured Home (Class A and Class B)

15.01.01 Manufactured Home “Class A” is a structure, constructed after June 15, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, transportable in one or more sections, which in the traveling mode is eight feet (8’) or more in width, or forty feet (40’) or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with a continuous permanent masonry foundation (not pierced except for required ventilation and access) and connected to the required utilities for systems contained therein and satisfies the following criteria:

A. The pitch of the home's roof is a minimum vertical rise of one foot (1’) for each five feet (5’) of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;

B. The exterior siding consists of wood, hardboard, aluminum, or vinyl covering, with reflectivity in no case exceeding the reflectivity of gloss white paint, comparable in composition, appearance, and durability to the exterior siding compatible with standard residential construction; and

15.01.02 Manufactured Home “Class B” is a structure, constructed after June 15, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, transportable in one or more sections, which in the traveling mode is eight feet (8’) or more in width, or forty feet (40’) or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with a continuous permanent masonry foundation (not pierced except for required ventilation and access) and connected to the required utilities for systems contained therein and satisfies the following criteria:

A. The pitch of the home's roof is a minimum vertical rise of one foot (1’) for each five feet (5’) of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;

B. The exterior siding consists of wood, hardboard, aluminum, or vinyl covering, with reflectivity in no case exceeding the reflectivity of gloss white paint, comparable in composition, appearance, and durability to the exterior siding compatible with standard residential construction; and
C. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

15.01.02 Manufactured Home “Class B” is a structure, constructed after June 15, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, transportable in one or more sections, which in the traveling mode is eight feet (8’) or more in width, or forty feet or more (40’) in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a continuous permanent masonry foundation (not pierced except for required ventilation and access) and connected to the required utilities for systems contained therein, but that does not satisfy the criteria necessary to qualify as “Class A” (10.01.02-A). Skirting is required for “Class B” manufactured homes.

(Ord. PL04727-050721; 07-01-2021)

15.02 Manufactured Home Park

15.02.01 Plan Requirements: In addition to the other plan requirements of the Ordinance, an applicant for a Zoning Permit to establish a manufactured home park must submit a detailed plan which specifies the following:

A. Name of the manufactured home park (approval required by Fire Marshall)

B. Location and dimensions of every manufactured home space, including total number of spaces; and

C. Location and dimensions of every street (street names required for approval by the Fire Marshall) and vehicle accommodation area; and

D. Recreation Space; and

E. Landscape buffers; and

F. Office location; and

G. Storage building(s) utilized by the park.

15.02.02 General Requirements for the Manufactured Home Park

A. There shall be at least one (1) entrance sign identifying the park which meets the requirements of Article 26.

B. There shall be a designated office which may be a manufactured home.

C. There shall be a designated space on the grounds for mail service for the residents of manufactured home park.

D. Storage buildings utilized by the park for materials and equipment must be located a minimum of twenty-five feet (25’) from any residential unit within the park and a minimum of twenty-five (25’) feet from any property line.
E. Streets:
1. No individual manufactured home space may have direct vehicular access to a public street.
2. Access to each manufactured home space must be provided by a private street constructed to the standards as set forth in Article 23.
3. All streets in the manufactured home park intersecting another street shall have a stop sign that conforms to the NC Department of Transportation specifications.
4. Each street shall have a permanent street sign installed with an approved (Fire Marshall approval required) designated name identifying each street.

F. Parking:
1. Two (2) off-street parking spaces must be provided within each manufactured home space.
2. Parking spaces shall be constructed to the standards as set forth in Article 24 Parking.
3. Off-street parking areas shall be at least four feet (4’) away from any unit.
4. An applicant may utilize on-street parking if the private street within the manufactured home park is designed and constructed to accommodate on-street parking.
5. A combination of off-street and on-street parking is allowed.

G. All manufactured home spaces must be set back at least twenty-five feet (25’) from all public rights-of-way and property lines.

H. Landscaping for the manufactured home park shall be provided in accordance with Article 31 Landscape Standards.

I. Recreation space:
1. A minimum of 5% of the parcel shall be provided as recreation space for residents of the park.
2. In general, required recreation space shall have a least dimension of twenty-five feet (25), an average dimension of fifty feet (50’), and a minimum area of 2,500 square feet. Smaller dimensions are acceptable if:
   a. Less than 2500 square feet of recreation area is required, or
   b. The recreation area is a suitably improved roof area or enclosed floor area, or
   c. The anticipated needs of the residents require smaller facilities, such as tot lots or shuffle board courts, or
3. The dedication of a greenway easement may be used to satisfy the requirements for recreational space.
4. Outdoor recreation area for common use should be located twenty feet (20’) or more from any residential windows at the same general level.

5. Recreation areas shall be maintained in a safe and sanitary manner.

J. Utilities:
   1. All utilities must be installed underground in accordance with Article 22.
   2. The source of the water supply system shall be the public water system.
   3. The source of the sewer system shall be the public sewer system.
   4. Solid waste and recycling enclosures shall be provided in accordance with Section 22.13.

K. The park operator must maintain a register containing a record of all occupants. The register must contain the following information:
   1. Name, address, and space number of each occupant; and
   2. The date the manufactured home entered the park.

L. Recreational vehicles shall not be used for residential purposes.

M. Maintenance:
   1. Grounds and buildings of the manufactured home park shall be kept free of debris, trash, and litter to prevent the infestation of rodents, flies, mosquitos, and other pests.
   2. Grounds within the manufactured home park, including manufactured home spaces, shall be maintained to prevent the growth of ragweed, poison ivy, poison oak and other weeds.
   3. Grounds within the manufactured home park shall have proper drainage to prevent the accumulation of water.

15.02.03 General Requirements for the Manufactured Home Space

A. Each manufactured home must be placed and maintained in accordance with the plan filed in accordance with Subsection 15.02.01.

B. No more than one manufactured home may be parked or set up in a manufactured home space.

C. Each space must be graded and grassed to prevent erosion and provide adequate storm drainage away from the manufactured home.

D. Each space shall have a solid surface where the home will be placed.

E. Each manufactured home space shall be clearly established on the ground by permanent monuments or markers.
F. Each manufactured home dwelling must be set up in accordance with the standards established by NC Department of Insurance and a Certificate of Occupancy shall be obtained.

G. Setbacks:
   1. The manufactured home (and any additions) must be set back at least ten feet (10’) from the edge of the private street pavement.
   2. The manufactured home (and any additions) shall be set back from any other manufactured home within the manufactured home park by twenty feet (20’).
   3. The manufactured home (and any additions) must be set back at least ten feet (10’) from the rear of the manufactured home space.

H. No manufactured home may extend beyond its own manufactured home space.

I. Manufactured home additions: Prefabricated structures specifically designed by the manufactures as extensions and any other additions meeting NC Building Code may be added to any manufactured dwelling, provided that the minimum setback between the homes of twenty feet (20’) can be met and the proper Zoning and Building Permits are obtained.

J. All entrances/exits of the manufactured home shall have steps.

K. Accessory storage buildings are permissible on a manufactured home space provided:
   1. Accessory storage buildings must be fully contained on the manufactured home space for which the storage building is intended.
   2. Accessory storage buildings shall be located to the rear of the manufactured home space and in no case shall the accessory building extend past the manufactured home toward the street.
   3. Accessory buildings shall be setback a minimum of five feet (5’) from the manufactured home and a minimum of seven feet (7’) from any manufactured home space boundary.

15.02.04 Existing Manufactured Home Parks: Compliance of the existing manufactured home parks with the requirements of this Ordinance shall be triggered by the costs of any site improvements within the manufactured home park.

   A. For purposes of complying with Article 7, the simple act of replacing one manufactured home with another does not trigger the required site improvements except in cases of manufactured homes located in Special Flood Hazard Areas.

(Ord. 20160751, 03-16-2017; Ord. PL04727-050721; 07-01-2021)
15.03 1.07 Duplex; 1.08-1.10 Townhouse; 1.11-1.13 Multi-Family Dwelling; 1.14-1.16 Multi-Family Dwelling In Mixed Use (unless specifically excluded)

15.03.01 Applicable standards described in this Section are required for Uses 1.07-1.16 and apply to all of the following:

A. New construction, whether such construction constitutes a new development or an expansion of an existing development;

B. Multi-family dwelling units created by a change in use of a portion or all of an existing development to multi-family use; and

C. Renovation or replacement of a portion or all of an existing multi-family development when the costs of renovation or replacement trigger the requirements of Article 7 for compliance with this Ordinance.

15.03.02 This Section shall not apply to:

A. Multi-family dwelling units in mixed-use building(s) constructed pursuant to and in accordance with the requirements of Section 15.04,

B. Multi-family dwelling units in single use buildings within a mixed-use project constructed pursuant to an in accordance with the requirements of Section 15.04, if:

1. The development is approved through a Conditional District B1 General Business, B2 Neighborhood Business, B3 General Business rezoning process; and

2. No phasing of construction is proposed or approved unless:

   a. The commercial portions of the development will be constructed as part of the initial phase; or

   b. All phases approved prior to the construction of the phase in which the commercial portions of the development are completed, together allow the construction of no more than one-third (1/3) the number of multi-family dwelling units which are approved for the development as a whole; or

   c. The applicant provides adequate assurances in the form of financial commitments which will guarantee that all commercial portions of the development will be completed within the approved vesting period. For purposes of this alternative, by example only and not by way of exclusion, an irrevocable letter of credit from an appropriate financial institution in favor of the Town in a sufficient amount to cover 125% of the projected costs of construction, said projection sealed by a North Carolina licensed engineer, is considered such a guarantee.

15.03.03 Each new multi-family development shall meet the following standards:
A. A townhouse style design and a mixture of unit configuration and sizes per development shall be encouraged. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.

B. Parking shall be limited to a maximum of two (2) spaces per unit and a clearly designated parking area for visitors.

   1. The square footage of the parking designated for visitors may not exceed ten percent (10%) of the total parking area. A minimum of twenty-five percent (25%) of units shall have a garage or carport.

   2. If freestanding, garages and carports shall be architecturally integrated with the development. To the greatest extent practicable, parking shall be located behind or underneath proposed building(s).

C. A livability space ratio of .50 must be met for the development. Fifty percent (50%) of the required livability space shall be designated to a defined area exclusively for the use of ground floor units. This space must consist of a common yard with accompanying private outdoor space for each ground level unit, or individual yards contiguous with the unit served. Either configuration must provide direct access from all ground floor units. The remaining livability space shall be designated for the use of the development as a whole as recreation space and shall be located so as to provide for direct auditory, visual, and physical access from the dwelling units served.

D. On-site property management or an owner’s association shall be required.

E. Recreation space:

   1. A minimum of 5% of the parcel shall be provided as recreation space for residents of the development.

   2. In general, required recreation space shall have a least dimension of twenty-five feet (25), an average dimension of fifty feet (50’), and a minimum area of 2,500 square feet. Smaller dimensions are acceptable if:

      d. Less than 2500 square feet of recreation area is required, or

      e. The recreation area is a suitably improved roof area or enclosed floor area, or

      f. The anticipated needs of the residents require smaller facilities, such as tot lots or shuffle board courts, or

   3. The dedication of a greenway easement may be used to satisfy the requirements for recreational space.

   4. Outdoor recreation area for common use should be located twenty feet (20’) or more from any residential windows at the same general level.

   5. Recreation areas shall be maintained in a safe and sanitary manner.

15.03.04 Each residential building shall meet the following standards:
A. The maximum building height shall be three (3) stories of occupied space, and in no case shall the building exceed fifty feet (50’) in total height including the roof or the maximum in the particular zoning district, whichever is less.

B. **Roof Requirements:**

1. If a pitched roof is proposed, the pitched roof area may be used as attic or storage space.

2. If a flat roof is proposed, fifty percent (50%) of the roof area must be used as livability space.

C. The front entrance of each unit on the first floor must be at ground level to the greatest extent practicable.

**15.03.05** Each dwelling unit shall meet the following standards:

A. The bedroom to bathroom ratio of each unit within the development shall be limited as follows:

1. Efficiency unit and one (1) bedroom unit: one (1) bathroom.

2. Two (2) bedroom unit: one (1) or two (2) bathrooms, with no less than one bathroom with common access.

3. Three (3) bedroom unit: Two (2) bathrooms with no less than one (1) bathroom with common access.

4. Four (4) or more bedroom unit: Three (3) bathrooms with no less than two (2) bathrooms with common access from a hall.

B. In every unit with two (2) or more bedrooms, a designated master suite must be included and shall be at least twenty-five percent (25%) larger than every other bedroom and not less than 144 square feet excluding closet space.

C. Dedicated storage space of at least fifty square feet (50 ft²) per unit must be provided for units without garages. Any storage space which is not within or attached to the building containing the units served by the space must be architecturally integrated with the development.

D. Occupancy of each unit shall be limited to (2) two unrelated persons.


**15.04 Multi-Family in Mixed Uses**

**15.04.01** Multi-family residential uses (Use 1.1, 1.15 and 1.16) are allowed in the B1, B2 and B3 zoning districts when the criteria in this Section are met.

A. For purposes of this Section, “commercial” shall include the following uses: 3.08 Motel, 3.09-3.11 Hotel, 4.03 Funeral Home Establishment, 4.05 Post Office, 5.01 Government
Cultural Facility, 5.02-5.03 Government Neighborhood Cultural Facility, 5.04-5.06 Recreation Facility, 5.07-5.09 Event Venue, 5.12 Police Substation, 5.16 Government Facility, 8.0 Assembly, 9.0 Education, 10.02 Child Daycare Center, 10.04 Adult Daycare Center, 10.5 All Other Daycare, 11.0 General Sales and Service, 12.0 Recreation, 14.0 Manufacturing, 16.01 Mini-Storage, 17.0 Transportation, and 19.0 Particular Activities which pose Particular Concerns about Public Health.

B. To the extent this Section conflicts with other Articles of this Ordinance, this Section shall control.

C. “Commercial use” and “street level commercial land use” as referred to in this section 15.04, means only space in a building used or to be used for commercial uses unrelated to the residential use of the building or development. By way of clarification and not as a limitation, the following uses may not be counted as “commercial use”: amenities operated entirely or in the main for residents (including but not limited to swimming pools, gyms, etc.); required recreation space; space used to operate and maintain the residential portion of the development, including leasing, management, and/or maintenance-related office space; and/or common areas of the residential units.

1. Notwithstanding the foregoing, only parking spaces located in a single-use parking structure (not containing residential units below or above) may be counted as “street level commercial land use.”

D. A minimum of 60% of the street facing street level building facade shall be comprised of transparent, non-reflective windows.

E. Pedestrian weather protections such as awnings or canopies are encouraged along public streets provided they do not encroach into the roadway. Awnings or canopies which encroach above a public sidewalk shall obtain an encroachment agreement from the Town of Boone.

F. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.

G. The bedroom to bathroom ratio of each unit within the development shall be limited as follows:

1. Efficiency unit and one-bedroom unit: one bathroom.
2. Two-bedroom unit: one or two bathrooms, with no less than one bathroom with common access.
3. Three-bedroom unit: two bathrooms with no less than one bathroom with common access.
4. Four or more-bedroom unit: three bathrooms with no less than two bathrooms with common access from a hall.

H. In every unit with two or more bedrooms, a designated master suite must be included and shall be at least 25% larger than every other bedroom and not less than 144 square feet excluding closet space.
15.04.02 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Central Business District (B1) only if the projects in which they are included meet all the following criteria:

A. Each project shall provide primary street level commercial land uses (i.e. retail, office, restaurant) of at least fifty percent (50%) of the square footage of the footprint of each building on the primary street level. For developments located on lots which abut more than one public street in the Central Business District, each additional street level floor shall provide commercial uses of at least 30% of that level’s square footage. For purposes of this Subsection, the “primary street” shall be determined according to the following order: King Street, Howard Street, Depot Street, all other streets. For example, if a project is located on a lot that abuts both King Street and Howard Street, King Street shall be considered the “primary street” while for a project which abuts Howard Street and Depot Street, Howard Street shall be considered the “primary street” and so on.

B. The entire frontage of the primary street level of the building abutting the street shall provide commercial uses. Required entrances for ingress and egress to secondary uses are permitted along said frontage so long as they are no larger than necessary to meet building code and safety requirements for ingress and egress. Commercial uses on the non-primary street level(s) shall front on the non-primary street.

C. The entire primary street level floor of the building shall be constructed to commercial standards in accordance with North Carolina Building Code Group A, B, E or M.

D. New projects on property which was vacant as of February 1, 2018 shall be at least two floors above the primary street level.

E. Buildings facades shall be oriented to each public street and shall have a primary entrance door facing each abutting public sidewalk.

F. A minimum of 30% of non-primary street level facing building facades shall be comprised of transparent, non-reflective windows.

G. Surface parking shall be located away from each public street to the extent possible, and if practical, to the rear of the principal building.

H. Structured parking is permitted to the rear or interior of the building or below the street level floor.

I. Building facades may be no further than 0’-0” from the established street setback line, except where necessary to provide landscaped courtyards, plazas, pocket parks, other pedestrian oriented amenities, or when there would be interference with public utilities.

J. The minimum building footprint shall be 50% of the total gross square feet of the lot.
15.04.03 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Neighborhood Business District (B2) only if the projects in which they are included meet all the following criteria:

A. Each project shall provide street level commercial land uses (i.e. retail, office, restaurant) of at least 100% of the street-level floor square footage.

B. Buildings facades shall be oriented to the public street and shall have a primary entrance door facing the public sidewalk.

C. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.

D. Structured parking is permitted but shall be located to the rear or below street level commercial uses.

E. In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities.

F. Areas covered by pedestrian weather protection such as awnings or canopies count toward any use that requires recreation space.

G. All development shall comply with the landscape standards set forth in Article 31 except that Type “A” interior landscape buffers may be provided regardless of adjacent land use classifications.

15.04.04 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the General Business District (B3) only if the projects in which they are included meet the following:

A. Multi-family uses wholly or partially on property zoned B3 General Business within the Corridor Districts.

1. Mixed Use Building(s):
   a. Each building shall fully consist of street level commercial uses (i.e. retail, office, and restaurant).
   b. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line. Structured parking is permitted but shall be located to the rear or under street level commercial uses.
   c. In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities.

2. Single Use Building(s)
a. Single use multi-family building(s) are only allowed as part of a mixed-use project if approved through the Conditional District B3 General Business rezoning.

b. A mixed-use project shall meet the following criteria:

i. Each project shall fully consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a corridor protected by the Corridor District. In addition, at least 50% of the total gross floor area of all buildings located within the Corridor District shall fully consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.

ii. The street level floor of all buildings within the Corridor District shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.

iii. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.

iv. Structured parking is permitted but shall be located to the rear or below the commercial uses.

v. In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities.

B. Multi-Family Uses wholly or partially on Property Zoned B3 General Business Outside the Corridor District but Proximate to Major Streets.

1. For the purposes of this Section “major street” refers to collector and arterial streets.

2. “Proximate” shall mean any building wholly or partially within 200 feet of the centerline of a major street.

3. Mixed Use Building(s)

   a. Mixed use building(s) shall meet the same requirements as described in Subsection 15.04.04(A)(1).

4. Single Use Building(s)

   a. Single use multi-family building(s) are only allowed as part of a mixed-use project.

   b. A mixed-use project shall meet the following criteria:
i. Each project shall consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a major street. In addition, at least 25% of the total gross floor area of all buildings wholly or partially located within 200 feet of the centerline of a major street shall consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.

ii. For any floor containing a commercial use the entire floor shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.

iii. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.

iv. Structured parking is permitted but shall be located to the rear or below the commercial uses.

v. In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities.

C. Multi-Family Uses wholly or partially on property zoned B3 General Business in all other areas.

1. Multi-family uses not part of a mixed use development may be allowed if an applicant demonstrates that within ¼ mile (1,320 feet) of the borders of the lot that is to be developed there exists commercial uses with gross floor area square footage equal to the gross floor area square footage of the proposed multi-family project. If this standard cannot be met, then the proposed project must meet the requirements in Subsection 15.04.04(B) above.

D. Recreation space shall be provided for multi-family developments in the B3 district as provided at Section 15.03.03(E).

(Ord. 20160751, 03-16-2017; Ord. PL01340-022718, 04-26-2018; Ord. PL01817-082318, 04-10-2019; Ord. PL04727-050721, 07-01-2021; Ord. PL05688-050322, 06-08-2022)

15.05 Homestay Rental

A homestay rental is defined as a resident-occupied dwelling or dwelling unit with up to two guest rooms that are used, offered, and/or advertised (through an online platform or any other media) for transient overnight lodging accommodations for compensation for any period of less than one month and where the use is subordinate and incidental to the main residential use of the property. A homestay rental is considered a “Lodging” use under this UDO. Any use that comes within the purview of another use under this ordinance
(e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a homestay rental.

**15.05.01** Every homestay rental operator must first apply for and procure a zoning permit from the Town. Zoning permits must be renewed annually. Upon application for an initial permit and for each renewal, the applicant must demonstrate compliance with all applicable provisions of this section on such forms as may be provided by the Administrator.

**15.05.02** The homestay operation shall be managed and carried on by a person who: 1) is a full-time resident of the property; and 2) is present during the homestay term for the entire time lodgers are staying at the property. To be a "full time resident," the person must reside on the property on a permanent basis, and it must be the person’s primary home. A person can have only one homestay permit at any one time.

**15.05.03** For purposes of this homestay ordinance, a person can only have one primary, full-time residence, and the homestay must be operated from that primary, full time residence. In order to be "present during the homestay term," the full-time resident shall be at the property overnight and not away on vacation, visiting friends or family, travelling out of town for business or personal reasons, etc. during the homestay term. However, the full-time resident may be temporarily absent from the property for purposes related to normal residential activities such as shopping, working, attending class, etc. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents.

**15.05.04** The maximum number of guest rooms used as a homestay rental is two (2) per detached single-family, two-family, or three-family dwelling unit located on a single lot. In addition, up to two guest rooms may be located in an accessory dwelling unit if the accessory structure and accessory residential use are lawful under the UDO with respect to the property at issue.

**15.05.05** The maximum number of overnight guests for any dwelling used as a homestay rental is the greater of (i) two (2) adults and any number of children under those adults’ care, or (ii) two occupants per guest room. The occupancy limit shall be posted prominently within the short-term rental and be included in property listings on online platforms or any other media.

**15.05.06** A homestay rental operator shall ensure that the primary responsible renter of a homestay rental is at least twenty-one (21) years old.

**15.05.07** Cooking facilities are not permitted in any bedroom. For the purpose of this regulation, cooking facilities include any refrigerator in excess of seven cubic feet; any stovetop range that operates on 220-volt electric service; any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance, which contains more than two cooking surfaces or burners.

**15.05.08** No signs advertising the property as a rental are allowed.
15.05.09 No displays of goods, products, services, or other advertising may be visible from outside of the dwelling.

15.05.10 In residential zoning districts, homestay renters shall not utilize the premises for holding special events or large gatherings. The rental operator shall inform renters of this regulation and of the applicability of the town’s noise ordinance (Chapter 82 of the Code of Ordinances), which regulates nuisance noises and makes it unlawful to create, cause, or allow the continuance of any unreasonably loud noise, particularly during nighttime, which interferes with neighboring residents’ reasonable enjoyment of their properties.

15.05.11 The premises shall not be used for any home occupation that allows employees, customers, clients or patrons to visit.

15.05.12 Homestay rental operators shall comply with all applicable State and local laws, including those relating to fire and building codes, smoke detecting and carbon monoxide detecting equipment, and housing codes.

15.05.13 Homestay rental operators are responsible for and must ensure that any and all occupancy taxes and other applicable taxes due under law as a result of their rental activities are remitted to the proper tax authorities, whether through their online platform service or by personally remitting the required taxes. The town shall require evidence of payment of such taxes as part of the application and permitting process, and may also conduct audits of homestay rental permittees, as it sees fit in its sole discretion, in order to ensure payment of all such applicable taxes.

15.05.14 The zoning permit number authorizing the homestay rental shall be conspicuously posted on (i) all advertisements for homestay rentals, and (ii) on the subject property in a place that is conspicuous from the exterior of the property.

15.05.15 A homestay rental must provide at least one (1) dedicated parking space per guest room, which may not be located on any street right of way and must conform to all applicable parking regulations of this ordinance.

15.05.16 Except as specifically set forth herein, a dwelling or dwelling unit must comply with all UDO requirements applicable to the primary residential use.

15.05.17 Homestay rental operators must carry insurance that covers the homestay use and homestay renters.

15.05.18 Homestay rental permits are not transferrable. Every person wishing to operate a homestay rental must apply for and obtain the required permit prior to beginning operation of a homestay rental.

15.05.19 **Revocation of Permit.** The Administrator shall revoke a homestay rental permit following a written determination that an operator of the homestay rental has been:

A. Convicted of violating any of the following criminal laws on the homestay rental premises within the prior three-year period: Article 10 (*kidnapping*), Article 10A
(human trafficking), or Article 27 (prostitution) of Chapter 14 of the North Carolina General Statutes;

B. Convicted of committing a violent felony as defined at N.C. Gen. Stat. §14-7.7 on the homestay rental premises within the prior three-year period.

C. Convicted of violating any of the following criminal laws on the homestay rental premises within the prior 365-day period:
   1. Article 3 of Chapter 18B of the North Carolina General Statutes (sale, possession and consumption of alcohol)

D. Received within a 365-day period two or more “Verified Violations” of any combination of the following, occurring on the homestay rental premises:
   1. Any Town Code zoning regulation.
   2. Any noise regulation set forth at Town Code Chapter 82.
   3. Any nuisance prohibited by Town Code Chapter 80.

   A Verified Violation means a determination made by a code enforcement official, law enforcement officer, or judge, following notice of violation being issued by the Town Code and opportunity to respond to the noticed alleged offenses and an order or other mandate issued to the owner or any other person imposing a sanction or requiring further actions to comply with the Town Code, including, without any limitation, the payment of civil penalties or administrative fees, or implementation of corrective measures, or cessation of activities, or conviction of a criminal offense. A verified violation that is appealed continues as a verified violation unless it is overturned on appeal. If the violation is reinstated on a further appeal, it resumes its status as a verified violation.

E. Once lawfully revoked, a new permit for a homestay rental cannot be issued or re-instated for the premise for a period of 365 days, except that in case of revocation under (A) or (B) above a new permit cannot be issued or re-instated for the premise for three years unless the person convicted of the criminal violation is no longer a resident, manager or operator of the homestay rental.

15.05.19 Compliance period; existing nonconformities

A. Homestay operators in operation as of June 30, 2022 must apply for a permit as required in this section 15.05 on or before December 31, 2022 and must come into compliance with this section by June 30, 2023.

B. Any existing homestay rental not conforming under this section 15.05 must be brought into compliance with this ordinance or cease operation by June 30, 2023.
C. Any person seeking to begin operation of a homestay rental after June 30, 2022 must first apply for and obtain a homestay rental permit as required under this section 15.05.

15.05.20 Petition for Exemption. Residents of Neighborhood Conservation Districts or other adversely impacted residents may petition Council if they support a prohibition on homestay rentals in their neighborhood.

(Ord. 20150028, 11-19-2015; Ord. PL04727-050721; 07-01-2021; Ord. PL05168-100621; 12-08-2021)

15.06 Family Care Home

15.06.01 A Family Care Home shall not be located within one-half mile of another Family Care Home.

15.06.02 A Family Care Home shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.

(Ord. PL04727-050721; 07-01-2021)

15.07 Family Care Institution, Halfway House Category 1, Halfway House Category 2

15.07.01 A Family Care Institution shall not locate within one-half (.5) mile of any Family Care Home or a Family Care Institution.

15.07.02 A Family Care Institution, Halfway House Category 1 and Halfway House Category 2 shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.

15.07.03 Without limiting the applicability of other Ordinance requirements, a Family Care Institution, Halfway House Category 1, Halfway House Category 2 are subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.

(Ord. PL03076-090919, 11-19-2019; Ord. PL04727-050721; 07-01-2021)

15.08 Reserved


15.09 Fraternity and Sorority Dwelling

15.09.01 A Fraternity and Sorority Dwelling shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.

15.09.02 Without limiting the applicability of other Ordinance requirements, a Fraternity and Sorority Dwelling is subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.

15.09.03 A Fraternity and Sorority Dwelling shall contain a minimum of 250 square feet for each resident.
15.09.04 A Fraternity and Sorority Dwelling shall be located within one-half (.5) mile of the school of which it is affiliated.

(Ord. PL00479-050817, 07-20-2017; Ord. PL04727-050721; 07-01-2021)

15.10 Boarding House

15.10.01 A Boarding House shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.

15.10.02 Without limiting the applicability of other Ordinance requirements, a Boarding House is subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.

(Ord. PL04727-050721; 07-01-2021)

15.11 Home for Survivors of Domestic Violence

15.11.01 A Home for Survivors of Domestic Violence shall not be located within one-half (.5) mile of any other Home for Survivors of Domestic Violence.

15.11.02 A Home for Survivors of Domestic Violence shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.

15.11.03 A Home for Survivors of Domestic Violence shall meet the buffer and street-yard requirements as outlined in Article 31 except that the Administrator is allowed flexibility in either increasing or decreasing the buffer and street-yard requirements in order to protect the residents of the home.

15.11.04 A Home for Survivors of Domestic Violence shall be operated by a non-profit organization recognized by the Internal Revenue Service and that is registered by the State of North Carolina.

15.11.05 Staff shall be present at all times. In addition, Staff shall be trained in emergency procedures (including CPR and first aid), safety plans and procedures used by the home.

15.11.06 The organization operating the home must receive domestic violence funding from the North Carolina Department of Administration’s Council for Women/Domestic Violence Commission.

15.11.07 The home shall have a security plan which outlines all security measures taken by the home to assure the safety of the residents of the home and the neighborhood.

15.11.08 Before a Zoning Permit is issued this security plan shall be submitted to the Administrator and approved by the Town of Boone Police Department.

15.11.09 Before a Zoning Permit is issued the home’s security measures shall be physically inspected by the Town of Boone Police Department to determine accuracy with the submitted security plan. After the initial inspection, each home shall be inspected annually by the Town of Boone Police Department.
15.11.10 Thirty (30) days prior to amending the approved security plan, the organization shall submit to the Administrator the proposed modifications which are subject to approval from the Boone Police Department.

15.11.11 The home shall be equipped with a monitored alarm system or an alternative measure that will ensure the immediate response of emergency services in the event of an emergency.

15.11.12 The overnight occupancy of the home shall be limited to no more than 13 persons.

(Ord. PL04727-050721; 07-01-2021)

15.12 **Shelter for Homeless Category 1 and Shelter for Homeless Category 2**

15.12.01 A Shelter for Homeless Category 1 and Shelter for Homeless Category 2 shall not be located within one-half (.5) mile of any other Shelter for Homeless Category 1 and Shelter for Homeless Category 2.

15.12.02 A Shelter for Homeless Category 1 and Shelter for Homeless Category 2 shall provide adequate supervision and security for the number and needs of the residents. Staff shall be trained in emergency procedures (including CPR and first aid), safety plans and procedures used by the facility.

(Ord. PL04727-050721; 07-01-2021)

15.13 **Bed and Breakfast Category 1 and Bed and Breakfast Category 2**

15.13.01 **Bed and Breakfast Category 1**

A. A maximum of fifty percent (50%) of the gross floor area of the dwelling unit may be used for the Bed and Breakfast, Category 1 establishment. Only the floor areas of the bedroom and bathroom areas used by the Bed and Breakfast guests shall be considered in floor area calculations.

B. Without limiting the applicability of other Ordinance requirements, a Bed and Breakfast is subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.

C. The residence used for Bed and Breakfast, Category 1 establishments shall be occupied by the owner or managing agent during the time the Bed and Breakfast is open for business.

D. No display of goods, products, services, or other advertising shall be visible from outside the building.

E. Signage shall be limited to a single on premise sign, not to exceed four square feet (4 ft²).

F. No activities other than lodging, a morning meal, and an afternoon and/or evening refreshment shall be provided.

G. Activities shall be provided for overnight guests only.
H. A maximum of one (1) non-resident of the dwelling may be employed on a full-time basis.

I. Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.

J. Parking:
   1. Off street parking shall be provided as set forth in Article 24.
   2. Parking shall be on the same lot on which the Bed and Breakfast establishment is located.
   3. Parking shall be located at the rear of the lot and screened with a Type A buffer from adjacent properties and from the street.

K. The length of stay of guests shall not exceed twenty-one (21) days.

L. Only existing single-family dwellings in the B1 and B2 zoning districts shall be allowed to be used as a Bed and Breakfast.

**15.13.02 Bed and Breakfast Category 2**

A. Without limiting the applicability of other Ordinance requirements, a Bed and Breakfast Category 2 is subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.

B. The Bed and Breakfast, Category 2 shall be occupied by the owner or managing agent during the time the Bed and Breakfast is open for business.

C. No display of goods, products, services, or other advertising shall be visible from outside the building.

D. Activities other than lodging, a morning meal, and an afternoon and/or evening refreshment may be provided.

E. Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.

F. Parking:
   1. Off street parking shall be provided at one (1) space per guest room plus one (1) additional space for every two guest rooms. Dining areas open to the public must provide an additional 12 spaces for every 1000 square feet of dining area or part thereof.
   2. Parking shall be on the same lot on which the Bed and Breakfast establishment is located.
   3. Parking shall be located at the rear of the lot.

(Ord. PL04727-050721; 07-01-2021)
15.14 **Vacation Rental**

A vacation rental is defined as a single-family detached dwelling, a two-family detached dwelling or a multi-family dwelling unit with up to six guest rooms that is used, offered, and/or advertised (through an online platform or any other media) for transient overnight accommodations for any period of less than one month. A vacation rental is considered a "Lodging" use under this UDO. Vacation rentals do not include homestay rentals (as defined herein). A vacation rental includes any residential dwelling or dwelling unit, or portion thereof, provided to renters for any period of less than one month that does not qualify as a homestay rental under this ordinance; provided, that any use that comes within the purview of another use under this ordinance (e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a vacation rental.

Notwithstanding the foregoing, the full-time resident of a dwelling unit (as defined at section 15.05.02 above) may rent out his or her dwelling unit for up to two weeks in any calendar year and such rental shall not be deemed a vacation rental under this section 15.14 but rather shall be considered an incidental use of the dwelling that does not require approval or permitting under this Article.

15.14.01 Every vacation rental operator must first apply for and procure a zoning permit from the Town. Zoning permits must be renewed annually. The zoning permit number authorizing the short-term rental shall be conspicuously posted on (i) all advertisements for short-term rentals, and (ii) on the subject property in a location easily viewable from the exterior of the structure provided, that if the permit number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit.

15.14.02 A vacation rental is required to provide at least one (1) parking space per bedroom, which may not be located on any street right of way and must conform to all applicable parking regulations of this ordinance. In the RA Residential Agriculture zoning district, parking should be to the side or rear of the vacation rental dwelling.

15.14.03 A vacation rental operator shall ensure that the primary responsible renter of a vacation rental is at least twenty-one (21) years old.

15.14.04 Without limiting the applicability of other Ordinance requirements, a vacation rental is subject to Article 31 Landscape Standards.

15.14.05 In the R3 Multiple-Family, B1 Central Business, B2 Neighborhood Business, and B3 General Business zoning districts, only single-family detached dwellings and two-family detached dwellings existing as of January 1, 2014 may be converted to vacation rental.

15.14.06 Cooking facilities are not permitted in any bedroom. For the purpose of this regulation, cooking facilities include any refrigerator in excess of seven cubic feet; any stovetop range that operates on 220-volt electric service; any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance, which contains...
more than two cooking surfaces or burners. This shall not prohibit cooking facilities within a one-room studio vacation rental. For the purpose of this regulation, a studio shall be a single-room rental with a sleeping area, living area and kitchen/eating area in one consolidated room.

15.14.07 No signs advertising the property as a rental are allowed.

15.14.08 In residential zoning districts, renters of vacation rentals shall not utilize the premises for holding special events or large gatherings. The rental operator shall inform renters of this regulation and of the applicability of the town’s noise ordinance (Chapter 82 of the Code of Ordinances), which regulates nuisance noises and makes it unlawful to create, cause, or allow the continuance of any unreasonably loud noise, particularly during nighttime, which interferes with neighboring residents’ reasonable enjoyment of their properties.

15.14.09 The premises shall not be used for a home occupation that allows employees, customers, clients or patrons to visit.

15.14.10 For any building that contains multiple dwelling units, no more than 5% of the dwelling units or two dwelling units, whichever is greater, may be operated as a vacation rental in any single building. Permits shall be issued on a first-come, first-served basis based on the initial application date, and thereafter may be renewed. If a permit lapses before renewal, a renewal application shall be treated like an initial application for purposes of this paragraph.

15.14.11 Vacation rental operators shall comply with all applicable State and local laws, including those relating to fire and building codes, smoke detecting and carbon monoxide detecting equipment, and housing codes.

15.14.12 Vacation rental operators are responsible for and must ensure that any and all occupancy taxes and other applicable taxes due under law as a result of their rental activities are remitted to the proper tax authorities, whether through their online platform service or by personally remitting the required taxes. The town shall require evidence of payment of such taxes as part of the application and permitting process, and may also conduct audits of vacation rental permittees, as it sees fit in its sole discretion, in order to ensure payment of all such applicable taxes.

15.14.13 The rental operator or the operator’s employee, management company, or other agent must be available to respond to complaints by renters or neighbors and to emergencies within two (2) hours at all times that a rental is occupied. A method will be provided for concerned citizens to make complaints or report emergency situations.

15.14.14 If the primary structure on a property qualifies for vacation rental use, a lawful accessory dwelling structure on the same property also may be used for vacation rental. The operators of such a vacation rental may, at any given time, offer for short-term rental either the single-family dwelling unit or the accessory apartment, or both units. The simultaneous rental of both the single-family dwelling unit and the accessory apartment to more than
one party under separate contracts is prohibited. The units may, however, be rented out together to one party under a single contract.

15.14.15 Vacation rental operators must carry insurance that covers the rental use and renters.

15.14.16 Vacation rental permits are not transferrable. Every person wishing to operate a vacation rental must apply for and obtain the required permit prior to beginning operation of the rental.

15.14.17 **Revocation of Permit.** The Administrator shall revoke a vacation rental permit following a written determination that an operator of the facility has been:

A. Convicted of violating any of the following criminal laws on the short-term rental premises within the prior three-year period: Article 10 (*kidnapping*), Article 10A (*human trafficking*), or Article 27 (*prostitution*) of Chapter 14 of the North Carolina General Statutes;

B. Convicted of committing a violent felony as defined at N.C. Gen. Stat. §14-7.7 on the short-term rental premises within the prior three-year period.

C. Convicted of violating any of the following criminal laws on the rental premises within the prior 365-day period:
   1. Article 3 of Chapter 18B of the North Carolina General Statutes (*sale, possession and consumption of alcohol*)

D. Received within a 365-day period two or more “Verified Violations” of any combination of the following, occurring on the short-term rental premises:
   1. Any Town Code zoning regulation.
   2. Any noise regulation set forth at Town Code Chapter 82.
   3. Any nuisance prohibited by Town Code Chapter 80.

A Verified Violation means a determination made by a code enforcement official, law enforcement officer, or judge, following notice of violation being issued by the Town Code and opportunity to respond to the noticed alleged offenses and an order or other mandate issued to the owner or any other person imposing a sanction or requiring further actions to comply with the Town Code, including, without any limitation, the payment of civil penalties or administrative fees, or implementation of corrective measures, or cessation of activities, or conviction of a criminal offense. A verified violation that is appealed continues as a verified violation unless it is overturned on appeal. If the violation is reinstated on a further appeal, it resumes its status as a verified violation.
E. Once lawfully revoked, a new permit for a short-term rental cannot be issued or re-instated for the premise for a period of 365 days, except that in case of revocation under (A) or (B) above a new permit cannot be issued or re-instated for the premise for three years unless the person convicted of the criminal violation is no longer a resident, manager or operator of the short-term rental.

15.14.17 Compliance period; existing nonconformities

A. The owner of any un-permitted vacation rental in operation as of June 30, 2022 must apply for a permit as required in this section 15.14 on or before December 31, 2022 and must come into compliance with this section by June 30, 2023.

B. Any existing, un-permitted vacation rental not conforming under this section 15.14 must be brought into compliance with this ordinance or cease operation by June 30, 2023.

C. Any person seeking to begin operation of a vacation rental after June 30, 2022 must first apply for and obtain a vacation rental permit as required under this section 15.14.

(Ord. PL04727-050721; 07-01-2021; Ord. PL05168-100621, 12-08-2021)

15.15 Airport/Landing Strip, Heliport, Helistop

15.15.01 Federal Aviation Administration (FAA) approval must be submitted with the Special Use Permit application.

(Ord. PL04727-050721; 07-01-2021)

15.16 Utility Facility

15.16.01 Utility facilities in or adjoining residential zoning districts must maintain district setback, be fenced (unless totally enclosed within a structure), and either be screened from view or designed to have a residential appearance.

15.16.02 Equipment producing noise or sound may not exceed 60 decibels at any adjoining property line.

(Ord. PL04727-050721; 07-01-2021)

15.17 Wireless Communication Facilities

15.17.01 This Section 15.17 applies to wireless communications facilities that are not "qualifying small wireless facilities" (which are governed by Section 15.18), that are not micro wireless facilities, and that are not exempted in Section 15.17.04. Any terms used herein that are not defined at Article 34 shall have the meaning set forth at Part 3 (“Wireless Telecommunications Facilities”) of Chapter 160D of the North Carolina General Statutes.

15.17.02 The purpose of this section is to:

A. Minimize the impacts of wireless communications facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
B. Encourage the location and co-location of wireless communications facilities equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures;

C. Encourage coordination between suppliers of wireless communications facilities services in the Town and its planning jurisdiction;

D. Accommodate the growing demand for wireless services and the resulting need for wireless communications facilities;

E. Regulate in accordance with all applicable federal and state laws;

F. Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time or any specific period of time required by law;

G. Protect the unique aesthetics of the Town while meeting the needs of its citizens and businesses to enjoy the benefits of wireless communications services; and

H. Encourage the use of existing buildings and structures as locations for wireless communications facilities infrastructure as a method to minimize the aesthetic impact of related infrastructure.

I. It is not the purpose or intent of this section to prohibit or have the effect of prohibiting wireless communication services; unreasonably discriminate among providers of functionally equivalent wireless services; regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency emissions where it is demonstrated that the wireless communications facility does or will comply with applicable FCC regulations; or prohibit or effectively prohibit collocations or modification that the Town must approve under state or federal law. The provisions of this Section are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the Town.

15.17.03 General Considerations and Limitations

A. Wireless communications facilities are permitted in accordance with the Table of Permissible Uses.

B. New wireless support structures are prohibited in the public rights of way.

C. The following are the Town's preferences for wireless communications facility locations, in descending order of preference:
   - Collocations on Existing Wireless Support Structures, Transmission Towers and Utility Poles
   - Stealth (Concealed) Wireless Facility Attached to Existing Building/Structure
   - New Stealth (Concealed) Wireless Support Structure
- New Non-Stealth Wireless Support Structure - monopole
- New Non-Stealth Wireless Support Structure - lattice-type

D. The co-location of facilities and/or use of stealth technology shall be considered a mitigating factor to a variance request and may be justification for the request.

15.17.04 Compliance with Law; Exemptions.

A. Nothing in this ordinance shall be interpreted to excuse compliance with, or to be in lieu of any other requirement of state or local law, except as specifically provided herein. Without limitation, the provisions of this ordinance do not permit placement of wireless communications facilities on privately-owned utility poles or wireless support structures, or on private property, without the consent of the landowner or any person who has an interest in the property.

B. The following are exempt from the requirements in this Section 15.17:

1. Any wireless communications facilities below ninety (90) feet when measured from ground level which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission and used exclusively for amateur radio operations.

2. Satellite dishes.

3. Removal or replacement of an antenna or equipment on an existing wireless support structure or base station that does not change the physical dimensions of the wireless support structure or base station, or defeat any of the concealment elements of the wireless support structure or base station.

4. Routine maintenance of existing facilities, including activities associated with regular and general upkeep of transmission equipment, and the replacement of existing wireless communications facilities with facilities of the same size (so long as any of the concealment elements of the facilities are not defeated).

5. A temporary wireless communications facility, (1) upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town; except that such facility must comply with all federal and state requirements and must be removed at the conclusion of the emergency; or (2) if necessary to continue providing service while a wireless support structure or other structure upon which the existing wireless communications facility has been placed, such as a building or water tank, is undergoing maintenance, replacement, or reconstruction during which it will be impossible or unsafe to operate the existing wireless communications facility; except that (i) the temporary facility must be located on site and no taller than the existing wireless support structure or other structure; (ii) the temporary facility must meet the setback requirements of section 15.17.07(C); (iii) the temporary facility must comply with all federal and state requirements; and (iv) the temporary
facility must be removed within sixty (60) days of the conclusion of the maintenance, replacement, or reconstruction, or within one (1) year, whichever is shorter, unless the time is extended by the Planning Director for good cause shown.

6. Public safety facilities or installations required for public safety on public or private property, including transmitters, repeaters, and remote cameras so long as the facilities are designed to match the supporting structure.

15.17.05 **Eligible Facilities Requests and Collocations.** Collocation and eligible facilities requests, as defined in G.S. 160D-931 or 47 U.S.C. 1455, shall be processed in accordance with G.S. 160A-400.52, 160D-933, and/or federal laws and regulations as appropriate. In approving any eligible facilities request, the Town solely intends to comply with a requirement of federal law or state law and not to grant any property rights or interests except as compelled by federal or state law. Without limitation, approval does not exempt applicant from, or prevent Town from, opposing a proposed modification that is subject to complaint under the National Historic Preservation Act or the National Environmental Policy Act. Collocations are only permitted as provided in Sections 15.24.06 and 15.24.07.

15.17.06 **Collocations on Existing Wireless Support Structures and Electric Transmission Towers**

A. The collocation of additional wireless facilities on existing, freestanding wireless support structures shall be consistent with the existing concealment method, if applicable, of the freestanding wireless support structure.

B. **Height.** The top of the additional wireless facility may not exceed the highest point of the existing wireless facilities on the freestanding wireless support structure.

C. For purposes of wireless facility collocations governed by Section 15.17 or 15.18, an existing electric transmission tower shall be considered an existing wireless support structure.

D. An existing electric transmission tower that is being replaced with a taller transmission tower for the primary purpose of hosting wireless facilities is subject to all applicable regulations of Section 15.17 and 15.18 related to wireless support structures.

15.17.07 **Stealth (Concealed) Wireless Facilities Attached to Existing Building or Structure.**

A. Stealth wireless facilities, including any feed lines, antennas, and accessory equipment, must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

B. A structure utilized to support a wireless facility must be allowed within the underlying zoning district. Structures may include, but are not limited to: flagpoles, bell towers, clock towers, dormers, crosses, monuments, parapets, and steeples.

C. Attached stealth wireless facilities shall be allowed as a permitted accessory use in all non-residential zoning districts, and on residentially-zoned land used for non-residential purposes. Unless otherwise allowed above, stealth wireless facilities shall
be prohibited in all other residential zoning districts.

D. If located in the right-of-way of any public road or street, stealth antennae shall be located on an existing utility pole which does not exceed a height of thirty-five (35) feet above the immediate surrounding ground. Stealth antennae located on an existing utility pole, whether inside or outside of the right-of-way, shall not be higher than ten (10) feet above the highest point of the pole.

E. The ground-mounted components of stealth antennae, whether inside or outside of the right-of-way, shall be located flush to grade where necessary to avoid inconveniencing the public, or creating a hazard; and to the extent permitted aboveground, shall otherwise be appropriately camouflaged to blend in with the surroundings, and non-reflective paints shall be used.

F. Height. The top of the stealth wireless facility may not be more than ten (10) feet above the top of the building or structure to which it is attached.

15.17.08 Non-Stealth Wireless Facilities

A. Non-stealth wireless facilities are prohibited in the public right-of-way.

B. Except as provided at subsection 15.17.06 for collocations on existing wireless support structures, non-concealed wireless facilities shall only be allowed on transmission towers. The top of a stealth wireless facility may not be more than ten (10) feet above the tower to which it is attached.

15.17.09 Concealed (Stealth) Wireless Support Structures

A. Design Considerations and Visibility. Concealed (stealth) wireless support structures shall be designed to complement the physical landscape in which they are to be located. Examples of stealth wireless support structures that may be compatible include but are not limited to faux pine trees, unipoles/slick sticks, bell towers, etc. New stealth wireless support structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape, horizon, and adjacent properties. New freestanding stealth wireless support structures shall be designed to be compatible with adjacent structures and landscapes with specific design considerations such as architectural designs, scale, color, and texture.

B. Setbacks. The following setback requirements are established to mitigate potential safety and aesthetic impacts upon surrounding properties.

1. Setbacks shall be measured from the base of the wireless support structure.

2. The minimum setback from each property line shall be 120% of the height of the tower, or 100 feet, whichever is greater.

3. The minimum setback from the centerline of a natural gas line easement for gas lines measuring eight inches in diameter or greater shall be 120% of the height of the tower, or 85 feet, whichever is greater.
C. **Height.** The maximum permitted overall height for stealth wireless support structures is ten (10) feet above the maximum height allowed in the zoning district.

D. **Monopine/Faux Trees.** A monopine or faux tree wireless support structure shall be considered concealed if the following criteria are met. If the following criteria are not met, then the proposed structure will be considered non-concealed for regulatory purposes.

   1. The wireless support structure is incorporated within an existing cluster of trees that measures, after any necessary grading or clearing for the facility, at least 1,000 square feet with no individual dimension of less than 25 feet and the entire qualifying cluster located on the lot or parcel.

   2. The structure shall be designed to match a species located within the existing cluster of trees, with the support structure to be designed as a tree trunk and antenna arrays flush-mounted and completely concealed by limbs, branches, and leaves.

   3. Limbs, branches, and leaves shall cover at least the upper 50% of the support structure, and shall cover any of the support structure that extends above the average tree line of the cluster of trees.

   4. The overall height of the wireless support structure may not exceed the height of the tallest tree in the existing cluster.

   5. An easement or other binding legal agreement must be provided by the applicant that demonstrates to the Administrator’s satisfaction that the cluster of trees surrounding the wireless structure will not be disturbed for so long as the wireless support structure should exist.

E. A special use permit shall be required for any stealth wireless support structure that is greater than 50 feet in overall height and located within 400 feet of the property line of any property used or zoned for single family residential purposes.

**15.17.10 Freestanding Non-Stealth Wireless Support Structures**

A. The following setback requirements are established to mitigate potential safety and aesthetic impacts upon surrounding properties.

   1. Setbacks shall be measured from the base of the wireless support structure.

   2. The minimum setback from each property line and road right-of-way shall be 200 feet or two times the overall height of the structure, whichever is greater.

   3. The minimum setback from the centerline of a natural gas line easement for gas lines measuring eight inches in diameter or greater shall be 120% of the overall height of the structure, or 85 feet, whichever is greater.

B. **Height.** The maximum permitted overall height for non-stealth wireless support structures is twenty (20) feet higher than the maximum building height allowed in the
district.

C. A special use permit shall be required for any non-stealth wireless support structure that is (i) greater than 60 feet in overall height or (ii) within 400 feet of the property line of any property used or zoned for single family residential purposes.

15.17.11 Additional Requirements and Standards for All Wireless Support Structures

A. Existing Wireless Support Structures. New antennae may be co-located upon wireless support structures that exist on the effective date of this Ordinance. A request for an increase in height for an existing wireless support structure shall require issuance of a special use permit, if a special use permit would be required to erect a new wireless support structure at the requested height.

B. Collocation Required. All freestanding wireless support structures shall be engineered and constructed to accommodate no less than three (3) antenna arrays if the location is not a major mountain ridge.

C. General Development Standards

1. Design and Neighborhood Compatibility

   a. The exterior appearance of all associated support structures and buildings shall be compatible with the other buildings in the surrounding area. Wireless communications facilities shall be blended with the natural surroundings as much as possible. Except when otherwise required by applicable federal or state regulations, colors and materials shall be used that are compatible with the surrounding area and usually shall be light gray. Wireless communications facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.

   b. Lighting on wireless support structure shall not be permitted except as required by federal and state regulations and shall not exceed required minimums. The permit-issuing authority may require the applicant to apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than a red and white marking pattern, when the permit-issuing authority determines such a marking pattern would cause aesthetic blight due to the visibility of the wireless support structure.

   c. Support buildings located in any residential district may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.

   d. No advertising sign or logo shall be permitted on any wireless communications facility.
e. Equipment compounds shall not be used for as storage yards, including but not limited to for storage of any excess equipment or hazardous materials, nor be used as habitable space.

2. **Buffering and Screening**
   
a. All fences and walls shall be screened in accordance with the requirements of Chapter 31 of this Ordinance.

b. The base of the wireless support structure and each guy anchor shall be surrounded by an opaque fence or wall at least eight (8) feet in height.

D. **Neighborhood Meeting.** At the time of submitting an application for a proposed wireless support structure that requires approval as a special use, the applicant shall submit written documentation that they have conducted a neighborhood meeting, to which owners of property within four hundred (400) feet of the subject property have been invited, to explain the proposed facility and answer questions. Documentation should include the time, date, and location of the meeting; a list of meeting attendees; a brief summary of any presentations and/or information discussed; and questions/concerns expressed by neighboring landowners.

E. **Balloon Test.** A balloon test shall be required for all wireless support structures that require approval as a special use. The balloon test shall be required prior to the submittal of photo simulations in order to illustrate the proposed height of the wireless support structure. The applicant shall arrange to raise a colored balloon no less than three (3) feet in diameter at the maximum height of the proposed wireless support structure, and within twenty-five (25) horizontal feet of the center of the proposed wireless support structure.

The applicant shall meet the following for the required balloon test:

1. Applicant must inform the Planning Department and abutting landowners within four hundred (400) feet of the subject property in writing of the date and times, including alternative date and times, of the test at least fourteen (14) days in advance.

2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven (7) but no more than fourteen (14) days in advance of the test date.

3. The balloon shall be flown at the required height for at least four (4) consecutive hours during daylight hours on the date chosen. The applicant shall record the weather conditions during the balloon test.

F. **Availability of Existing Structures.** No new freestanding wireless support structure shall be permitted unless the applicant demonstrates that no existing or previously approved wireless support structure can reasonably be used for the wireless communications facility placement instead of the construction of a new wireless
support structure; that residential, historic, and designated scenic areas cannot be served from outside the area; or that the proposed height of a new wireless support structure or initial wireless communications facility placement or a proposed height increase of a substantially changed wireless support structure, or replacement wireless support structure, is necessary to provide the applicant’s designed service. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the wireless support structure is unwilling to enter into a contract for such use at fair market value.

G. **Blue Ridge Parkway view shed protection.** If a new or taller wireless support structure is proposed within one mile of the Blue Ridge Parkway centerline and in the parkway viewshed, the applicant shall inform the National Park Service of the proposed structure siting. Park Service recommendations shall be given reasonable consideration and documentation of this consideration shall be provided to the Administrator. The Park Service shall be afforded thirty (30) days to respond to the applicant’s written intention to erect a wireless support structure.

H. **Setback Reductions**

1. In considering an application for special use for wireless communications facilities, the Board of Adjustment may grant a reduction of the minimum required setbacks listed in this Section 15.17 upon consideration of circumstances or aspects which reduce the off-site effects of the facility on adjacent properties. Such circumstances or aspects may include, but are not limited to: topography; berms; the proximity of existing or potential uses; existing vegetation and improvements made or proposed to the site to obscure or reduce the visibility of the wireless support structure from adjacent properties; the concentration of existing and/or proposed wireless support structures in the area; and whether the height, design (including structural features), placement or other characteristics of the proposed wireless support structure could be modified to have a less intrusive impact.

2. Requests under this sub-section may be approved provided that such action is not inconsistent with the general purposes and applicable approval criteria of this Ordinance. The Board of Adjustment, in considering any request(s) for reduction of the minimum required setbacks under this Section, shall consider any unique circumstances for such a request(s).

I. **Conditions.** Notwithstanding any of the standards of this Section, the Board of Adjustment may require any other reasonable conditions to mitigate the impact of the wireless support structure on adjacent properties and uses including, but not limited to, conditions or modifications related to the style, height, and design of the facility.

J. **Siting on Mountain Ridges**

1. Locating a wireless facility on a major mountain ridge shall be considered as a last resort and justifying documentation shall be provided.
2. A wireless support structure located on any major mountain ridge shall be monopole and no taller than the vegetative canopies immediately surrounding the base of the tower.

K. Wireless support structures shall be designed to meet the ANSI/EIA/TIA-222-G (as minimum one-half inch (½”) of solid radial ice. In no case shall the design wind speed be less than specified in Section 1609 of the North Carolina Building Code.

L. Lighting on wireless support structure shall not be permitted except as required by federal and state regulations.

15.17.12 Outside Experts and Disputes

A. Review by an outside consultant shall be required for all facilities requiring approval of a special use permit. The fee for review by the outside consultant shall be collected together with the application fee for the special use permit. Additional reasonable and cost based fees may be imposed for costs incurred should the applicant amend its application. Selection of the outside consultant shall be at the sole discretion of the Town.

B. If an applicant for a wireless communications facility claims that one (1) or more standards of this Ordinance are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the decision-making body may require that the application be reviewed by a qualified engineer for a determination of the accuracy of such claims. Any costs shall be charged to the applicant.

15.17.13 Standard Conditions and Requirements Applicable to All Wireless Communications Facilities

A. Wireless communications facilities shall be permitted in accordance with the Table of Principal Uses.

B. Grading shall be limited to only the area necessary for the wireless communications facilities and equipment compound, and access to the facility.

C. Documentation, sealed by a registered professional engineer with wireless communications expertise, shall be provided indicating that the new facility, or the modification of an existing facility, complies with the following. Such compliance shall be maintained throughout the life of the facility.

1. That the American National Standards Institute (ANSI) requirements for the proposed improvements are met; and

2. All applicable building, structural, electrical, and safety codes and with all other laws codifying objective standards reasonably related to health and safety shall be met.

D. Applicants must obtain all other required permits, authorizations, approvals,
agreements, and declarations that may be required for installation, modification, and/or operation of the proposed facility under federal, state, or local law, rules, or regulations, including but not limited to encroachment agreements and FCC approvals. An approval issued under this Section is not in lieu of any other permit required under the UDO or Town Code, nor is it a franchise, license, or other authorization to occupy the public right-of-way, or a license, lease, or agreement authorizing occupancy of any other public or private property. It does not create a vested right in occupying any particular location, and an applicant may be required to move and remove facilities at its expense consistent with other provisions of applicable law. An approval issued in error, based on incomplete or false information submitted by an applicant or that conflicts with the provisions of the UDO, is not valid. No person may maintain a wireless communications facility in place unless required state or federal authorization remain in force.

E. All wireless communications facilities and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The wireless communications facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than thirty (30) calendar days from the date of notification by the Town. All the wireless communications facility equipment must be removed upon the expiration/termination/revocation of the approval and/or when no longer in operation, whichever occurs first.

In public rights-of-way, damaged or deteriorated components must be corrected within five (5) business days of notification. If a wireless communications facility or portions of a wireless communications facility are taken out of service, the components must be removed within thirty (30) business days of being taken out of service, and affected facilities restored to their prior condition.

F. The landowner(s) or applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer which verifies that structure height complies with the approved development plan.

G. Any approval issued by the Town for a new wireless support structure or a collocation that is a substantial change shall be conditioned on the construction of the approved facilities within twenty-four (24) months.

H. The applicant or owner shall maintain onsite at the wireless communications facility contact information for all parties responsible for maintenance of the facility.

I. The owner of a freestanding wireless support structure shall maintain general liability insurance for the structure in the amount of at least $1,000,000; and shall, as part of the original site plan application, site plan amendments, and any subsequent
modifications, provide documentation demonstrating compliance with this requirement.

J. Wireless communications facilities, whether operating alone or in conjunction with other facilities, shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission, nor shall they interfere with public safety communications or normal radio and television reception.

K. After written notice to the applicant and/or owner, the Town may require the relocation, at the applicant/owner’s expense and according to the then-existing standards for wireless communications facilities, of any wireless communications facility located in the public right-of-way, as necessary for maintenance or reconfiguration of the right-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the Town.

L. The owner of a freestanding wireless support structure shall at all times maintain general liability insurance for the structure in the amount of at least $1,000,000; and shall, as part of the original site plan application, site plan amendments, and any subsequent modifications, provide documentation demonstrating compliance with this requirement. In addition, said owner shall supply the following to the Administrator on an annual basis no later than March 30 of each year: (i) current contact information for service of notice; and (2) a Certificate of Insurance demonstrating the maintenance of insurance as required by this subsection.

M. Wireless communications facilities placed in the public right of way must comply with all applicable provisions of the Town’s Code of Ordinances relating to encroachments.

N. No portion of a wireless communications facility may be placed in the public right-of-way in a manner that:

1. Obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference;

2. Results in ground-mounted, above-ground equipment cabinets in the public right-of-way associated with the support structure that are ten percent (10%) larger in height or overall volume than other equipment cabinets in the same area; or

3. Involves placement of pole-mounted equipment whose lowest point is lower than eight (8) feet above ground level.

O. The applicant shall be required to provide documentation certifying compliance with all applicable federal and state regulations.

P. The applicant shall present to the Administrator proof of either fee simple ownership, an option to purchase or lease, a recorded leasehold interest, or an easement, from the record owner of all property involved and any necessary rights-of-way to the
wireless facility site.

Q.  Signage shall be limited to a sign identifying the owner(s) and operator(s) of the tower, an emergency telephone number and any other signage as required by any government agency shall be placed in a clearly visible location on the premises of the tower.

R.  Any wireless communications facility shall be removed within one hundred eighty (180) days of the date on which it ceases to be operable or in active use. The owner of the facility shall remove the facility within 90 days of receipt of a notice of abandonment from the Administrator. After such time has elapsed, if the facility has not been removed, enforcement action shall commence.

15.17.14 Applications requiring special use permit approval. The following shall be required, as applicable, in addition to the findings normally required for approval of special use permits, in order for the Board of Adjustment to approve the special use permit.

A.  Evidence that it is not reasonably feasible to collocate new antennas and equipment on an existing wireless support structure or structures or utility poles within the applicant’s geographic search ring. Collocation on an existing support structures or utility poles is not reasonably feasible if collocation is technically or commercially impractical, or the owner of the existing support structures or utility poles is unwilling to enter into a contract at fair market value.

B.  That the use of existing facilities would prevent the provision of personal wireless services in the area to be served by the proposed facility.

C.  In determining whether a wireless communications facility is in harmony with the area, and the effects on and general compatibility of a facility with adjacent properties, the approving authority shall consider the aesthetic effects of the facility as well as factors that mitigate the aesthetic effects.

1. Documentation of balloon tests and other methodologies used to simulate the height and appearance of the proposed wireless communications facility shall be provided by the applicant, along with descriptions of the locations, distances, and vantage points that formed the basis of the simulation(s).

2. Factors that the approving authority may consider in determining the aesthetic effects of a proposed wireless communications facility include:

   a. The protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways, and historic sites;

   b. The concentration of wireless communication facilities in the proposed area; and,

   c. Whether the height, design, placement, or other characteristics of the proposed wireless communication facilities could be modified to have a less
intrusive visual impact.

D. The approving authority shall not make a determination on the electromagnetic field (EMF) effects of the wireless communications facility on the health of the public. Documentation that certifies that the facility meets or exceeds applicable American National Standards Institute (ANSI) standards as adopted by the FCC in order to protect the public from unnecessary exposure to electromagnetic radiation shall be sufficient. This shall not preclude other issues regarding the health, safety, and welfare of the public from being considered in order to satisfy the finding.

15.17.15 Variances. Technical dimensional requirements shall not prohibit or have the effect of prohibiting the provision of personal wireless services contrary to the mandates of federal law. Per Article 6 of this UDO, Applicants may seek variances to technical dimensional requirements that an applicant claims have the effect of prohibiting the provision of personal wireless services.

15.17.16 Submittal Requirements

A. In addition to the submittal requirements of Appendix A, as may be applicable, applications for proposed wireless communications facilities shall also include maps, reports, and documents as specified by the Planning Director. At a minimum, this information shall describe the facility with regard to its proposed location, design, and operation; and, if applicable, a clear statement that the request is being made as an eligible facilities request under state law and/or federal law.

B. If, as part of review by an outside expert, additional submittal information is determined to be necessary in order to review the application for compliance with this Ordinance, such information shall be required regardless of the items initially submitted with the application.

15.17.17 Nonconforming Setbacks for Existing Wireless Support Structures. Wireless support structures that do not meet the minimum required setbacks from lots that were created after the construction of the wireless support structure shall be deemed conforming with regard to setbacks for the purposes of Section 15.17.

Note: Refer to Subsection 5.04.05 for requirements associated with creating lots from an existing lot or parcel that contains a wireless support structure (stealth or non-stealth).

(Ord. PL02336-030719, 05-09-2019; Ord. PL04727-050721; 07-01-2021; Ord. PL05688-050322, 06-08-2022)

15.18 Qualified Small Wireless Facilities

15.18.01 The purpose of this section is to:

A. Minimize the impacts of small wireless facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;

B. Encourage the location and collocation of small wireless facilities equipment on existing
structures thereby minimizing new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures;

C. Encourage coordination between suppliers of small wireless facilities;

D. Accommodate the growing demand for wireless services and the resulting need for small wireless facilities;

E. Regulate in accordance with all applicable federal and state laws;

F. Establish review procedures to ensure that applications for small wireless facilities are reviewed and acted upon within a reasonable period of time or any specific period of time required by law;

G. Protect the aesthetics of the Town while meeting the needs of its citizens and businesses to enjoy the benefits of wireless communications services; and

H. Encourage the use of existing buildings and structures as locations for small wireless facilities infrastructure so as to minimize the aesthetic impacts of related infrastructure.

I. It is not the purpose or intent of this section to prohibit or have the effect of prohibiting wireless communications services; unreasonably discriminate among providers of functionally equivalent wireless communication services; regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency emissions where it is demonstrated that the small wireless facility does or will comply with applicable FCC regulations; or prohibit or effectively prohibit collocations or modification that the town must approve under state or federal law. The provisions of this Section are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the Town.

15.18.02 Siting. To protect the aesthetics of the Town, to minimize new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures, the Town prefers that small wireless facilities be located outside the public right-of-way; collocated on existing utility poles or wireless support structures; concealed; and have their accessory equipment mounted on the utility pole or wireless support structure. These preferences are intended as guidance for development of an application for small wireless facilities.

15.18.03 Applicability; Compliance with Law; Exemptions; Application Process

A. The standards established herein shall apply only to qualifying small wireless facilities, qualifying utility poles, and qualifying town utility poles, as defined herein. Nothing in this ordinance shall be interpreted to excuse compliance with, or to be in lieu of, any other requirement of state or local law, except as specifically provided herein. Without limitation, the provisions of this ordinance do not permit placement of small wireless facilities on privately-owned utility poles or wireless support structures, or on private
property, without the consent of the landowner or any person who has an interest in the property.

B. The following categories of small wireless facilities are exempt from the requirements set forth in this Section 15.18:

1. Any wireless communications facility below sixty-five (65) feet when measured from ground level which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission and used exclusively for amateur radio operations.

2. Satellite dishes.

3. Eligible facilities requests that satisfy the requirements set forth in Section 15.17.05.

4. Routine maintenance of small wireless facilities; the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or town utility poles in compliance with all applicable laws or regulations by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or (a)(6).

5. A temporary small wireless facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town; except that such facility must comply with all federal and state requirements and must be removed at the conclusion of the emergency.

6. Public safety facilities or installations required for public safety on public or private property, including transmitters, repeaters, and remote cameras so long as the facilities are designed to match the supporting structure.

7. A small wireless facility located in an interior structure or upon the site of any stadium or athletic facility, provided that the small wireless facility complies with applicable codes.

C. Application process.

1. Applicants for any qualifying small wireless facilities, qualifying utility poles, and qualifying town utility poles subject to this Section 15.18 shall complete an application as specified in form and content by the Town.

2. An application shall be deemed complete unless the Administrator provides notice otherwise in writing to the applicant within 30 days of submission or within such other time frame as the applicant and Administrator may mutually agree. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on
resubmission if the additional materials cure the deficiencies identified.

3. The application shall be deemed approved if not approved or denied within 45 days from the time the application is deemed complete or such other time frame as the applicant and Administrator may mutually agree.

4. An application may be denied only on the basis that it does not meet any one of the following: (i) the city's applicable codes; (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or (iv) historic preservation requirements. The Administrator must document the basis for a denial, including the specific code provisions on which the denial was based and send the documentation to the applicant on or before the day the application is denied. The applicant may cure the deficiencies identified and resubmit the application within 30 days of the denial without paying an additional application fee. The Administrator shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

15.18.04 Collocation of Small Wireless Facilities. Collocation of small wireless facilities on land used as single-family residential property or vacant land that is zoned for single-family development, and any small wireless facility that extends more than ten (10) feet above the utility pole, town utility pole, or wireless support structure on which it is collocated, are subject to Section 15.17.

Notwithstanding the foregoing, replacement of an existing streetlight for which the Town is financially responsible with a streetlight capable of including a collocated, concealed small wireless facility is permitted on land used as single-family residential property or vacant land that is zoned for single-family development, pursuant to the requirements of Section 15.18.05.

Collocations of qualifying small wireless facilities are subject to the following requirements:

A. **Height.** Each new small wireless facility shall not extend more than ten (10) feet above the utility pole, town utility pole, or support structure on which it is collocated.

B. **Public Safety.** In order to protect public safety:

1. Small wireless facilities shall cause no signal or frequency interference with public safety facilities or traffic control devices and shall not physically interfere with other attachments that may be located on the existing pole or structure.

2. A structural engineering report prepared by an engineer licensed by the State of North Carolina, certifying that the host structure is structurally and mechanically
capable of supporting the proposed additional antenna or configuration of antennae and other equipment, extensions, and appurtenances associated with the installation.

3. A traffic and pedestrian management plan must be submitted for any installation that requires work in the public right-of-way.

4. No portion of a small wireless facility may be placed in the public right-of-way in a manner that:
   a. Obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference; or
   b. Involves placement of pole-mounted equipment lowest point is lower than eight (8) feet above ground level.

5. An abandoned small wireless facility shall be removed within one hundred eighty (180) days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the town may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the town reasonable evidence that it is diligently working to place such wireless facility back in service

C. **Objective Design Standards.**

   1. No advertising signs or logos are permitted on small wireless facilities.

   2. Small wireless facilities shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Small wireless facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.

D. **Stealth and Concealment.** All small wireless facilities shall be stealth facilities. Antenna and accessory equipment must be shrouded or otherwise concealed.

E. **Screening, Landscaping, and Spacing Requirements for Ground Equipment.** Ground equipment shall be screened, to the extent possible, with evergreen plantings or other acceptable alternatives approved by the Planning Director.
F. **Historic Preservation.** Small wireless facilities located in a designated historic district or on property designated as a landmark (pursuant to G.S. Chapter 160D, Part 4) shall be required to obtain a Certificate of Appropriateness.

G. **Applicable Codes.** Small wireless facilities must meet applicable codes.

15.18.05 **Existing Utility Poles and Town Utility Poles Associated with Small Wireless Facilities.** The maintenance, modification, operation, or replacement of existing qualifying utility poles and qualifying town utility poles associated with small wireless facilities are subject to the following requirements:

A. **Height.** Each modified or replacement utility pole or town utility pole shall not exceed (i) forty (40) feet above ground level on property zoned for or used as single-family residential property, or in the right-of-way adjacent to such property, where existing utilities are installed underground; or (ii) fifty (50) feet above ground level on all other property. Each new small wireless facility shall not extend more than ten (10) feet above the associated utility pole, town utility pole, or wireless support structure on which it is collocated.

B. **Small Wireless Facilities.** All requirements of Section 15.18.05 apply to small wireless facilities located on a utility pole, town utility pole, or wireless support structure.

C. **Public Safety.** In order to protect public safety:

1. No replacement utility poles or town utility poles associated with a small wireless facility are permitted in the clear zone as defined in the Town’s Standard Specifications & Details Manual unless such replacement pole is breakaway rated.

2. No portion of a utility pole or town utility pole associated with a small wireless facility may be placed in the public right-of-way in a manner that:
   a. Results in the obstruction of pedestrians or vehicular or bicycle access, or of sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference; or
   b. Involves placement of pole-mounted equipment whose lowest point is lower than eight (8) feet above ground level.

D. **Objective Design Standards.** Utility poles or town utility poles associated with a small wireless facility shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Utility poles or town utility poles associated with a small wireless facility shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.
E. **Stealth and Concealment.** All small wireless facilities shall be stealth facilities. Antenna and accessory equipment must be shrouded or otherwise concealed.

F. **Historic Preservation.** Utility poles or town utility poles associated with a small wireless facility located in a designated historic district or on property designated as a landmark (pursuant to G.S. Chapter 160D, Part 4) shall be required to obtain a Certificate of Appropriateness.

G. **Applicable Codes.** Utility poles and town utility poles associated with a small wireless facility must meet applicable codes.

15.18.06 **New Utility Poles Associated with Small Wireless Facilities**

A. New poles are prohibited consistent with the Town’s undergrounding requirements as set forth at Section 22.09 of this Ordinance.

B. In the event a new pole is proposed for an area where undergrounding requirements do not apply, the following provisions apply:

1. Unless a new pole replaces an existing pole in substantially the same location, to the extent practicable, poles shall be installed at least 300 feet from any existing or proposed pole. Any wireless services providers desiring to install poles less than 300 feet apart or desiring to install a new pole within 300 feet of an existing pole shall demonstrate to the town's satisfaction why such placement is necessary.

2. Poles shall be designed pursuant to town standards or the applicable utility's standard, and function as street light poles, utility poles, or traffic signal poles in consultation with the town or the applicable utility, and shall be incorporated into the applicable utility or signaling system.

3. All requirements, standards and limitations of subsections 15.25.04 and 15.25.05 apply to new utility pole installations.

15.18.07 **Standard Conditions**

A. Applicants must obtain all other required permits, authorizations, approvals, agreements, and declarations that may be required for installation, modification, and/or operation of a proposed facility under federal, state, or local law, rules, or regulations, including but not limited to encroachment agreements and FCC approvals. An approval issued under this Section is not in lieu of any other permit required under the UDO or Town Code, nor is it a franchise, license, or other authorization to occupy the public right-of-way, or a license, lease, or agreement authorizing occupancy of any other public or private property. It does not create a vested right in occupying any particular location, and an applicant may be required to move and remove facilities at its expense consistent with other provisions of applicable law. An approval issued in error, based on incomplete or false information submitted by an applicant or that conflicts with the provisions of the UDO is not valid. No person may maintain a small wireless facility in place unless required state or federal authorization remains in force.
B. All small wireless facilities and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The small wireless facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than thirty (30) calendar days from the date of notification by the Town. In public rights-of-way, damaged or deteriorated components must be corrected within five (5) business days of notification.

C. The applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer which verifies that structure height complies with the approved development plan.

D. The applicant or owner shall maintain onsite at the facility contact information for all parties responsible for maintenance of the facility.

E. Small wireless facilities, whether operating alone or in conjunction with other facilities, shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.

F. After written notice to the applicant and/or owner, the Town may require the relocation, at the applicant/owner’s expense, of any small wireless facility, and the associated utility pole, town utility pole, or wireless support structure on which it is collocated, located in the public right-of-way, as necessary for maintenance or reconfiguration of the right-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the Town.

G. Collocation or modification of small wireless facilities on an existing non-conforming wireless support structure or base station shall not be construed as an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use, provided that the collocation or modification constitute an eligible facilities request.

(Ord. PL02336-030719, 05-09-2019; Ord. PL04727-050721; 07-01-2021)

15.19 Child Daycare (Large and Center) and Adult Daycare (Large and Center)

15.19.01 Without limiting the applicability of other Ordinance requirements, these uses are subject to Article 31 Landscape Standards.

15.19.02 Outdoor Playground Areas

A. Outdoor playground areas shall be fenced with a six (6) foot opaque fence.

B. To the extent practical, outdoor playground areas shall be located away from low-density residential zoning districts.

15.19.03 To the extent practical, parking areas for Child Daycare Centers and Adult Daycare Centers shall be located to away from low-density residential zoning districts. If a choice must be
made between a playground area and a parking area being located near a low-density residential zoning district, the playground shall generally be preferred.

15.19.04 A Child Daycare (Large and Center) and an Adult Daycare (Large and Center) are not allowed to be located together in one structure.

15.19.05 An Adult Daycare (Large and Center) shall not be located within five hundred (500) feet of a Child Daycare (Large and Center).

15.19.06 A College- or University- operated Child Daycare Center shall initially demonstrate to the Administrator, and thereafter provide for the duration of its operation, adequate stacking capacity within the site to accommodate at all times vehicular drop-off and pick-up of children without causing any back-up of such vehicular traffic into any public street(s) serving the Center.

(Ord. PL02336-030719, 05-09-2019; Ord. PL04085-072720; Ord. PL04727-050721; 07-01-2021)

15.20 Kennel and Veterinary Office/Hospital

15.20.01 All outdoor kennels must be located to the side or rear of the principal building and shall be fenced with an opaque fence no less than six feet (6’) tall.

(Ord. PL02336-030719, 05-09-2019; Ord. PL04727-050721; 07-01-2021)

15.21 Retail Store 25,000 Square Feet or Greater (Use 11.18)

15.21.01 Applicability: The requirements in this Section apply to the following:

A. Any newly created retail store with a gross floor area 25,000 square feet or greater, either by proposed expansion or new construction; and

B. Any new retail tenant with a gross floor area 25,000 square feet or greater within existing development.

15.21.02 Use 11.18 shall not exceed a gross floor area of 150,000 square feet.

15.21.03 Use 11.18 having a gross floor area ranging between 25,000 and 150,000 square feet shall provide a Community Impact Analysis. This assessment shall be prepared by an independent consultant, qualified by education and experience, chosen by the applicant and approved by the Town, and shall include projected impacts on public services and infrastructure. The analysis shall be submitted for review by the permit-issuing authority. The permit-issuing authority shall review the projected impacts and recommended mitigation measures determined by the analysis and may require the applicant to mitigate any of the projected impacts.

15.21.04 Outdoor display areas associated with Use 11.16 shall not exceed ten percent (10%) of the gross floor area of the structure. All areas utilized for outdoor display shall be clearly indicated on all permit applications. Outdoor display must be located in areas specifically designed for outdoor sales and is prohibited in or on designated exterior walkways, parking areas, driveways, and landscape areas.
Open Air Markets

Open Air Markets shall be classified as recurring open-air markets, accessory open-air markets or temporary open-air markets.

Recurring Open-Air Market:

A. A recurring open-air market is an open-air market which does not qualify as an accessory or temporary open-air market.

B. A recurring open-air market shall meet all Ordinance requirements, including, the principal building setback requirements for the district in which the open-air market is located and landscape buffers.

C. A recurring open-air market must have the written permission of the owner or the entity in control of the property on which the itinerant merchant is located.

D. A recurring open-air market shall provide rest room facilities for merchants and customers.

E. A recurring open-air market must demonstrate approval by the Fire Marshal and must meet relevant requirements of the North Carolina Building Code and must obtain all necessary driveway permit approvals.

Accessory Open Air Market:

A. An accessory open-air market is an accessory use on a lot with another principal use and which occurs no more than twelve (12) times, each lasting no more than three (3) days, in any twelve (12) month period on the same lot and only operates during daylight hours.

B. An accessory open-air market must have the written permission of the owner or the entity in control of the property on which the itinerant merchant is located.

C. An applicant for a temporary open-air market must submit a site plan showing the locations of the merchants and may not be situated to encroach into any existing landscape buffer.

D. A temporary open-air market shall not encroach upon or disturb traffic movements and pedestrian circulation either within the site or on the adjacent streets and sidewalks.

E. An accessory open-air market shall meet setback requirements in which it is located.

F. In residential zoning districts, an accessory open-air market is only allowed on a lot with an approved, conforming non-residential use.

G. An accessory open-air market shall provide rest room facilities for merchants and customers.
H. An accessory open-air market must demonstrate approval by the Fire Marshal and must meet relevant requirements of the North Carolina Building Code.

I. If the above standards are met, no additional Ordinance requirements are applicable.

15.22.04 Temporary Open-Air Market:
A. See Subsection 15.62 for additional requirements for temporary open-air markets.

(Ord. PL04727-050721; 07-01-2021)

15.23 Vehicle Sales and Service

15.23.01 A permanent sales office must be located on site.

15.23.02 All vehicles shall be displayed in their normal traveling configuration.

15.23.03 A raised display is allowed subject to the following:
A. Each display may not exceed ten feet (10') in height (as measured from natural grade to top of vehicle or display structure whichever is higher), and
B. The number of raised displays may not exceed one (1) per every 100 feet of primary public way and may not be placed within any landscape buffer and cannot interfere within any required sight distance.
C. Raised displays may only be placed along the primary public way.

15.23.04 Outdoor public address systems (PA) are not allowed.

15.23.05 All nonoperational vehicles, other than those present for scheduled repair, and all non-licensed vehicles must be screened from all public streets with an opaque fence with a height no less than six feet (6').

15.23.06 An impound lot that may occasionally sell a vehicle does not qualify as a “vehicle sales and service” use.

(Ord. PL04727-050721; 07-01-2021)

15.24 Equipment Sales and Service

15.24.01 A permanent sales office must be located on site.

15.24.02 All vehicles shall be displayed in their normal traveling configuration.

15.24.03 Outdoor public address systems (PA) are not allowed.

15.24.04 All nonoperational vehicles, other than those present for scheduled repair, and all non-licensed vehicles must be screened from all public streets with an opaque fence with a height no less than six feet (6').

(Ord. PL04727-050721; 07-01-2021)

15.25 Boat or Marine Craft Sale and Service

15.25.01 A permanent sales office must be located on site.
15.25.02 All boats/equipment shall be displayed in their normal traveling configuration. No vehicles shall be parked or stored as a source of parts.

15.25.03 All nonoperational boats, other than those present for scheduled repair, and all non-licensed boats must be screened from all public streets with an opaque fence with a height no less than six feet (6’).

(Ord. PL04727-050721; 07-01-2021)

15.26 Impound Lot/Towing Service

15.26.01 All impounded vehicles must be screened from all public streets with an opaque fence with a height no less than six feet (6’).

15.26.02 Storage of impounded vehicles must be set back at least twenty feet (20’) from all street rights-of-way.

15.26.03 Adequate security shall be provided to protect impounded vehicles.

(Ord. PL04727-050721; 07-01-2021)

15.27 Indoor Shooting Range

15.27.01 No indoor shooting range may be authorized or permitted under this Section unless it also meets all requirements imposed by Section 130.01 of the Town of Boone Municipal Code.

15.27.02 Noise. The sound level for all indoor shooting ranges must be controlled in such way that there is no sound emanating from any activities within the building in which the range is located that are audible to the human ear of a person of normal hearing at any border of the tax parcel upon which the range is located, as shown on the tax maps of the Watauga County Tax Administration.

A. If the administrator receives noise complaints from two or more individuals within a 30-day period alleging that activities within the indoor shooting range are producing noise levels in violation of this Section, the administrator will perform a minimum of two site inspections on separate occasions. If the administrator concurs with the complainants that the indoor use has caused or is causing continuous, frequent or repetitive noise, that the use will be found to be in violation of this ordinance.

15.27.03 Odors. No indoor shooting range may emit any continuous, frequent or repetitive odor or any odor-causing substance or compound which is detectable beyond the lot line of the property on which the use is located.

A. For the purposes of establishing initial compliance with this Section, the existence of an odor will be presumed when the lowest mean concentration of the odor-causing substance or compound in the air exceeds published odor threshold values. In order to demonstrate initial compliance with this Section, an odor assessment which accurately represents the concentrations of odor-causing substances or compounds present at the property boundary may be required by the permit-issuing authority. The assessment must adequately reflect the emission rates of the proposed use, source
heights, receptor distance from the source and the effects of buildings, terrain features and other relevant environmental considerations.

B. For the purposes of maintaining continuous compliance with this Section, odor assessments involving field sampling may be required by the administrator even after a special use permit has been granted.

C. If the administrator receives odor complaints from two or more individuals within a 30-day period alleging that a use is in violation of this Section, the administrator will perform a minimum of two site inspections on separate occasions. If the administrator concurs with the complainants that a use has caused continuous, frequent or repetitive odors, that use will be found to be in violation of this ordinance.

15.27.04 Construction Standards

A. Any building in which an indoor shooting range is proposed or operated must meet accepted national standards for the design and construction of an indoor shooting range, and must be designed and constructed in such a way as to eliminate any significant risk of injury to a patron of the range, or a member of the public either inside or outside the range, during the normal operation and use of the range. Such design and construction in accordance with these standards must be certified by a professional architect and/or professional engineer, who must be licensed by the State of North Carolina and in good standing, and who must be experienced or specifically trained, and skilled, in the design and construction, respectively, of indoor shooting ranges.

B. An indoor shooting range must be constructed and maintained in such way that the structure will contain within the portion(s) of the building in which firearms are discharged, a fired projectile with the greatest structure-penetrating characteristics which is proposed to be fired within the range. Such construction in accordance with this standard must be certified by a professional architect and/or professional engineer, licensed by the State of North Carolina and in good standing, who is experienced or specifically trained, and skilled, in the construction of indoor shooting ranges.

15.27.05 Emissions

A. Any building in which an indoor shooting range is proposed or operated must be designed and constructed in such way that no lead or other toxic particulate will leave the structure itself or the portion(s) of the structure used for the discharge of firearms. Such design and construction in accordance with this standard must be certified by both a professional architect and professional engineer, each of whom must be licensed by the State of North Carolina and in good standing, and each of whom must be experienced or specifically trained, and skilled, in the design and construction, respectively, of toxin collection systems for indoor shooting ranges. In addition, the applicant for a special use permit must provide manufacturing
information which affirmatively demonstrates that the toxin collection system(s) to be used will meet this standard.

B. For the purposes of maintaining continuous compliance with this Section, emissions assessments involving field sampling at the owner’s expense may be required by the administrator on repeated occasions and the owner of the property shall comply with any such requests. In addition, the administrator may, with or without advance notification and with such frequency as to ensure that this standard is continuously met, obtain testing samples from inside and/or outside the indoor shooting range, to measure compliance. The owner and operator of an indoor shooting range must fully comply with requirements and recommendations of the manufacturer of the toxin collection system(s).

15.27.06 When a shooting range is proposed for a particular property, other uses proposed for the same property or application should be closely scrutinized for compatibility, the Town ordinarily disfavoring the combination of an indoor shooting range and other activities designed to attract persons to the property other than those attending the shooting range.

15.27.07 Violation of any of the provisions of this Section, once an indoor shooting range has been issued a special use permit and/or certificate of occupancy, if it involves regulations designed to protect the health or safety of the public, as determined by the Administrator, shall give rise to an immediate suspension of the special use permit and/or certificate of occupancy, and, following notice and an opportunity for a hearing in accordance with this ordinance, permanent revocation of the special use permit and/or certificate of occupancy.

(Ord. PL04727-050721; 07-01-2021)

15.28 Campground and Recreational Vehicle Park

15.28.01 A proposed park or campground must be at least 5 acres in area.

15.28.02 All spaces must be set back at least fifty feet (50’) from all public street rights of way and property lines.

15.28.03 Buildings, structures, and utility facilities must meet the district setback requirements.

15.28.04 Spaces must be at least 2,000 square feet.

15.28.05 Spaces must be designated on the ground by permanent markers or monuments.

15.28.06 All spaces must be located on ground above the base flood elevation and graded to prevent water from ponding.

15.28.07 Driveways meeting all applicable standards must be provided for each space. Additionally, each recreational vehicle space must have an all-weather surface that is at least ten feet (10’) wide by thirty feet (30’) long.

15.28.08 A public water supply is required.
15.28.09 The park may contain a retail sales counter or coin operated machines for the park residents' use only. Any retail sales must be conducted within an enclosed structure and no exterior advertising is allowed.

15.28.10 The sale of recreational vehicles within the park is prohibited.

15.28.11 Permanent sleeping quarters shall not be permitted within the park, however, one (1) permanent dwelling may be allowed for the park manager or operator. The dwelling site must be designated on the site plan.

(Ord. PL04727-050721; 07-01-2021)

15.29 Community Garden

15.29.01 A community garden must meet the parking requirements of Article 24 but must provide no fewer than two (2) off-street parking spaces.

15.29.02 A five foot (5') undisturbed buffer shall be provided along the perimeter of the cultivated area.

15.29.03 In low density residential districts, users are restricted to residents within a ¼ mile of the community garden.

15.29.04 A community garden shall be placed or designed to minimize impacts to adjacent properties, including run-off of water and chemicals.

(Ord. PL04727-050721; 07-01-2021)

15.30 Garden

15.30.01 Gardens do not require development permits.

15.30.02 A garden shall be placed or designed to minimize impacts to adjacent properties, including run-off of water and chemicals.

(Ord. PL04727-050721; 07-01-2021)

15.31 Forestry

15.31.01 Forestry activity is only allowed on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes or conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

15.31.02 Trees within a required landscape street yard may not be removed during any forestry activity.

15.31.03 Forestry activity may limit the availability of development permits. See Subsection 4.01.01.

(Ord. PL04727-050721; 07-01-2021)

15.32 Microbrewery and Brewpub

15.32.01 Outdoor storage is not allowed.
15.32.02 Shipping for distribution of the malt or distilled beverage and receiving of stock and supplies for the production of the malt or distilled beverage is prohibited between the hours of 9 p.m. and 6 a.m.

15.32.03 All visible emission, odor (related to the production of the malt or distilled beverage), air pollution, noise and dust standards set forth for Manufacturing in Section 15.38 must be met.

(Ord. PL04727-050721; 07-01-2021)

15.33 Brewery/Distillery

15.33.01 Outdoor storage is not allowed.

15.33.02 All visible emission, odor, air pollution, noise and dust standards set forth for Manufacturing in Section 15.38 must be met.

(Ord. PL04727-050721; 07-01-2021)

15.34 Brewery/Distillery, Other

15.34.01 All outdoor storage must be screened in accordance with Section 15.50.

15.34.02 All visible emission, odor, air pollution, noise and dust standards set forth for Manufacturing in Section 15.38 must be met.

(Ord. PL04727-050721; 07-01-2021; Ord. PL05688-050322, 06-08-2022)

15.35 Wineries

15.35.01 All outdoor storage must be screened in accordance with Section 15.50.

15.35.02 All visible emission, odor, air pollution, noise and dust standards set forth for Manufacturing in Section 15.38 must be met.

(Ord. PL04727-050721; 07-01-2021)

15.36 Extraction of Earth Materials

15.36.01 The extraction of earth materials (mining or quarrying operations), including the onsite sale of products shall conform to the following requirements:

A. Permanent roads, defined as those to be used in excess of one (1) year, within the excavation site shall be surfaced with a dust free material, such as soil cement, bituminous concrete.

B. Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.

C. A security fence at least six feet (6') high shall be installed where the proposed extraction takes place within 300 feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land.
D. Spoil piles and other accumulations of byproducts shall not be created to a height more than thirty-five feet (35’) above the original contour and shall be so graded that the vertical slope shall not exceed a forty-five-degree (45°) angle.

(Ord. PL04727-050721; 07-01-2021)

15.37 Machine/Welding Shop

15.37.01 All operations shall be conducted wholly within fully enclosed structures.

15.37.02 Deliveries and shipping shall be between 6 a.m. and 9 p.m.

15.4374.03 Unless located in the M1 Zoning District, no outside storage is allowed. In the M1 Zoning District, Subsection 15.38.02 shall apply.

15.37.04 The standards of subsections 15.45.04 – 15.45.09 shall apply.

(Ord. PL04727-050721; 07-01-2021)

15.38 Manufacturing

15.38.01 Manufacturing operations shall be conducted wholly within fully enclosed structures.

15.38.02 Land area utilized for outdoor storage shall not exceed twenty-five percent (25%) of gross floor area of all buildings within the development.

A. Outdoor storage shall be fully screened from view with an opaque screen from all streets and shall be located to the side or rear of the principal building.

15.38.03 The Administrator may require verification that the manufacturing operation will meet the performance standards set forth in this Section. Such verification may be made by the manufacturer or qualified expert.

15.38.04 Visible Emissions. No manufacturing operation is permitted that will produce visible emissions from a stationary source that exceeds an average plume opacity of ten (10) percent.

A. The plume opacity of visible emissions from all industrial uses shall be determined by the methods and procedures outlined in the Code of Federal Regulations, Title 40, Part 60 – “Standards of Performance for New Stationary Sources”.

B. All measurements will be taken at the point of emission.

C. Water vapor which is free of pollutants shall not be considered in measuring opacity.

15.38.05 Odors. No manufacturing operation shall emit any continuous, frequent or repetitive odor or odor causing substance or compound which is detectable beyond the lot line of the property on which the use is located.

A. For the purposes of establishing initial compliance with this Section, the existence of an odor will be presumed when the lowest mean concentration of the odor causing substance or compound in the air exceeds published odor threshold values. In order to demonstrate initial compliance with this Section, an odor assessment which accurately
represents the concentrations of odor causing substances or compounds present at the
property boundary may be required by the permit-issuing authority. The assessment
must adequately reflect the emission rates of the proposed use, source heights,
receptor distance from the source and the effects of buildings, terrain features and
other relevant environmental considerations.

B. For the purposes of maintaining continuous compliance with this Section, odor
assessments involving field sampling may be required by the administrator.

C. If the administrator receives odor complaints from two or more individuals within a 30-
day period alleging that a use is in violation of this Section, the administrator will
perform a minimum of two site inspections on separate occasions. If the administrator
concurs with the complainants that a use has caused continuous, frequent or repetitive
odors, that use will be found to be in violation of this ordinance.

15.38.06 Air Pollution.

A. Any manufacturing operations that emits any “air contaminant” as defined in NC G.S.
143-213 (2) shall comply with applicable state standards concerning air pollution, as set
forth in the North Carolina air pollution control law.

B. No zoning or special use permit may be issued with respect to any development until
the North Carolina Division of Air Quality has certified to the permit-issuing authority
that the appropriate state permits have been received by the applicant, or that the
applicant will be eligible to receive such permits and that the development is otherwise
in compliance with applicable air pollution laws.

15.38.07 Electrical Disturbances or Interference

A. No manufacturing operation shall create any electrical disturbance that adversely
affects any operations or equipment other than those of the creator of such
disturbance, or [2] Otherwise cause, create, or contribute to the interference with
electronic signals (including television and radio broadcasting transmissions) to the
extent that the operation of any equipment not owned by the creator of such
disturbance is adversely affected.

15.38.08 Noise. The sound level for all manufacturing operations, measured beyond the lot line of
the property on which the use is located, may not exceed 65 dBA between 6:00 a.m. and
10:00 p.m., or 45 dBA between 10:00 p.m. and 6:00 a.m. Measurements shall be a time-
weighted average over any one-hour period. No one-hour time-weighted average may
exceed the 65 or 45 dBA thresholds described in this paragraph.

A. For the purpose of this Section, noise shall be defined as sound produced directly in
connection with light industrial operations, including associated vehicular noise, and
audible to the human ear.

B. Noise shall be measured with a sound level meter (set to the A weighted scale) which
complies with the standards set forth in the “American Standard Specification of
General Purpose Sound Level Meters,” American National Standards Institute. (ANSI S1. 4-1961).

15.38.09 **Dust.** No industrial use shall create, or cause to be created, any dust which is detectable beyond the lot line of the property on which the use is located.

(Ord. PL04727-050721; 07-01-2021)

15.39 **Parking Lot/Park and Ride**

15.39.01 See Section 31.09 for regulations specific to parking lots.

(Ord. PL04727-050721; 07-01-2021)

15.40 **Parking Structure**

15.40.01 See Section 25.03 for regulations specific to parking structures.

(Ord. PL04727-050721; 07-01-2021)

15.41 **Self-Storage Facilities**

15.41.01 Facilities can only be used for storage of materials and must not be used for assembly, fabrication, processing or repair.

15.41.02 Storage of hazardous, toxic, explosive substances, or any other substance requiring a 704 placard, is prohibited.

15.41.03 Self-storage units accessed by customers on site must be constructed with the compartment doors facing internally.

15.41.04 All warehouse compartment doors accessed by customers on site must open on an internal access driveway having a minimum paved width of twenty feet.

15.41.05 A 100% opaque fence with a minimum of height of six feet and a maximum height of eight feet shall be provided around the portion of the property used for the storage. Fences shall be constructed of wood, brick, stone or other similar materials, but also must be architecturally compatible with any proposed structure.

15.41.06 If the storage facility has a locked and keyed entrance, two staging spaces of at least 35 feet must be located outside of the public right-of-way.

15.41.07 The following activities shall be prohibited on the premises:

A. Commercial, wholesale or retail sales, flea markets, peddling, garage sales or other similar types of activities. However, the management of the self-storage mini-warehouse complex may conduct an auction or sale of abandoned or stored materials to settle unpaid storage bills consistent with North Carolina law.

B. Habitation of storage units by humans or animals.

15.41.08 Outdoor storage of items other than storage containers shall not exceed 25% of the total land area and must be secured and screened in accordance with Section 15.50.
15.41.09 Storage facilities that use temporary portable storage containers may only leave the portable storage containers in parking and loading areas the length of time it takes to place them in the secured storage area, not to exceed twenty-four (24) hours. Temporary portable storage containers may not be used for on-site advertising.

15.41.10 Storage facilities that store temporary portable storage containers outside of a fully enclosed building may not stack the units unless the units are substantially screened by the required fence, and the fence together with existing mature landscape material or topography result in an opaque screen so that the stacked units are not visible to adjacent landowners or from a public way.

(Ord. PL00982-092517, 12-21-2017; Ord. PL04727-050721; 07-01-2021)

15.42 Outdoor Storage (Principal Use); Recycling Drop-off Station; Recycling and Salvage

15.42.01 A 100 percent opaque fence between six and eight feet (6'-8') in height shall be provided around the perimeter of the area used for outdoor storage.

(Ord. PL04727-050721; 07-01-2021)

15.43 Electronic and Internet Gaming

15.43.01 An Electronic and Internet Gaming use shall not be located on a lot which is within 2,640 feet of another lot containing an Electronic and Internet Gaming Use as measured from the closest edge of each lot to the other lot.

15.43.02 An Electronic and Internet Gaming use shall not be located on a lot which is within 1,000 feet from a lot upon which a religious assembly, school, library, public park, playground, or daycare center is located as measured from the closest edge of each lot to the other lot.

15.43.03 No Electronic and Internet Gaming use shall be located on any lot which is within 1000 feet from any residential zoning district or residential uses within a mixed-use development as measured from the closest edge of each lot to the other lot.

15.43.04 No more than one (1) Electronic and Internet use may be located on the same lot.

15.43.05 No Electronic and Internet Gaming use may operate between the hours of 10:00 p.m. and 8:00 a.m.

15.43.06 No development permits shall be issued for Electronic and Internet Gaming uses until all required privilege and other licenses are obtained and all required fees have been paid.

15.43.07 A Certificate of Occupancy shall not be issued until the Electronic and Internet Gaming use meets any applicable Federal, State or County requirements, including any requirements of the Appalachian Regional Health Department.

(Ord. PL04727-050721; 07-01-2021)
15.44 Adult Establishment

15.44.01 The requirements of this Section shall apply to all adult establishments as outlined in N. Gen. Stat. Chapter 26A.

15.44.02 Separation Requirements:

A. No lot containing an adult establishment shall be within 1000 feet of another lot containing an adult establishment.

B. No lot on which an adult hotel or adult motel is located shall be within 2000 feet of another lot containing an adult establishment.

C. No adult establishment shall be located on any lot whose property line is within 1,000 feet of the property line of a religious assembly, school, library, public park or playground, daycare center (except a home daycare center), or residential zone.

D. The required distance shall be measured from the closest edge of the property occupied by an adult establishment to the closest edge of the property occupied by a protected use or another adult establishment. Provided, however, that when an adult establishment is located in a multi-tenant facility, the distance shall be measured from the closest edge of the portion of the facility occupied by such establishment.

15.44.03 No more than one (1) adult establishment shall be located within the same structure or portion thereof.

15.44.04 Except for adult hotels and motels, no adult establishment may provide sleeping quarters.

15.44.05 No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

15.44.06 All signage shall meet the standards of Article 26. In addition, the following restrictions shall apply:

A. No freestanding (detached) signs shall be permitted.

B. Attached signage on all building faces shall not exceed eighty square feet (80 ft²) total. Provided, however, in no case shall signage cover more than ten percent (10%) of the area of any building face.

C. A site plan showing the location and number of attached sign(s) must be submitted to the Administrator prior to the issuance of any sign permits to verify compliance with this Section.

D. Promotional materials for advertising shall not be visible to the public from pedestrian sidewalks or walkways.

15.44.07 The adult establishment must meet all other applicable provisions of this Ordinance.
15.44.08 The Board of Adjustment shall have no authority to modify or grant variances from the separation distance requirements imposed by this Section.

15.44.09 This Section in no way limits, restricts, modifies or changes Chapter 12, of the Town of Boone Public Display Ordinance. Any use permitted under this Section must comply in all respects with the Public Display Ordinance.

(Ord. PL04727-050721; 07-01-2021)

15.45 Secondary Suite (Accessory)

15.45.01 All landowners wishing to have an accessory secondary suite must submit a notarized statement, which has been recorded at the Watauga County Register of Deeds, acknowledging the following:

A. The principal use of the structure is for a single-family dwelling.

B. The only occupants who will utilize the structure will be “family”.

C. The secondary suite will not be used as an “accessory dwelling”.

D. That the landowner acknowledges that to have an accessory dwelling unit, they must obtain proper zoning and building permits.

15.45.02 A secondary suite proposed for the R3, OI, B1, B2, and B3 zoning districts shall only be allowed in single family dwelling which were in existence as of January 1, 2014.

(Ord. PL04727-050721; 07-01-2021)

15.46 Home Occupation (Accessory)

15.46.01 A Home Occupation may be conducted as an accessory use of a dwelling unit, provided that:

A. No person other than members of the resident family shall be engaged in such occupation, and

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation, and

C. No external evidence of the conduct of the home occupation shall be visible, other than a sign as permitted in Article 26, and

D. The home occupation shall not generate traffic volumes or parking area needs greater than would normally be expected in a residential neighborhood, and

E. No equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot; in the case of detached dwelling units, or outside the dwelling unit, in the case of attached dwelling units, and
F. The on premise sale and delivery of goods which are not the products of the home occupation are prohibited.

(Ord. PL04727-050721; 07-01-2021)

15.47 Accessory Dwelling Unit (Accessory)

15.47.01 An accessory dwelling unit may be permitted only when of the following standards is met:

A. The owner of the dwelling unit resides in the primary residence or the accessory dwelling unit at least ninety percent (90%) of the year, a “year” understood and defined as the preceding twelve (12) month period ending on the date of the application or any inquiry by the administrator.

1. In situations in which an applicant seeks to initiate the use of an accessory dwelling unit and there has been no prior occupancy of either dwelling unit, the owner shall make a written declaration of the intention to reside in the primary residence or the accessory dwelling unit at least ninety percent (90%) of the year, and the written declaration shall acknowledge that should the owner’s residency ever fall below ninety percent (90%) of any subsequent rolling twelve (12) month period, the zoning permit shall be revoked and the right to use the accessory dwelling unit shall cease. The Town shall retain the original declaration and acknowledgment, and a copy of each shall be provided to the owner.

2. The owner and all tenants of the lot comply with all registration and other requirements of Section 15.47, above, and for lots not located in a neighborhood conservation district, the owner also notifies all tenants of UDO occupancy limitations.

a. In situations in which an applicant seeks to initiate the use of an accessory dwelling unit and there has been no prior occupancy of either dwelling unit, the owner shall make a written declaration of the intention to comply with all registration and other requirements of Section 15.47, above, and for lots not located in a neighborhood conservation district, to notify all tenants of UDO occupancy limitations.

b. The written declaration shall acknowledge that should the owner or tenants fail to comply with all registration and other requirements of Section 15.47, above, or the requirements of this Subsection, the zoning permit shall be revoked and the right to use the accessory dwelling unit shall cease.
An owner who does not reside on the lot for the period described in Subsection 15.47.01(A)(1), above, may only allow others to reside on the lot pursuant to a written lease and shall file a copy with the Town. The lease must include provisions that the tenant(s) must comply with the Town’s noise ordinance and the Town’s occupancy limitations and that violation of the Town’s noise ordinance or occupancy limitations shall be considered a material violation of the lease and shall result in the termination of the lease and tenancy.

15.47.02 On a single lot, an accessory dwelling unit may have no more than one (1) single family dwelling and one (1) accessory dwelling unit.

15.47.03 The occupancy of an accessory dwelling unit shall be limited to no more than two (2) unrelated persons or four (4) members of a family.

15.47.04 The owner of an accessory dwelling unit shall provide adequate off-street parking in compliance with Article 24 for the accessory dwelling unit to the side or to the rear of the primary residence.

A. In no case shall a front yard area be converted to parking or used to satisfy off-street parking requirements. For purposes of this Section, the “front yard area,” “side” or “rear” of the primary residence shall be determined by the location of the street referenced in the physical address of the lot, with the portion of the primary residence closest to said street considered “the front” without regard to the orientation or main entrance of the primary residence.

15.47.05 The accessory dwelling unit shall not be served by a driveway separate from any driveway serving the primary residence.

15.47.06 An attached accessory dwelling unit shall be designed so that the appearance of the primary residence remains that of a single-family dwelling. The accessory dwelling unit entrance shall be located on the side or in the rear of the single-family residence.

15.47.07 An accessory dwelling unit shall be clearly subordinate to the primary residence.

A. The floor area of an attached accessory dwelling unit may not be more than fifty percent (50%) of the floor area of the primary residence and may never exceed 800 square feet.

B. The floor area of a detached accessory dwelling unit may not be more than fifty percent (50%) of the floor area of the primary residence and may never exceed 600 square feet.

15.47.08 Detached accessory dwelling unit are those which are not attached to the primary residence.

A. A detached accessory apartment may be located over a garage, workshop, studio or similar structure or built as a free-standing cottage.

B. Every detached accessory apartment must be architecturally compatible with the primary residence.
C. A detached accessory apartment shall be located to the side or rear of the primary residence and its front most point may be no closer to the fronting street than the front most point of the primary residence.

D. A two-story detached accessory apartment may be allowed only when the primary residence is 1 ½ stories or more.

15.47.09 An accessory dwelling unit must comply with all applicable land use intensity ratios.

15.47.10 At any time when an accessory dwelling unit no longer complies with all applicable requirements of this Section, the zoning permit allowing the use shall be revoked and the right to use the accessory dwelling unit shall cease.

(Ord. 20160438, 03-16-2017; Ord. PL04727-050721; 07-01-2021; Ord. PL05688-050322, 06-08-2022)

15.48 Drive-Through (Accessory)

15.48.01 A drive-through must be located to the side or rear of the building.

15.48.02 Drive-through lanes must contain a stacking area equal to five (5) standard parking spaces.

15.48.03 Drive-through lanes must not interfere with parking aisles or spaces.

15.48.04 Drive-through lanes must be located, to the extent practical, to avoid the infiltration of headlights and vehicular noise into residential zoning districts.

(Ord. PL04727-050721; 07-01-2021)

15.49 Outdoor Display (Accessory)

15.49.01 Outdoor display shall not impede pedestrian or automobile traffic.

15.49.02 Use of a parking lot for outdoor display requires a zoning permit.

A. An applicant must demonstrate that remaining parking fully meets the requirements of this Ordinance.

(Ord. PL04727-050721; 07-01-2021)

15.50 Outdoor Storage (Accessory)

15.50.01 Outdoor storage shall not impede pedestrian or automobile traffic.

15.50.02 A one-hundred percent (100%) opaque fence between six and eight feet (6’-8’) in height shall be provided around the perimeter of the area used for outdoor storage.

(Ord. PL04727-050721; 07-01-2021)

15.51 Outdoor Dining (Accessory)

15.51.01 Outdoor dining areas shall not impede pedestrian or automobile traffic.

(Ord. PL04727-050721; 07-01-2021)
15.52 Automated Teller Machines (ATM), Freestanding (Accessory)
15.52.01 Freestanding ATM’s shall be architecturally compatible with the principal structure on the lot.
15.52.02 May have no more than four dedicated parking spaces per machine.
15.52.03 Signage must meet the requirements of Article 26.
15.52.04 Must not impede pedestrian or automobile circulation.
15.52.05 Must have at least a four (4) foot landscaped buffer around the perimeter of the ATM structure.

(Ord. PL04727-050721; 07-01-2021)

15.53 Produce Stand (Accessory)
15.53.01 Produce stands must be located on private property and not in the public right-of-way.
15.53.02 Produce stands are not subject to landscaping and community appearance standards.

(Ord. PL04727-050721; 07-01-2021)

15.54 Poultry (Accessory)
15.54.01 The keeping of poultry as an accessory use does not require development permits.
15.54.02 Roosters are prohibited. No lot shall contain more than five (5) hens.
15.54.03 All poultry shall be contained within a fully fenced area.
15.54.04 Poultry areas shall be kept sanitary.
15.54.05 Poultry areas shall not be located to the front of any principal building.
15.54.06 The keeping of poultry as an accessory use is limited to legally established single-family dwellings.

(Ord. PL04727-050721; 07-01-2021)

15.55 Small Livestock (Accessory)
15.55.01 The keeping of small livestock as an accessory use does not require a zoning permit.
15.55.02 Up to two (2) small livestock may be kept as pets.
15.55.03 Small livestock shall be contained within a fully fenced area.
15.55.04 All areas where the small livestock are kept shall be kept sanitary.
15.55.05 The keeping of small livestock as an accessory use is limited to legally established single-family dwellings.

(Ord. PL04727-050721; 07-01-2021)
15.56  **Large Livestock (Accessory)**

15.56.01  The keeping of large livestock as an accessory use does not require development permits.

15.56.02  There may be no more than two (2) large livestock for every acre of grazing area.

15.56.03  Large livestock shall be contained within a fully fenced area.

15.56.04  All areas where the large livestock are kept shall be kept sanitary.

(Ord. PL04727-050721; 07-01-2021)

15.57  **Bees (Accessory)**

15.57.01  The keeping of bees as an accessory use does not require development permits.

15.57.02  No lot may contain more than five (5) hives.

15.57.03  Hives must be screened with an opaque fence at least six feet (6’) high and must provide adequate security and signage to prevent inadvertent entry.

15.57.04  A water source must be provided.

15.57.05  A bait hive placed ten (10’) to thirty feet (30’) away and at least ten feet (10’) above the hives shall be provided.

15.57.06  The hive shall be placed at ground level or securely attached to an anchor or stand.

15.57.07  The hive shall be removed if the owner no longer maintains the hive or if removal is necessary to protect the health, safety and welfare of the public.

(Ord. PL00981-092517, 03-22-2018; Ord. PL04727-050721; 07-01-2021)

15.58  **Gardens (Accessory)**

15.58.01  Accessory gardens do not require development permits.

15.58.02  An accessory garden shall be placed or designed to minimize impacts to adjacent properties, including run-off of water and chemicals.

(Ord. PL04727-050721; 07-01-2021)

15.59  **Swimming Pools, Spas, and Hot Tub (Accessory)**

15.59.01  Enclosure required:

   **A.** In order to protect unattended children from the risk of drowning:

   1.  All below-ground outdoor swimming pools, hot tubs, or spas having a depth of eighteen inches (18”) or greater at the deepest point shall be completely surrounded by a fence or wall with a height of no less than four feet (4’). The fence or wall may be made of any suitable and durable material. The fence or wall shall be designed so that a four and one-half inch (4 ½”) diameter sphere cannot pass through any opening. The principal or accessory building may be used as part of such enclosure.
2. All above-ground swimming pools shall maintain gates at access points into the pool.

3. All gates shall have self-closing and self-latching devices that keep the gate or door closed at all times when not in actual use. However, the door of any building that furnishes part of the enclosure need not be so equipped.


5. Such uses shall meet the setback requirements for accessory structures.

(Ord. PL04727-050721; 07-01-2021)

**15.60 Caretaker’s Residence (Accessory)**

**15.60.01** A caretaker’s residence may be allowed as an accessory use provided the following standards are met:

A. The caretaker’s residence shall be clearly accessory to the principal use; and

B. The residence shall be occupied by a bona fide caretaker or watchman employed by the principal use on the property; and

C. There shall be no more than one (1) caretaker’s residence on the property and it shall be occupied by no more than one (1) family; and the living quarters shall be limited to one (1) floor and constructed so that the exterior of the premises provides a development style uniform with the main structure.

(Ord. PL04727-050721; 07-01-2021)

**15.60.02** The caretaker’s residence shall be subject to all applicable intensity and setback requirements.

(Ord. PL04727-050721; 07-01-2021)

**15.61 Vehicular Gate (Accessory)**

**15.61.01** No vehicular gate shall be allowed on any public street.

**15.61.02** A vehicular gate may be permitted so long as:

A. The primary purpose of the gate is to provide safety and security for the area located beyond the gate by regulating access of motor vehicles to that area; and

B. The vehicular gate shall be staffed twenty-four (24) hours a day so that police and all emergency vehicles will be allowed immediate access without delay, unless all emergency service providers find that such staffing is not necessary; and

C. The vehicular security gate is maintained in good operating conditions.

(Ord. PL04727-050721; 07-01-2021)
15.62 Temporary Uses

15.62.01 General Regulations:

A. Unless otherwise provided here in, all listed temporary uses are required to obtain a zoning permit in compliance with the regulations of this Section.

B. Unless expressly permitted no sign may be erected in conjunction with a temporary use.

C. Only those improvements and modifications minimally necessary for the temporary use to function are permitted.

D. In the event the landowner fails to remove a temporary structure within the described time frames after the zoning permit authorizing its use has been terminated, the Town may remove the said temporary structure at the expense of the owner, and may seek to recover through collection efforts or a civil action against the owner, the costs of removal, court costs and attorney fees.

E. A sight triangle ten feet (10’) by seventy feet (70’) must be observed at all intersections of driveways or streets with adjacent streets.

F. Temporary uses shall not be subject to the requirements of Article 25 Community Appearance Standards unless provided in this Section.

G. No required existing landscape buffer may be disturbed for any temporary use.

H. All temporary uses shall meet all applicable NC Building Codes.

I. Unless otherwise provided herein, the land use intensity ratios in B1.04 Complete Intensity Table shall apply.

J. Unless otherwise provided herein, landscaping is not required for temporary uses.

(Ord. PL04727-050721; 07-01-2021)

15.62.02 Temporary Family Health Care Structure: A temporary family health care structure may be permitted as provided in the Table of Temporary Uses, as a temporary use on a lot with Use 1.110 Single-family detached, one dwelling unit per lot, subject to the following conditions:

A. Occupancy of the structure shall be limited to the caregiver or the mentally or physically impaired person requiring a substantial amount of personal care or attention based on a certified medical need.

B. The temporary family health care structure shall meet all minimum building spacing requirements set forth in Subsection 14.03.08.

C. The temporary family health care structure shall be placed on the lot in such manner that it meets all required setbacks.
D. No more than one (1) accessory temporary family health care structure per lot shall be allowed.

E. The applicant must provide a certification by a qualified medical provider that the temporary family health care structure is needed to take care of a mentally or physically impaired person who lives on the same lot who is in need of personal or medical attention.

F. The location, placement, and type of the temporary family health care structure must be selected so as to minimize any negative effects on adjacent properties.

G. A permit shall be valid for a period of one (1) year. Applications for extensions for an additional one (1) year period must be filed between thirty (30) to sixty (60) days prior to the expiration of the permit. For each new extension the applicant must demonstrate continuing compliance with this Section and a new certification in accordance with Subsection 15.62.02(F) must be submitted. The applicant can continue to apply for extensions so long as all other requirements of this Section are met.

H. Upon expiration of the permit or the cessation of the conditions giving rise to the permit, the temporary structure shall be removed from the property within sixty (60) days.

15.62.03 Temporary Construction or Repair Dwelling: A temporary construction or repair dwelling may be permitted as a temporary use while either a Use 1.111 (site built or modular structures) or 1.200 (two-family residences) is being constructed or repaired, subject to the following conditions:

A. Upon completion, the dwelling under construction or repair must be the principal residence of the owner of the lot.

B. Only Class A and B manufactured homes may be used as temporary construction or repair dwellings.

C. The permit may not be issued until the owner of the lot has received a building permit for the construction or repair of the non-temporary dwelling.

D. The temporary construction or repair dwelling shall be placed on the lot in such manner that it meets all required setbacks.

E. A permit shall be valid for a period of one (1) year but may be extended for up to two (2) consecutive six (6) month periods upon an application filed no later than thirty (30) days before the end of each permit period. Each extension shall require a finding by the Administrator that significant progress is being made in completing the construction or repair.

F. The temporary construction or repair dwelling shall be removed within thirty (30) days upon:
1. Expiration of the permit.

2. Expiration or lapse of the building permit for the dwelling under construction or repair.

3. Issuance of a certificate of occupancy or certificate of compliance, as appropriate, for the dwelling under construction or repair.

G. Land use intensity ratios do not apply to a temporary construction or repair dwelling.

15.62.04 Temporary Construction Trailer: A temporary construction trailer may be permitted as a temporary use for a temporary office, security shelter or shelter for materials or tools (but not for residential purposes or sales office) incident to construction or development of the premises upon which the temporary construction trailer is located subject to the following conditions:

A. Temporary construction trailers may only be located on a lot upon which a valid zoning or building permit has been issued.

B. A temporary construction trailer shall be located at least ten feet (10') away from all road rights-of-way and property lines.

C. A temporary construction trailer may not be used for residential purposes.

D. The permit shall be valid for two (2) years from the date of issuance or for a maximum of thirty (30) days after the issuance of a certificate of occupancy, whichever is less; provided however, if the project is multi-family or nonresidential in nature, the temporary use permit may be extended if the approved project is not yet completed and the applicant requests an extension within ninety (90) days prior to the expiration of the permit period. Each such extension may be for one (1) year. The applicant can continue to apply for extensions so long as all other requirements of this Section are met.

E. Land use intensity ratios do not apply to a temporary construction trailer.

15.62.05 Temporary Mobile Medical Unit: A temporary mobile medical unit may be permitted as a temporary recurring use accessory to an existing medical use subject to the following conditions:

A. A temporary mobile medical unit must be accessory to the principal medical use and related to the care provided by the principal medical use.

B. A temporary mobile medical unit must be located on the same lot as the principal medical use.

C. A temporary mobile medical unit may be recurring but shall be limited to one (1) forty-eight (48)-hour period per week.
D. A temporary mobile medical unit shall not encroach upon or disturb traffic movements and pedestrian circulation either within the site or on the adjacent streets and sidewalks.

E. A temporary mobile medical unit shall not be subject to any land use intensity ratios or setback requirements. Setbacks for temporary mobile medical units shall be ten feet (10') from any street rights-of-way and five feet (5') from any interior boundary.

F. Landscape buffers must be provided to the extent possible in the setback areas adjacent to the temporary mobile medical unit.

G. No building may be constructed in association with the temporary mobile medical unit, and none is authorized by a permit for a temporary mobile medical unit.

15.62.06 Temporary Classroom: A temporary structure serving as expansion space for a classroom may be permitted as a temporary use to Use 9.05 Elementary School and Use 11.23 Hospital subject to the following conditions:

A. A temporary classroom must be accessory and related to the principal use on the lot.

B. A temporary classroom shall only be allowed at a density that does not exceed one temporary classroom for every five (5) acres.

C. The temporary classroom shall be placed on the lot in such manner that it meets all required setbacks.

D. The location, placement, and type of the temporary classroom must be selected so as to minimize any negative effects on adjacent properties.

E. Land use intensity ratios do not apply to a temporary classroom.

F. Landscape buffers must be provided to the extent the temporary classroom is adjacent to properties not associated with the principal use for the lot for which the temporary classroom serves.

G. Article 25 Community Appearance Standards shall not apply to temporary classrooms.

H. The permit shall be valid for three (3) years for Use 11.23 Hospital and ten (10) years for Use 9.05 Elementary School from the date of issuance. The temporary use permit may be extended subject to the following conditions:

1. A one (1) year extension is allowed if a building permit for an approved project for permanent construction which would replace the need for the temporary classroom has been issued prior to the expiration of the temporary permit; and

2. The applicant requests an extension within ninety (90) days prior to the expiration of the temporary permit period.

15.62.07 Temporary Portable Storage Containers: Placement and use of temporary portable storage container are subject to the following conditions and limitations:
A. Use. Temporary portable storage containers:
   1. Shall only be used for storage of goods and materials.
   2. Storage of hazardous, toxic, or explosive substances, or any other substance requiring a 704 placard is prohibited.
   3. Commercial, wholesale or retail sales, flea markets, peddling, garage sales or other similar types of activities is prohibited.
   4. Habitation of storage units by humans or animals is prohibited.
   5. Shall be placed only on the lot for which the temporary portable storage container is being used.
   6. The following principal use categories which may use portable storage containers in the day-to-day operation of the business are exempt from the requirements set forth in Subsection 15.62.07: Use 14.0 Manufacturing, 16.0 Storage, Use 17.0 Transportation, and Use 18.08 Waste Related Uses.
   7. Property zoned M1 Manufacturing is exempt from the requirements set forth in Subsection 15.62.07.

B. Number allowed.
   1. Single-family and two-family dwellings units are limited to two (2) temporary portable containers at any given time.
   2. Multi-family developments and mixed-use developments with multi-family dwelling units are allowed at least two (2) temporary portable containers and can have more so long as the total number of temporary portable containers does not exceed 1 container for every 20 dwelling units.
   3. Non-residential commercial developments are allowed at least two (2) temporary portable containers and can have more so long as the total number of temporary portable containers does not exceed 5% of the total vehicular surface area for the total development.

C. Duration of use.
   1. Single-family and two-family dwelling units may utilize a temporary portable storage container for a period of fourteen (14) consecutive days, with one (1) fourteen (14) day renewal provided a Building Permit has been issued at the address the container is located, up to two (2) times per calendar year.
   2. Each dwelling unit in multi-family and mixed-use developments may utilize a temporary portable storage container for a period of seven (7) consecutive days, up two (2) time per calendar year.
3. Non-residential commercial uses may utilize a temporary portable storage container for a period of sixty (60) consecutive days, up to two (2) times per calendar year.

4. In any district, a temporary portable storage container being used in connection with or to accommodate the repair, modification or construction of a structure or development may be utilized for the duration of a building permit on the same parcel.

5. The time, in all instances, shall run from the time of delivery of the container to the time of removal.

D. Placement. A temporary portable storage container:

1. Is subject to and shall be placed on a lot so as to comply with all interior setback requirements

2. Shall be placed so as to minimize negative impacts on adjacent property.

3. Shall not be placed on a street, sidewalk or trail or within any right-of-way.

4. Shall be placed within a vehicular surface area though it shall not be placed in any location that would interfere with vehicular or pedestrian circulation or cause reduced visibility at street intersections.

5. Shall adhere to all applicable building and fire code regulations for the purpose of ensuring safe passage for fire protection, to and from structures, and access to utility shut-off valves.

6. Shall not be located in any required landscaped area.

7. May not be stacked on top of each other outside of the provider’s storage facility.

E. Signage: A sign displaying the container provider contact information is required to be attached to the container. There are no limitations on the amount of signage that can be displayed on a container, however, signage is limited to provider information and cannot include advertisements for any other product or service.

F. Permitting:

1. A zoning permit is not required for use of a temporary portable storage container at a dwelling unit.

2. Non-residential commercial users are required to obtain a zoning permit for any utilization of a temporary portable storage unit for more than 14 consecutive days.

(Ord. PL00982-092517, 12-21-2017; Ord. PL03942-060520, 07-14-2020)

**15.62.08 Temporary Staging:** Temporary staging is permitted subject to the following conditions:

**A.** Elements used in the staging, other than protective fencing, shall be placed on the lot in such manner that it meets all required setbacks.
B. The location and placement of the staging area must be placed so as to minimize any negative effects on adjacent properties.

C. Land use intensity ratios do not apply to temporary staging.

D. The temporary staging area cannot be located on public property unless undertaken by the landowner.

E. Applicant must have express written permission of landowner to be located at the property.

F. All elements related to the temporary staging must be removed by the next business day following the issuance of a Certificate of Occupancy or Certificate of Completion for the project in which the staging area was permitted for.

15.62.09 Non-Fixed Site Event Venue

A. A zoning permit is required for a non-fixed site event.

B. No more than one (1) event is allowed on a lot per year.

C. Sufficient parking shall be provided either on site or proof that adequate off-site parking has been acquired.
   1. Off-site parking may not leave the host use with inadequate parking.

D. Adequate security and traffic control shall be provided.

E. Restroom facilities shall be provided for patrons.

F. The lot must be maintained in a sanitary state during the event and must be cleaned immediately following the event.

G. A temporary structure may be permitted subject to the following conditions:
   1. The temporary structure shall be placed on the lot in such manner that it meets all required setbacks.
   2. The location, placement, and type of the temporary structure must be placed so as to minimize any negative effects on adjacent properties.
   3. Land use intensity ratios do not apply to a temporary structure.
   4. Such structure shall not be erected more than forty-eight (48) hours before the event and must be taken down no later than the next business day following the event.

15.62.10 Carrier-On-Wheels (COW)

A. The Administrator may allow a COW for providing communications during an emergency in any zoning district.
B. The Administrator may allow a COW in the O1, B2, B3, U1 or M1 zoning districts for special events if the following conditions are met:

1. The COW may only be erected twenty-four (24) hours in advance of the event.
2. The COW must be taken down immediately following the event, not to exceed twenty-four (24) hours.
3. The COW may not be erected for more than seventy-two (72) hours.
4. The applicant must provide a copy of liability insurance at the time of application.
5. The COW must be fully contained on the property where the event is occurring. A fall-zone equal to the height of the COW must be provided.
6. The COW shall be placed on the lot in such manner that it meets all required setbacks.
7. Land use intensity ratios do not apply to a COW.

15.62.11 Yard Sale

A. Yard sales are not required to obtain a zoning permit.

B. A yard sale is allowed so long as such sales are not conducted on the same lot for more than three (3) days (whether consecutive or not) during any ninety (90) day period.

C. Yard sales are allowed to have signage in compliance with Section 26.16.

D. The land use intensity ratios of Section 16.01 do not apply to a yard sale.

E. Yard sale participants must have express written permission of landowner to be located at the property.

15.62.12 Itinerant Merchant

A. An itinerant merchant may not stay on one (1) lot for more than seventy-two (72) consecutive hours in a one (1) week period unless the itinerant merchant is participating in an approved Open-Air Market.

B. An itinerant merchant may not locate on public property, other than public sidewalks, without written permission.

C. Unless operating in an Open-Air Market, an itinerant merchant must have the written permission of the owner or the entity in control of the property on which the itinerant merchant is located.

D. An itinerant merchant is not required to obtain a zoning permit, and if the above standards are met, no additional Ordinance requirements are applicable.

15.62.13 Temporary Open-Air Markets
A. A temporary open air market is one which does not involve land disturbing activity and is the only principal use on a lot and occurs no more than eight (8) times, each lasting no more than three (3) days, in any twelve (12) month period on the same lot and only operates during daylight hours.

B. An applicant for a temporary open-air market must submit a site plan showing the locations of the merchants.

C. A temporary open-air market must have the written permission of the owner or the entity in control of the property on which the itinerant merchant is located.

D. A temporary open-air market shall not encroach upon or disturb traffic movements and pedestrian circulation either within the site or on the adjacent streets and sidewalks.

E. A temporary open-air market shall provide rest room facilities for merchants and customers.

F. A temporary open-air market must demonstrate approval by the Fire Marshal and must meet relevant requirements of the North Carolina Building Code and must obtain all necessary driveway permit approvals.

G. If the above standards are met, no additional Ordinance requirements are applicable.

15.62.14 Temporary Use 9.01 Public Colleges and Universities – Leased “Swing” space

A. Use 9.01 Public Colleges and Universities may be allowed within the B3, O/I and M1 zoning districts on a temporary basis subject to the following regulations:

1. The particular activity for which a temporary permit is sought must be compatible with other uses allowed within the base zoning district and must meet all requirements of the UDO; provided that in no event are residential uses allowed.

2. The applicant must demonstrate sufficient parking and/or transit to serve the planned use. Without limiting the generality of the foregoing, academic classes shall only be approved if the applicant can demonstrate that sufficient parking or transit is provided to the site to accommodate the number of students using the facility.

3. The temporary activity must be conducted pursuant to a lease between the applicant and a private landowner. The lease term may not exceed the duration of the temporary use permit.

4. Signage is allowed subject to the zoning district requirements of UDO Article 26.

5. In the OI and M1 districts, the following additional regulations apply:

   a. The applicant must submit documentation clearly demonstrating that it has in place a plan to provide permanent space for the use within the time allotted for the temporary use permit. Provided, however, that this provision will not apply in the event that (I) the use at issue is of its nature time-limited (for
example, in the case of a time-limited grant creating a temporary facility need) or (ii) the need for space for the use arises as the result of a force majeure event, such as a fire or flood.

b. The permit shall be valid for five (5) years from the date of issuance. Upon a showing of unanticipated and extraordinary circumstances delaying plans to permanently accommodate the temporary use, the permit may be extended one (1) time for an additional two (2) years provided the applicant requests the extension within 90 days prior to the expiration of the permit.

c. The applicant is permitted to lease the same property for a different temporary use subsequent to the termination of a temporary use permit for another use.

6. In the B3 district, Temporary Use 9.01 shall be allowed until June 30, 2029. After that date, the authorization of Temporary Use 9.01 in the B3 district shall automatically expire without requiring any further action by Town Council, and no such use shall thereafter be permitted in the B3 district. In the B3 district, Temporary Use 9.01 shall be allowed for a development governed by a special use permit or conditional district permit as to which the proposed temporary activities are comparable to the principle uses already allowed under that special use permit or conditional district, as determined by the Administrator. In other cases, landowners may seek modification of the zoning approval to allow for Temporary Use 9.01 in the usual manner provided for requested modifications pursuant to Article 9.

(Ord. PL1019-092917, 12-21-2017; Ord. PL02408-040419, 05-09-2019; Ord. PL04727-050721; 07-01-2021; Ord. PL04727-050721; 07-01-2021; Ord. PL05688-050322, 06-08-2022)

15.63 College- or University-Operated Community Enterprise

15.63.01 College- or university-operated community enterprises may be allowed within the B1 zoning district subject to the following regulations:

A. The activities involved in the use must be the same as activities of uses allowed as of right in the zoning district.

B. The organization operating the community enterprise shall clearly demonstrate that the enterprise is dedicated to meeting the civic, cultural, or informational needs of the community as a whole as opposed to the needs of the college or university alone.

C. No lot containing a college- or university-operated community enterprise shall be located within 1,000 feet of another lot containing a college- or university-operated community enterprise.

D. The use must be conducted pursuant to a lease between the applicant and a private owner not affiliated with a college or university.
15.64 Solar Energy Systems, Accessory (A-28)

A. General Requirements

1. Solar energy systems as described in this Section are permissible in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in applicable zoning districts and the specific criteria set forth herein.

2. Solar energy systems that are in disrepair, have not been in use for 180 consecutive days, are not in the process of repair and can be seen from a public street shall be considered abandoned and shall be removed by the property owner.

3. The costs associated with the installation of a solar energy system shall not trigger compliance with or otherwise be counted in the calculations set forth at Subsection 7.05.02.

B. Rooftop Solar Energy Systems

1. The highest point of a rooftop solar energy system shall be permitted to exceed the district height limit of up to fifteen feet (15') above the rooftop to which it is attached. Roof-mounted solar energy systems are not subject to the limitations in Subsection 14.03.07(G).

C. Ground-mounted Solar Energy Systems

1. All ground-mounted solar energy systems shall meet the building street setback requirement of fifteen feet (15') from the street right-of-way line and seven feet (7') from any interior lot line.

2. The maximum lot coverage of a ground-mounted energy system shall not exceed ten percent (10%) of the lot.

3. A ground-mounted solar energy system must be clearly subordinate to the principal structure in all dimensional aspects and shall not exceed fifteen feet (15') in height.

4. A ground-mounted solar energy system shall not be located in an easement unless expressly allowed.

5. Applicants are allowed five percent (5%) of additional impervious surface before additional stormwater requirements, set forth in Article 21, are required.

6. Ground-mounted solar energy systems are not allowed within any required landscape buffer.

(Ord. PL05272-110121, 12-08-2021)
15.65 Electric Vehicle Charging Stations, Accessory (A-29) and Principal (11.37)

A. General Requirements

1. An electric vehicle charging station shall only be installed in standard-size parking space(s).

2. Every electric vehicle charging station and associated parking space(s) shall be installed outside of the public right-of-way.

3. Wheel stops, bollards, or other barriers shall be placed between the electric vehicle charging space and the equipment unless the equipment is designed to be impact-resistant. Alternatively, there shall be a minimum distance of two (2) feet between the curb and the electric vehicle charging equipment.

   a. The installation of an electric vehicle charging station and any protective measures shall not reduce the size of the parking space.

   b. Any cords shall be retractable or have a place to hang the connector and cord sufficiently out of the electric vehicle charging space.

   c. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.

4. Electric vehicle charging station equipment may encroach 20% into any required landscape buffer provided the equipment shall be placed outside of the critical root zone for any tree.

5. The costs associated with the installation of an electric vehicle charging station shall not trigger compliance with or otherwise be counted in the calculations set forth at Subsection 7.05.02.

B. Electric Vehicle Charging Stations (Accessory Use, A-29)

1. Electric vehicle charging stations installed as accessory uses are exempt from any appearance, landscaping, or stormwater requirement.

C. Electric Vehicle Charging Stations (Principal Use, 11.37)

1. Canopies or other structures associated with Use 11.37 shall meet all setbacks required for the district.

2. When Use 11.37 is created through the conversion of parking spaces in an existing development:

   a. The applicant shall provide reliable and persuasive evidence (which may include but is not necessarily limited to a parking demand analysis prepared by a qualified engineer) demonstrating that sufficient parking for the development remains after the removal of the parking for the electric vehicle charging station use.

   b. Two-hundred square feet (200 sq. ft.) of additional impervious surface is allowed before additional stormwater requirements outlined in Article 21 are required.

3. Use 11.37 electric vehicle charging stations shall meet all other ordinance requirements for commercial development.
(Ord. PL05272-110121, 12-08-2021)
ARTICLE 16    RESERVED

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 17 RESERVED

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 18 RESERVED

(Ord. PL04727-050721, 07-01-2021)
TITLE V GENERAL DEVELOPMENT STANDARDS
ARTICLE 19  GRADING

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<th>Section</th>
<th>Description</th>
</tr>
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<td>Special Requirements for Land Disturbing Activities Involving Steep Slopes</td>
</tr>
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19.01 Activities Affected

This Article pertains to all land-disturbing activities conducted within the Town’s jurisdiction. Land disturbing activities will not be approved unless part of a zoning permit application for the development of a principal, accessory or temporary use.

Pursuant to the application requirements in Article 4, plans and information shall be submitted that demonstrate compliance with this Article and Appendix A in regards to grading activities.

A. Single-family and two-family projects of less than 21,780 square feet (0.5 acre) or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity though required to apply for a zoning permit with a site plan are not required to submit plans that demonstrate compliance with grading activities.

B. The waiver of plan approval requirements due to the size of activity contemplated, does not relieve the landowner of responsibility for following the requirements contained herein, or in any way limit their liability for the consequences of their land-disturbing activity under North Carolina state law or the administrative procedures and penalties outlined in this Ordinance.

(Ord. PL04727-050721, 07-01-2021)

19.02 Grading Performance Standards

Any land disturbing activity that includes alteration of existing topographic slope grades shall conform to grading performance standards contained in this Section.

The grading plan and specifications controlling execution of land-disturbing activities shall adhere to the following standards unless superseded by a site-specific subsurface investigation, report and recommendation performed by a registered professional engineer competent in geotechnical engineering.

A. Existing grade may remain, if natural vegetation undisturbed and slope(s) are unaffected by the planned site improvements.

B. Maximum cut grade shall be 2H:1V.

C. Maximum fill grade shall be 2H:1V.

D. Grades shall be sloped to drain surface water away from buildings, pavements, slopes and structures, and toward storm drainage facilities.
19.02.03 Conventional seeding with native grasses and mulching are acceptable permanent erosion control measures for slopes flatter than 2H:1V, provided the grasses can be established and properly nourished to maturation.

19.02.04 Site-specific permanent erosion control and stabilization of slopes steeper than 2H:1V must be designed by a licensed professional engineer or landscape architect competent in such practice. Universally accepted armoring techniques and innovative approaches will be considered appropriate when properly detailed and specified.

19.02.05 Notification of the Administrator shall be made prior to starting grading for any slope steeper than 3H:1V.

19.02.06 Cut and fill slopes that are steeper than 3H:1V shall have intermediate benches to control surface water runoff. These benches shall be a minimum of five feet (5') wide and sloped back from the crest of the lower slope, to form a drainage swale at the toe of the upper slope. The drainage swale invert shall divert surface water to the appropriate storm drainage facilities. The maximum change in elevation between these benches shall be twenty feet (20'). Slope stability considerations may require wider benches for steeper or taller slopes. If a site-specific evaluation is performed and recommendations submitted by a licensed professional engineer with a specialization in sub-surface evaluations; the provisions of this Subsection may be modified or waived.

19.02.07 Exposed and fill covered slope cuts in rock foundations or slopes greater than five feet (5') and steeper than 1(H):1(V) should be properly investigated and designed by a North Carolina registered professional engineer or geologist competent in rock slope engineering. The grading plan should clearly indicate the depth, orientation, and method to accomplish a cut into rock formations.

19.02.08 Retaining systems providing a cumulative vertical relief greater than five feet within a horizontal distance of fifty feet (50') or less, including retaining walls or mechanically stabilized earth walls, shall be designed and constructed under the responsible charge of a North Carolina registered professional engineer. Testing and inspection reports shall verify:

A. Foundation support system is adequate for the intended site conditions;

B. Quality of construction materials conform with specifications;

C. Actual soil conditions are substantially and functionally similar to those anticipated in design, and;

D. Backfill materials and any drainage systems comply with plans and specifications.

The North Carolina licensed engineer will submit a separate summary report stating that the constructed retaining structures are in compliance with the intent of the design.

19.02.09 Utilize a maximum 3H:1V slope within any temporary or permanent buffer zone adjacent to any lake or natural water course, tying into existing grades along the perimeter or
Town of Boone
Unified Development Ordinance
Article 19 Grading

19.02.10 Property boundary and field grading stakes sufficient to define the land-disturbing activity shall be established prior to starting, and maintained until earthwork construction is completed.

(Ord. PL04727-050721, 07-01-2021)

19.03 Special Requirements for Land Disturbing Activities Involving Steep Slopes

19.03.01 The following categories of steep slope are hereby established:

A. Very Steep Slopes: Slopes steeper than 50%.
B. Steep Slopes: Slopes between 30% and 50%.

19.03.02 The requirements for land disturbing activities on Very Steep Slopes shall be as follows:

A. Plans for the development of any property must be accompanied by a site-specific geologic analysis of the very steep slope portion of the site to be disturbed by the proposed development, paid for by the applicant, and conducted by a North Carolina licensed geologist, to determine whether that plan can be developed on the site without jeopardizing slope stability on the site itself or on properties surrounding the site.

B. If the property is determined to be safe for development and requires remedial measures to ensure slope stability, a North Carolina registered professional engineer competent in geotechnical engineering must develop and present a plan to the Administrator that will preserve slope stability on the site during and after the completion of grading and construction for the site, as well as for surrounding properties to the extent that the contemplated development activities on the site affect surrounding properties.

C. No diversion or channelization of perennial streams on very steep slopes is permitted.

D. Culverting of perennial streams on very steep slopes shall be discouraged, and will be allowed only for necessary road crossings.

E. To prevent debris flow development and damage to slope stability, the riparian zone of perennial stream on very steep slopes must be left intact, which means that removal of trees, vegetation, soils, or disturbance of soils within this zone is prohibited. The riparian zone shall extend from the edge of the existing stream for thirty-five feet (35’) from each edge of the stream.

F. The applicant whose development requires land disturbing activity on Very Steep Slopes shall make reasonable efforts to preserve and protect features of the slope, such as trees and other plant material, which may help to stabilize the slope.
19.03.03 Development of Steep Slopes or in areas where geological hazard indicators are present.

A. Whenever new development is proposed which involves land disturbing activity on a steep slope, or if geological hazard indicators are observed on the land which will be disturbed by the development, the Administrator may require that the applicant obtain investigation(s) by a licensed geologist and/or licensed engineer, as appropriate, before allowing the development to proceed. If the Administrator requests such additional investigation(s), the Administrator shall designate in writing the geological hazard indicator observed.

B. If the property is determined to be safe for development and requires no remedial measures, no further studies will be required.

C. If the property is determined to be safe for development but requires remedial measures to ensure slope stability, a North Carolina registered professional engineer competent in geotechnical engineering must develop and present a plan to the Administrator that will preserve slope stability on the site during and after the completion of grading and construction for the site, as well as for surrounding properties to the extent that the contemplated development activities on the site affect surrounding properties.

D. No diversion or channelization of perennial streams will be permitted on steep slopes unless without such diversion or channelization, a tract existing at the time of the adoption of this amendment is rendered unusable for any of the principal use(s) allowed within the zoning district.

E. Culverting of perennial streams on steep slopes shall be discouraged, and is allowed only for necessary road crossings.

F. To prevent debris flow development and damage to slope stability, the riparian zone of perennial streams must be left intact, which means that removal of trees, vegetation, soils, or disturbance of soils within this zone is prohibited. The riparian zone shall extend from the edge of the existing stream for thirty-five feet (35’) from each edge of the stream.

19.03.04 The Town shall have the option to employ and/or contract with an independent geologist and/or engineer to evaluate plans for development as necessary, whether such development is on a very steep slope, on a steep slope, or when the Administrator believes that the development presents geological hazards or geological hazard indicators which have not been adequately investigated by the applicant.

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 20  SOIL EROSION AND SEDIMENT CONTROL

20.01  Activities Affected

20.01.01  This Article pertains to the soil erosion and sediment control related to land-disturbing activities conducted within the Town’s jurisdiction.

20.01.02  Pursuant to the application requirements in Article 4, plans and information shall be submitted that demonstrate compliance with this Article and Appendix A in regards to soil erosion and sediment control related to land-disturbing activities.

A.  Single family and two family projects of less than 21,780 square feet (0.5 acre) or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity though required to apply for a zoning permit with a site plan are not required to submit plans that demonstrate compliance with soil erosion and sediment control related to land-disturbing activities.

B.  The waiver of plan approval requirements due to the size of activity contemplated, does not relieve the landowner of responsibility for following the requirements contained herein, or in any way limit their liability for the consequences of their land-disturbing activity under North Carolina state law or the administrative procedures and penalties outlined in this Ordinance.

20.01.03  The plan shall be accompanied by an authorized Financial Responsibility Ownership form. This form shall be signed by the person financially responsible for the land-disturbing activity or their attorney-in-fact.

A.  The Administrator may require the landowner or the financially responsible party to provide a security deposit to ensure compliance with the soil erosion and sediment control provisions of the Ordinance.

1.  The applicant may, prior to commencing any land-disturbing activity, be required to file with the Town an improvement security in the form of an escrow account, surety bond, irrevocable letter of credit, or other surety satisfactory to the Town, in an amount deemed sufficient by the Administrator, to cover all costs of protection or other improvements required to establish protective cover on the site in conformity with this Ordinance. Such security shall remain in force until the
improvements are completed in accordance with the approved plan and said improvements are finally inspected and approved.

2. Upon completion of improvements required by this Ordinance, written notice thereof shall be given by the applicant to the Administrator and the department shall cause an inspection of the improvements to be made and, if approved, shall within thirty (30) days of the date of notice authorize in writing the release of the security given provided that the improvements have been made in accordance with the approved plan and this Ordinance.

(Ord. PL04727-050721, 07-01-2021)

20.02 Exemptions to Soil Erosion and Sediment Control Requirements

20.02.01 The following land-disturbing activities are exempted from the requirements of this Section:

A. Those done for the purpose of fighting fires.

B. Those done in the stockpiling of raw or processed sand, stone, or gravel in material processing plants and storage yards (with a properly approved plan for this activity).

C. Those undertaken on agricultural land for the production of plants and animals.

D. Those undertaken on forest land for the production and harvesting of timber and timber products when conducted in accordance with Forest Practices Guidelines (15NCAC 11.0101-.0209).


F. Land-disturbing activity over which the state by statute, has exclusive regulatory jurisdiction;
   1. Conducted by the State,
   2. Conducted by the United States,
   3. Conducted by persons having the power of eminent domain,
   4. Conducted by a local government,
   5. Licensed by the State or United States,
   6. Funded in whole or in part by the State or United States.

20.03 Basic Erosion Control Objectives

20.03.01 Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
20.03.02 On site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

20.03.03 All land disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.

20.03.04 All land disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

20.03.05 Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

20.04 Soil Erosion Control Design Standards

20.04.01 Any land disturbing activity that includes alteration of existing topographic slope grades or natural ground cover shall conform to the soil erosion and sediment control design standards in this Article.

20.04.02 Erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten (10) year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service, National Engineering Field Manual for Conservation Practice, the North Carolina Erosion and Sediment Control Planning and Design Manual, or other acceptable calculation procedures.

20.04.03 Erosion and sediment control measures must accomplish the following mandatory standards when land-disturbing activity is undertaken on a tract:

A. Containment: Installation of sufficient sedimentation and erosion control devices and practices to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction and upon completion of development.

B. Buffer Zone: No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless an undisturbed buffer zone is provided along the margin of the watercourse. The buffer must be a minimum of twenty-five feet (25') wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. If the slope perpendicular to the stream measured from the top of the stream bank is 3H:1V or steeper a detailed erosion control plan and calculations sufficient to support the proposed buffer width must be submitted for Town review. A temporary and minimal disturbance may be permitted if the applicant submits documentation that there is no reasonable alternative. The temporary and minimal disturbance shall be limited to a maximum of ten percent (10%) of the total length of the buffer zone within the tract to be distributed such that there is not more than one hundred linear feet (100 lf) of disturbance in each 1000 linear feet of buffer zone.
C. Ground Cover: Groundcover (temporary or permanent depending on phase of grading) that is sufficient to restrain erosion must be placed on all disturbed areas within 21 calendar days of completion of any phase of grading. Specifications for groundcover must be listed on the erosion control plan and should be consistent with the NCDENR Erosion and Sedimentation Control Planning and Design Manual.

20.04.04 Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.

(Ord. 20140636, 11-20-2014)

20.05 Soil Erosion Control Performance Standards

20.05.01 Any land disturbing activity that includes alteration of existing topographic slope grades or natural ground cover shall conform to the soil erosion and sediment control performance standards, in Subsection 20.05.02, for stormwater exiting the tract. Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

20.05.02 The land-disturbing activity shall be planned and conducted such that the velocity of stormwater runoff in the receiving watercourse at the point of discharge resulting from a ten (10) year storm while undertaken, and after development, shall not exceed the lesser of:

A. The maximum permissible velocity for earth lined (unprotected soils) channels as determined from the table below, or

B. The velocity in the receiving watercourse determined for the ten (10) year storm prior to development.

Should conditions (A) or (B) of this Subsection not be met, the channel below the discharge point shall be designed and improvements constructed to withstand the expected velocity.

20.05.03 This performance standard can be waived if it can be clearly demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

<table>
<thead>
<tr>
<th>Soil Types</th>
<th>Maximum Permissible Velocity for Earth-Lined Channels</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Feet per second</td>
</tr>
<tr>
<td>Fine sand (noncolloidal)</td>
<td>2.5</td>
</tr>
<tr>
<td>Sandy loam (noncolloidal)</td>
<td>2.5</td>
</tr>
<tr>
<td>Silt loam (noncolloidal)</td>
<td>3.0</td>
</tr>
<tr>
<td>Ordinary firm loam</td>
<td>3.5</td>
</tr>
</tbody>
</table>
### Fine gravel
<table>
<thead>
<tr>
<th>Material</th>
<th>Velocity</th>
<th>Sediment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fine gravel</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Stiff clay (very colloidal)</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Graded, loam to cobbles (noncolloidal)</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Graded, silt to cobbles (colloidal)</td>
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<td>1.7</td>
</tr>
<tr>
<td>Alluvial silts (noncolloidal)</td>
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<td>1.1</td>
</tr>
<tr>
<td>Alluvial silts (colloidal)</td>
<td>5.0</td>
<td>1.5</td>
</tr>
<tr>
<td>Coarse gravel (noncolloidal)</td>
<td>6.0</td>
<td>1.8</td>
</tr>
<tr>
<td>Cobbles and shingles</td>
<td>5.5</td>
<td>1.7</td>
</tr>
<tr>
<td>Shales and hard pans</td>
<td>6.0</td>
<td>1.8</td>
</tr>
</tbody>
</table>

**SOURCE:** Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels multiply allowable velocity by 0.95 for slightly sinuous, 0.9 for moderately sinuous channels, and 0.8 for highly sinuous channels.

### 20.06 Acceptable Erosion Control Management Measures

**20.06.01** Measures applied alone or in combination to satisfy the intent of this Section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results by meeting the performance standards outlined above. Some alternatives are to:

- **A.** Compensate for increased surface water runoff volume and velocity by including measures to promote infiltration of excess runoff from areas rendered impervious.
- **B.** Reduce stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections.
- **C.** Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities at the point of discharge. These may range from simple rip rapped sections to complex structures.
- **D.** Protect watercourses subject to accelerated erosion by improving cross-sections and/or providing erosion resistant lining.

**20.06.02** Most of the established “best” management practices for soil erosion and sediment control are detailed in the North Carolina Erosion and Sediment Control Planning and Design Manual.

### 20.07 Monitoring and Maintenance of Erosion Control Measures

**20.07.01** During the development of a tract, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

**20.07.02** During the development of a tract, the person conducting the land disturbing activity shall inspect all erosion and sediment control facilities and all stormwater management facilities.
including the discharge facility at least once every seven calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain within a 24-hour period. These inspections shall determine the erosion control devices and stormwater facilities have not been damaged and are operating as designed. During this inspection the discharge from the site shall also be observed and a qualitative assessment of the discharge shall be made to determine clarity, presence of floating or suspended solids, presence of an oil sheen or other obvious indicators of stormwater pollution. If any evidence of deterioration of the system is present or there is evidence of any visible sedimentation outside the disturbed limits it shall be recorded and corrective measures taken. The applicant shall maintain a record of inspections, findings and any corrective action. This record shall be available on site for the Administrator.

20.07.03 Whenever the Town determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action to mitigate or eliminate the sedimentation.

20.07.04 After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road, street right-of-way, or easement and accepted for maintenance by a governmental agency.

20.08 Existing Uncovered Areas

20.08.01 All uncovered areas existing on the effective date of this Ordinance which:

A. Resulted from land-disturbing activity,

B. Exceed one half contiguous acre,

C. Are subject to continued accelerated erosion, and

D. Are causing off site damage from sedimentation;

shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off site sedimentation.

20.08.02 The Town reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.
ARTICLE 21 STORMWATER MANAGEMENT

21.01 Plan Approval Required
21.01.01 Subject to the requirements of Article 4, a drainage plan with supplemental stormwater calculations is required to be submitted with all applications.
   A. Single-Family Dwellings (Use 1.01), Manufactured Homes (Use 1.02-1.04), other uses lawfully operated out of a single-family dwelling or Use 1.06 Duplex (one duplex building per lot) with less than 40% of impervious area, not discharging to steep or very steep slope, shall submit a drainage plan and supporting calculations in compliance with:
      1. UDO Appendix C, Section C.2 Stormwater Control Measures (SCMs) Guidelines for Certain Residential Development; or
      2. UDO Article 21 and Appendix A, Section A3.05.
   B. All other development, including subdivision infrastructure, shall submit a drainage plan and supporting calculations in compliance with this Article and the drainage plan requirements set forth in UDO Appendix A, Section A3.05.
   C. Exemptions. The following are exempt from the requirements of Subsections A or B above, as applicable:
      1. Impervious improvements of 500 square feet or less where the applicant takes measures to ensure that neighboring properties are not burdened with any stormwater runoff.
      2. Lots within subdivisions or developments that have an approved drainage plan where any new impervious area was considered in the previously approved plan and subsequently constructed in accordance with such plan.

(Ord. PL05558-030922, 04-13-2022)

21.02 Diligence in Construction of Drainage Structures
21.02.01 Stormwater management facilities shall be constructed in accordance with approved plans and maintained in proper working condition so that they will continue to serve their intended functions.
21.02.02 Both the developer and the landowner (if different) are responsible for ensuring that the construction of drainage structures and stormwater management measures are completed in accordance with the approved plans and specifications and thereafter are properly maintained so that they continue to serve their intended functions.
21.02.03 To verify compliance with the requirements of the Ordinance, the Town at any time may inspect or otherwise monitor the construction and/or maintenance of drainage structures and stormwater management measures. Inspections performed by the Town during construction will not relieve the landowner or applicant of their responsibility to install and maintain drainage facilities in accordance with the approved plan.

21.02.04 In accordance with Section 4.18, a written certification shall be submitted for all development subject to Subsection 21.01.01(B) prior to issuance of the certificate of occupancy.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05558-030922, 04-13-2022)

21.03 Drainage & Stormwater Management Performance Standards

21.03.01 All drainage structures and stormwater management measures shall be designed, constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of development activities. Specifically:

A. Offsite areas which drain to or across a site proposed for development must be accommodated in the stormwater plans for the development.
   1. The stormwater management system must be capable of conveying the existing offsite flows through or around the development such that the volume and rate of flow from the adjacent property is not altered.
   2. If offsite flows are carried in the site system, any detention ponds shall be sized to accommodate this flow.

B. Stormwater drainage facilities shall be designed to limit the discharge from the site to the rate that existed prior to development of the site.
   1. For projects that are redeveloping a developed site, the discharge will be limited to that which occurs before any new development.

C. The type and location of the discharge will be as occurred before the current development unless the discharge is to a manmade conveyance system.
   1. If the discharge is in a manmade conveyance the Town of Boone will be furnished an easement to the point that the pre-development flows are duplicated.

21.03.02 All site improvements shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

A. The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan, or

B. The retention is not substantially different in location or degree than that experienced on the development site prior to site improvements, unless such retention presents a danger to health or safety.
21.03.03 These competing goals for retention and discharge can be accomplished by designing, constructing and maintaining all stormwater management installations to the extent practicable to:

A. Avoid increases in surface runoff volume and velocity by including measures which promote the infiltration of stormwater,

B. Maximize the time of concentration of stormwater runoff, and

C. Promote the filtration and precipitation of pollutants from stormwater runoff in order to protect the water quality of the receiving watercourse.

21.03.04 The drainage system of a development site shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets where they exist.

21.03.05 All site improvements shall conform to the natural contours of the land, and without disturbance, utilize the preexisting natural and preexisting man-made drainage ways.

21.03.06 Lot boundaries within subdivisions shall be made to coincide with natural and preexisting man-made drainage ways to avoid creation of lots that can only be built upon by altering such drainage ways.

21.03.07 Stormwater shall not be diverted from one natural drainage basin into another.

21.03.08 Stormwater shall not be channeled or directed into sanitary sewers.

21.03.09 Design Storm:

A. The minimum design capacity for all storm drainage facilities and cross drainage facilities in public streets shall be the twenty-five (25) year discharge.

B. The design of drainage facilities in flood hazard areas shall be consistent with the requirements of Article 30.

C. The computation of stormwater runoff shall follow established engineering best practices. Acceptable methods of computation include, but are not limited to, those outlined in the Soil Conservation Service National Engineering Field Manual, the Rational Method, and published U.S. Geological Survey techniques for estimating stream flow. Runoff coefficients shall be based on full development of the watershed to the extent of the current zoning.

D. Stormwater detention shall be provided to ensure that the rate of discharge does not exceed the pre-development rate of discharge. In order to demonstrate this, pre and post development hydrographs will be submitted that demonstrate no increase in flow leaving the site during the twenty-five (25) year twenty-four (24) hour storm. Inflow-outflow calculations shall also be submitted for any stormwater detention ponds.

21.03.10 Stormwater pipe for either culverts or closed systems shall be constructed of either reinforced concrete, corrugated steel, or aluminized pipe in conformance with North Carolina Department of Transportation (NCDOT) Standard Specifications or high-density
polyethylene corrugated pipe with smooth interior which meets the product specification of ASHTO M294.

A. Corrugated steel pipe shall be fully bituminous coated. In lieu of fully bituminous coated galvanized pipe, aluminized pipe without a bituminous coating may be used. Pipe which carries active stream flow shall be partially paved (paved invert) fully bituminous coated galvanized pipe. In lieu of fully bituminous coated partially paved galvanized pipe, aluminized pipe which has been half bituminous coated and partially paved may be used. Connecting bands shall conform to NCDOT Standard Specifications.

B. Minimum pipe diameter shall be eighteen inches (18”) for open ended culverts and fifteen inches (15”) for closed systems and driveway culverts. Minimum pipe diameter for portions of closed systems placed outside the public right-of-way and privately maintained shall be twelve inches (12”).

C. Depth of cover shall be appropriate for the pipe material, pipe wall thickness and anticipated loading. Minimum depth of cover shall be twelve inches (12”).

D. Downsizeing of culverts within pipe systems is prohibited.

E. Storm drainage piping shall be placed in a straight alignment at uniform grade. No changes in alignment shall be allowed except at catch basins, manholes, or other junctions that provide appropriate clean out access.

F. Storm drainage structures, including inlet grates and frames, shall conform to NCDOT Standard Specifications.

G. No change in pipe material shall be allowed except at storm drainage junctions.

H. Existing stormwater conveyance infrastructure on or through any site being considered for development or redevelopment may remain in place and active, subject to the following criteria:

1. The conveyance system meets all requirements of this Article, except Subsection 21.03.10-A and the system is certified by a design professional to be properly sized with capacity to handle the applicable design storm. The design professional shall also provide a qualitative assessment of the system to include observations of visible signs of erosion, scour, corrosion, degradation, or other structural inadequacies, along with recommendations for any suggested improvements.

2. That the landowner will, at their expense, repair or replace the system or components thereof in the event that the system should fail to function at any time in the future. Any such repair or replacement shall be in accordance with all provisions of this Article.

I. The centerline of any culverts placed along a roadway shall be a minimum of ten feet (10”) from the edge of pavement or edge of unpaved travel way.
1. Due to the extreme topography or other unique features related to a specific driveway, it may not be practical to install the culvert at this location.

2. Upon demonstration of adequate cause, the permit-issuing authority may allow deviations from this requirement.

3. The applicant shall demonstrate that the proposed deviation will result in a culvert that adequately provides the drainage function and minimizes the chance that the ends of the culverts will be damaged.

21.03.11 Hydraulic Design:

A. Design capacity headwater elevations for open ended culverts shall be below the roadway shoulder or finished site grade elevation.

B. Design capacity hydraulic grade line for closed pipe systems shall be at or below the inlet grate elevation.

C. The hydraulic design of culverts and pipe systems shall take into account the effect of tail water and allow for all energy losses within the system.

D. Drainage design calculations shall be submitted demonstrating compliance with these regulations.

1. Minimum information required is a tabulation of the system which presents the type of each inlet, time of concentration, volume to the inlet, size of pipe, length of pipe, pipe inverts at both the high and low end, and hydraulic grade line for each pipe section.

21.03.12 End Treatments:

A. Headwalls, flared end sections, or other adequate slope protection shall be provided at culvert ends.

B. Storm drain outlets shall be protected against erosion by providing energy dissipaters and/or other adequate channel lining.

21.03.13 Open Channels and Ditches:

A. Design capacities for open channels and ditches shall be determined by the Manning Equation.

1. The value of the roughness coefficient shall be appropriate for the material encountered and the condition of the channel.

B. All ditch bottoms and side slopes shall be stabilized with pavement, stone, or vegetative linings adequate to withstand design velocities.

1. Stone rubble linings shall be placed on filters of washed gravel and/or geotextile fabric.
**21.03.14** NCDOT Standard concrete curb or combination curb and gutter is required for the direction and control of stormwater in all parking lots. Alternate effective control measures which are consistent with Subsection 21.03.03 will be considered for approval on a case by case basis.

**21.03.15** Use of drainage swales rather than curb and gutter with storm sewers is provided for in Article 23.

**21.03.16** Building construction is prohibited from being horizontally closer than:

A. Ten feet (10’), from the centerline of drainage culverts less than forty-eight inches (48”) in diameter, or

B. Ten feet (10’) plus one half the culvert diameter, from the centerline of drainage culverts greater than forty-eight inches (48”) in diameter.

This restriction shall not apply to building roof, foundation drains, or incidental yard drains which originate closer than ten feet (10’) to the building and convey stormwater immediately away from the building.

**21.03.17** Culverts or pipe systems which convey stormwater to or from existing enclosed drainage facilities shall be connected to the existing facility with an enclosed junction.

A. Connections to existing facilities in public rights-of-way shall require the execution of an encroachment agreement with the Town for Town streets or the NCDOT for state-maintained roads.

**21.03.18** Where impoundment or detention facilities are included in the design of stormwater management installations, every effort shall be made to minimize the degree of maintenance required to ensure the continuing effectiveness of the facility.

A. Maintenance of stormwater impoundment or detention facilities shall be the responsibility of the landowner.

B. Where impoundment or detention facilities are to be located in common areas, the applicant shall record with the Watauga County Register of Deeds an instrument setting forth provisions for the establishment of a property owners association for the purpose of assessing dues for maintenance of the facilities by purchasers of property which will be served by the facilities within the development. The applicant shall maintain these facilities until such time that the property owner’s association assumes responsibility for maintenance.

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 22 UTILITIES

22.01 Utility Ownership and Easement Rights

22.01.01 In any case in which an applicant installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the applicant, the applicant shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

22.02 Lots Served by Town Owned Water or Sewer

22.02.01 Lots to be served by Town owned water or sewer shall meet the requirements of the Town Code.

22.03 Sewage Disposal Facilities Required

22.03.01 Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

22.04 Determining Compliance with Sewage Disposal Facilities Requirements

22.04.01 Primary responsibility for determining whether a proposed development will comply with the standard set forth in Section 22.03 often lies with an agency other than the Town, and the applicant must comply with the detailed standards and specifications of such other agency.

22.04.02 Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing a permit under this Ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with Section 22.03.
A. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

22.05 Water Supply System Required

22.05.01 Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

22.06 Determining Compliance with Water Supply System Requirements

22.06.01 Primary responsibility for determining whether a proposed development will comply with the standard set forth in Section 22.05 often lies with an agency other than the Town, and the applicant must comply with the detailed standards and specifications of such other agency.

22.06.02 Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this Ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance with Section 22.05.

A. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

22.07 Electric Power

22.07.01 Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision.

A. For all new subdivisions the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

22.07.02 If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.

22.08 Telephone Service

22.08.01 Every principal use and every lot within a subdivision shall have available to it a telephone service adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

A. If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such telephone line
(as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.

B. If the use is a subdivision, or is not located on a lot served by an existing telephone line, or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

22.09 Underground Utilities

22.09.01 All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in all developments shall be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the Town’s standard specifications for street design and construction.

A. Power Lines Exemption. – The regulation shall not require a developer or builder to bury power lines meeting all of the following criteria:

1. The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.

2. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(Ord. PL04727-050721, 07-01-2021)

22.10 Utilities to Be Consistent with Internal and External Development

22.10.01 Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

23.10.02 All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within a development.

22.11 As – Built Drawings Required

22.11.01 Whenever an applicant installs or causes to be installed any utility line in any public right-of-way, the applicant shall, as soon as practicable, in no case more than 180 days after installation is complete, and before acceptance of any water, sewer or other utility line, furnish the Town with a copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with
this requirement shall be a condition of the continued validity of the permit authorizing such development.

22.12 Fire Hydrants

22.12.01 Every development that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.

22.13 Solid Waste and Recycling Containers

22.13.01 Solid Waste Containers

A. Every development must provide solid waste areas and solid waste containers in compliance with the requirements of Section 91 of the Town Code.

B. All solid waste containers and solid waste container areas should be located as to minimize any negative impact on persons occupying the development site, neighboring properties, and public rights-of-way.

C. All solid waste container areas should be constructed according to specifications established by the Public Works Department to allow for collection without damage to the development site and the collection vehicle.

D. All solid waste container locations should be screened in accordance with the requirements of Subsection 31.06.05.

22.13.02 Recycling Containers

A. Multi-Family dwellings and any other development which is required to recycle should provide an area for the placement of recycling containers designed pursuant to Section 91 of the Town Code.

B. All recycling containers should be located as to minimize any negative impact on persons occupying the development site, neighboring properties, and public rights-of-way.

C. All recycling container areas should be constructed according to specifications established by the Department of Public Works to allow for collection without damages to the development site and the collection vehicle.

D. All recycling container areas should be screened in accordance with the requirements of Section 31.06.05.

22.13.03 Solid Waste and Recycling Enclosure
ARTICLE 23  DRIVeways, STREETs AND SIDEWALKs

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<td>23.10</td>
<td>Bridges</td>
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23.01  Street Classification

23.01.01  Streets shall be classified as provided in Subsection 23.01.02.

A. The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day.

B. The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive.

C. Whenever a street continues an existing street that formerly or it is expected that a street will be continued at some future time, the classification of the street will be based upon the street in its entirety.

23.01.02  The classification of streets shall be as follows:

A. **Minor**: A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine (9) dwelling units and is expected to or does handle up to seventy-five (75) trips per day.

B. **Local**: A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten (10) but no more than twenty-five (25) dwelling units and is expected to or does handle between seventy-five (75) and two hundred (200) trips per day.

C. **Subcollector**: A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six (26) but not more than one hundred (100) dwelling units and is expected to or does handle between two hundred (200) and eight hundred (800) trips per day.

D. **Collector**: A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to
abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred (100) dwelling units and is designed to be used or is used to carry more than eight hundred (800) trips per day.

E. *Arterial:* A major street in the Town’s street system that serves as an avenue for the circulation of traffic into, out, or around the Town and carries high volumes of traffic.

23.01.03 Private streets will be permitted to serve as access within residential developments, however, the dedication of public streets and other rights-of-way or easements may be required if they are indicated in official plans adopted by the Town Council.

23.01.04 Public streets and or other rights-of-way or easements of public access over private streets will be required where the North Carolina Department of Transportation, or the Town of Boone Public Works Department determines that such access is necessary for promotion of public health, safety and welfare.

23.01.05 Private streets shall meet the dimensional standards set forth in Section 23.05.

23.01.06 Private streets may be utilized under the following conditions:

A. The applicant shall record with the Watauga County Register of Deeds an instrument setting forth provisions for the establishment of a property owners association for the purpose of assessing dues for maintenance of the roads by the purchasers of the property which will be served by the roads within the development.

B. The applicant shall maintain the road at least until such time that the property owner’s association assumes maintenance.

C. A subdivision disclosure statement is provided as required by G.S. 136-102.6, which fully discloses the status, whether public or private, of the road upon which the lots front.

23.01.07 The area within the street right-of-way may not be used to satisfy lot area requirements.

23.02 Access to Lots

23.02.01 Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

23.03 Driveways

23.03.01 A driveway may provide access to no more than two (2) lots.

A. When a single driveway provides access to more than one lot, easement rights in favor of each of the lots that rely upon the driveway for access shall be provided. These rights may be by means of a document recorded in the public records of Watauga County or by means of a notation on the plat of the subdivision that is recorded.

23.03.02 All driveway entrances and other openings onto streets within the Town’s planning jurisdiction shall be constructed so that:
A. Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets, and

B. Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

23.03.03 All driveways shall conform to the Boone Town Code, Chapter 98, or the North Carolina Department of Transportation Manual on Driveway Entrance Requirements, whichever is most restrictive.

23.03.04 The maximum grade at any one point on a driveway used for a fire access roadway shall not exceed ten percent (10%) at any one point on the driveway unless approved by the Chief of the Boone Fire Department.

(Ord. 20160028, 05-19-2016)

23.04 Relationship of Streets to Topography

23.04.01 Street grades shall conform as closely as practicable to the original topography.

23.04.02 The maximum grade of any street used for a fire access roadway shall not exceed ten percent (10%) at any one point unless approved by the Chief of the Boone Fire Department.

(Ord. 20160028, 05-19-2016)

23.05 Street Width and Drainage Requirements

23.05.01 Streets shall be constructed to meet the standards set forth in the table below.

<table>
<thead>
<tr>
<th>Street Type</th>
<th>Minimum Right-of-Way Width (feet)</th>
<th>Minimum Pavement Width (feet)</th>
<th>Shoulder &amp; Swale Allowed</th>
<th>Curb &amp; Gutter Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor</td>
<td>45</td>
<td>18</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Local</td>
<td>45</td>
<td>18</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Private</td>
<td>30</td>
<td>18</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Subcollector</td>
<td>50</td>
<td>20</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Collector</td>
<td>50</td>
<td>20</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

23.05.02 Shoulders and drainage swales or curb and gutters may be utilized as allowed in the table above.

A. Shoulders and drainage swales shall be a minimum of four feet (4').

B. Standard ninety-degree (90°) curb or roll type curb may be permitted along minor and local streets within residential subdivisions.

C. Street pavement width:

1. Shall be measured from curb face to curb face where ninety-degree (90°) curb is used; and
2. Shall be measured from the center of the curb to the center of the curb where roll type curb is used; and
3. Shall be measured from edge of pavement to edge of pavement where shoulder and swale are used.

23.06 General Layout of Streets

23.06.01 Street systems shall be coordinated with existing, proposed, and anticipated streets as provided in this Section.

23.06.02 Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

23.06.03 Subcollector, local, and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons.

A. Connections shall not be permitted where the effect would be to encourage the use of such streets by substantial cut-through traffic.

23.06.04 Whenever connections to anticipated or proposed surrounding streets are required by this Section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connections to the anticipated or proposed street is expected.

A. The permit-issuing authority may require temporary turnarounds to be constructed at the end of such the streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles.

23.06.05 Subcollector, local and minor residential streets shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

23.06.06 Cul-de-sacs and loop streets are encouraged so that through traffic on residential streets is minimized.

23.06.07 All dead-end streets shall be developed as cul-de-sacs in accordance with the standards set forth in this Article. Except where no other practicable alternative is available, such streets may not extend more than 550 feet (measured to the center of the turnaround).

23.06.08 The right-of-way of a cul-de-sac shall have a radius of fifty feet (50’). The radius of the paved portion of the turnaround (measured to the outer edge of the pavement) shall be thirty-five feet (35’).

A. Alternative cul-de-sac designs published in NCDOT’s “Subdivision Roads – Minimum Construction Standards” will be considered by the permit-issuing authority only in situations where, because of the physical characteristics of the site, the construction of a symmetrical "bulb" end design may not be in the public’s best interest.
23.06.09 Half streets shall not be permitted except where such streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this Ordinance.

23.06.10 Streets shall be laid out so that residential blocks do not exceed 1,800 feet, unless no other practicable alternative is available.

23.06.11 Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than sixty degrees (60°).

23.06.12 Not more than two streets shall intersect at any one point, unless the Public Works Director certifies to the permit-issuing authority that such an intersection can be constructed with no extraordinary danger to public safety.

23.06.13 Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street.

A. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall not be less than 150 feet.

23.07 Construction Standards and Specifications

23.07.01 All streets shall be constructed in accordance with the design construction standards promulgated by the North Carolina Department of Transportation (NCDOT), unless a more restrictive standard is herein, in which case the more restrictive standard shall apply.

23.08 Pedestrian Circulation and Sidewalk Requirements

23.08.01 When Sidewalks Must Be Constructed: Sidewalks shall be required for:

A. All new major subdivisions;
B. All new multi-family residential development;
C. All new office, institutional, commercial and industrial development;

23.08.02 An easement for the following items shall be conveyed to the Town where required due to insufficient right-of-way:

A. Public sidewalks; and
B. Any greenway or alternative method of pedestrian circulation as further described in Subsection 23.08.04; and
C. In the event that circumstances may change over time, any area as to which the applicant has been permitted to pay a fee-in-lieu rather than install required sidewalks as further described in Subsection 23.08.05.

23.08.03 Design Requirements.

A. Sidewalks shall be required along the entire length of any portions of public streets which abut the development parcel.
B. Sidewalks will be constructed in accordance with the Roadway & Sidewalk Program Handbook for the Town of Boone.

1. Any deviation from the requirements must be approved by the Administrator.
   a. Deviations may only be allowed when strict compliance with the Roadway & Sidewalk Program Handbook is not reasonably possible due to topography or other site conditions beyond the applicant’s control and not of the applicant’s making.

C. Whenever curb and gutter construction is used on public streets, wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Sidewalks, wheelchair ramps, and depressed curbs shall be constructed in accordance with the published standards of the North Carolina Building Code, Volume I-C, Accessibility.

D. In all multi-family residential development, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational facilities.

23.08.04 Alternative Methods for Pedestrian Circulation:

A. When, with respect to a development parcel, a public greenway or other alternative walkway (for purposes of this section, “greenway”) has been identified in a duly-adopted government alternative transportation plan or other duly-adopted plan, or where a proposed public greenway will connect to an existing greenway or to a planned greenway that is expected with reasonable certainty to be constructed within the next five years or that is approved and funded by the North Carolina Department of Transportation, the following shall be required as applicable:

1. The permit-issuing authority may allow or require the installation of a public greenway instead of sidewalk. A request to install a public greenway shall be supported by a site plan depicting the location and dimensions of the greenway, a description of the method of construction, and any other information deemed necessary by the Administrator.

2. If a public greenway is to be constructed upon the development parcel at the expense of the town or another third party, instead of constructing the greenway the developer shall pay fee-in-lieu of construction as provided at 23.08.05(D).

3. If a public greenway is already in place on the development parcel, the developer shall not be required to install the section of sidewalk that otherwise would be required to be installed along the same boundary or boundaries of the parcel.

23.08.05 Fee-in-Lieu of Constructing Sidewalks

A. An applicant may seek approval to pay a fee in lieu of construction as specified herein.

B. Fee-in-lieu may never be permitted on a Primary Sidewalk Priority Route where there is contiguous sidewalk infrastructure in place.
C. Except as specified in the immediately preceding subsection (B), the applicant may, in lieu of constructing a particular section of sidewalk, deposit funds into a sidewalk fund maintained by the Town of Boone in any one of the following limited circumstances:

1. The Administrator finds, based upon clear and convincing evidence, that the building of a particular section of sidewalk is undesirable as the result of one or more of the following site-specific factors: (i) a steep slope or other site-specific factors making the use of that section of sidewalk is not reasonably possible or dangerous to the public; or (ii) the certainty or likelihood of damage resulting to sensitive habitat, natural watercourses, or mature or historic trees, where such damage cannot be mitigated by the use of an alternative path, which is not justified by a countervailing public interest in the addition of that particular area of sidewalk. In addition, the Administrator must find that there is no reasonable alternative manner of building that particular section of sidewalk (such as changing its location or using a different construction method) that would avoid the problems posed by the identified site-specific factors.

2. The applicant is unable to secure permission from NCDOT to install sidewalks in compliance with the Town’s requirements.

3. The property being developed is a satellite parcel greater than one (1) mile from the Town’s main corporate limits. However, this exemption shall not apply if any contiguous sidewalk infrastructure exists along the public street.

D. Payment:

1. The applicant shall pay the fee-in-lieu prior to the issuance of a Certificate of Occupancy. The fee shall be a fixed amount per linear foot as per the Town’s currently adopted fee schedule. The applicable fee shall be determined by the rate in effect on the date the fee is paid.

2. All funds collected in lieu of construction shall be in addition to all other sidewalk funding and shall be placed in a separate account to be used only for costs associated with new sidewalk construction by the Town.

23.08.06 Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the applicant may be required to reserve an unobstructed easement of at least ten feet (10’) in width to provide such access.

(Ord. PL02634-060519, 11-21-2019)

23.09 Street Names and House Numbers

23.09.01 Street names shall be assigned by the applicant subject to the approval of the Town.
1. Proposed streets that are obviously in alignment with existing streets shall be given the same name.

2. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the Town’s planning jurisdiction, regardless of the use of different suffixes.

23.09.02 Building numbers shall be assigned by the Town.

23.10 Bridges

23.10.01 All bridges shall be constructed in accordance with the standards and specifications of the North Carolina Department of Transportation, except that bridges on roads not intended for public dedication may be approved if designed by a licensed engineer.
ARTICLE 24   PARKING

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24.10   Motorcycle Parking ...................................................................................... 24-20

24.01   Parking Spaces Required

24.01.01 All developments in all zoning districts shall initially and continually provide a sufficient number of permanent off-street motor vehicle and bicycle parking spaces, in compliance with this Article, to accommodate the residents, employees, customers, visitors and others who may spend time at that development.

24.01.02 Unless otherwise expressly stated, every development shall provide the parking spaces required per Table 24.01 below and the other provisions of this Article. Parking spaces may be provided in a parking structure. For uses not covered in Table 24.01, the parking requirements shall be as determined by the Administrator as set forth at subsection 24.01.11 below.

24.01.03 Unless otherwise expressly stated, these requirements apply as follows:

A. New Construction. Any new buildings or structures must provide parking as required by this Article at such times as a Certificate of Occupancy or other zoning Certificate required for use or occupancy is issued.

B. Additions & Renovations.

1. A building or site may be renovated or repaired without providing additional parking provided that there is no increase in gross floor area or improved site area, subject to the provisions of subsection I below.

2. When an existing building, use and/or occupancy is enlarged or expanded to include additional dwelling units, floor area, seating capacity, or other units of measurement used for establishing parking and loading requirements, parking is required for the enlarged or expanded building area, use or occupancy only; provided, however, that if the enlarged area, use or occupancy would require an increase of less than ten (10) percent in the required number of parking spaces or fewer than four (4) spaces, no additional motor vehicle parking shall be required.
C. Change of Use or Occupancy.

1. Upon conversion from one type of use or occupancy to another, or any change in the manner in which the use is constructed that would result in additional parking requirements, parking is required for the new use or occupancy; provided, however, that if a change in use or occupancy would require an increase of less than ten (10) percent in the required number of parking spaces or fewer than four (4) spaces, no additional motor vehicle parking shall be required.

2. Notwithstanding the foregoing provision, when there is a change in use of the structure(s) on an existing parcel that does not involve any enlargement of a structure is proposed for such lot, and the parking requirements of Section 24.01 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the applicant need only comply with the requirements of Section 24.01 to the extent that (i) parking space is practicably available on the lot where the development is located, and (ii) satellite parking space is reasonably available. It shall be a continuing condition of the permit authorizing development on such lot that the applicant obtain satellite parking when it does become available.

Table 24.01 Required Parking by Use:

<table>
<thead>
<tr>
<th>Residential Land Uses</th>
<th>Minimum Parking Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1 Secondary Suite</td>
<td></td>
</tr>
<tr>
<td>A-3 Accessory Dwelling Unit</td>
<td></td>
</tr>
<tr>
<td>T-1 Temporary Family health care structure</td>
<td>1 space</td>
</tr>
<tr>
<td>T-2 Temporary Construction or Repair Dwelling</td>
<td></td>
</tr>
<tr>
<td>T-3 Temporary Construction Trailer</td>
<td></td>
</tr>
<tr>
<td>1.01 Single-Family Dwelling</td>
<td>2 spaces</td>
</tr>
<tr>
<td>1.02 Manufactured Home “Class A”</td>
<td></td>
</tr>
<tr>
<td>1.03 Manufactured Home “Class B”</td>
<td></td>
</tr>
<tr>
<td>1.06 Duplex (each unit)</td>
<td></td>
</tr>
<tr>
<td>1.07 Duplex (each unit)</td>
<td></td>
</tr>
<tr>
<td>1.08-1.10 Townhouse (each unit)</td>
<td></td>
</tr>
<tr>
<td>2.01 Family Care Home</td>
<td></td>
</tr>
<tr>
<td>A-21 Caretaker’s Residence</td>
<td></td>
</tr>
<tr>
<td>1.05 Manufactured Home Park</td>
<td>2 spaces /Manufactured Home plus,</td>
</tr>
<tr>
<td></td>
<td>1 visitor parking space/10 Manufactured Homes,</td>
</tr>
<tr>
<td></td>
<td>2 spaces for Manufactured Home Park Employees</td>
</tr>
<tr>
<td>1.11-1.16 Multi-Family</td>
<td>0.7 space per bedroom</td>
</tr>
<tr>
<td>1.17 Adult Living Community</td>
<td>1 space/ unit plus</td>
</tr>
<tr>
<td></td>
<td>.5 visitors parking space/dwelling unit</td>
</tr>
<tr>
<td>3.01 Home for Survivors of Domestic Violence</td>
<td>3 Spaces</td>
</tr>
</tbody>
</table>
### Residential Land Uses

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Minimum Parking Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.06 Vacation Rental</td>
<td></td>
</tr>
<tr>
<td>2.02 Family Care Institutions</td>
<td></td>
</tr>
<tr>
<td>2.03-2.04 Halfway House</td>
<td></td>
</tr>
<tr>
<td>2.05 Residential Care Facility</td>
<td></td>
</tr>
<tr>
<td>2.06 Fraternity or Sorority Dwelling</td>
<td></td>
</tr>
<tr>
<td>3.02-3.03 Shelter for Homeless</td>
<td></td>
</tr>
<tr>
<td>2.07 Boarding Housing</td>
<td>1 space/4 1 space/4 beds</td>
</tr>
<tr>
<td>3.04-3.05 Bed and Breakfast</td>
<td>Residential care facilities-plus one space for every two Staff members</td>
</tr>
<tr>
<td>3.08 Motel</td>
<td></td>
</tr>
<tr>
<td>3.09-3.11 Hotel</td>
<td>1.25 space/rentable room, plus 10 per 1000 ft(^2) of restaurant/lounge, plus 20 per 1000 ft(^2) per meeting/banquet room</td>
</tr>
</tbody>
</table>

### Commercial Land Uses

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Maximum Parking Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>16.01 Mini-Storage</td>
<td>1 space/1000 ft(^2) GFA</td>
</tr>
<tr>
<td>A-10 Produce Stand</td>
<td></td>
</tr>
<tr>
<td>4.06 Post Office, Distribution</td>
<td></td>
</tr>
<tr>
<td>14.0 Manufacturing</td>
<td></td>
</tr>
<tr>
<td>16.02 Outdoor Storage</td>
<td></td>
</tr>
<tr>
<td>16.03 Warehouse</td>
<td>2 spaces/1000 ft(^2) GFA</td>
</tr>
<tr>
<td>16.04 Fuel Storage Facility</td>
<td></td>
</tr>
<tr>
<td>17.02 &amp; 17.03 Trucking or Freight Terminal</td>
<td></td>
</tr>
<tr>
<td>A-24 Chemical Storage Facility</td>
<td></td>
</tr>
<tr>
<td>10.0 Daycare</td>
<td>3 spaces/1000 ft(^3) GFA</td>
</tr>
<tr>
<td>11.34 Gas Station</td>
<td></td>
</tr>
<tr>
<td>11.01 Kennel</td>
<td></td>
</tr>
<tr>
<td>11.02-11.03 Veterinary Office/Hospital</td>
<td></td>
</tr>
<tr>
<td>11.04 &amp; 11.05 Financial Institution</td>
<td></td>
</tr>
<tr>
<td>11.13 ABC Store</td>
<td></td>
</tr>
<tr>
<td>11.14 – 11.15 Personal Service Establishment</td>
<td></td>
</tr>
<tr>
<td>11.16-11.18 Retail Store</td>
<td></td>
</tr>
<tr>
<td>11.20 – 11.21 Business or Professional Office</td>
<td></td>
</tr>
<tr>
<td>11.22-11.25 Medical Office</td>
<td></td>
</tr>
<tr>
<td>11.28 Open Air Market</td>
<td></td>
</tr>
<tr>
<td>11.35 Car Wash</td>
<td></td>
</tr>
<tr>
<td>12.0 Recreation</td>
<td></td>
</tr>
<tr>
<td>18.0 Waste Related Uses</td>
<td></td>
</tr>
<tr>
<td>19.0 Particular Activities which Pose Particular...</td>
<td></td>
</tr>
<tr>
<td>11.06 – 11.11 Restaurant</td>
<td>12 spaces/1000 ft(^2) GFA</td>
</tr>
<tr>
<td>4.03 Funeral Home Establishment</td>
<td>12 spaces/1000 ft(^2) of visitation area, plus one space per every two seats in the chapel.</td>
</tr>
<tr>
<td>4.05 Post Office</td>
<td>1 space per employee plus 5 spaces/1000 ft(^2) GFA</td>
</tr>
</tbody>
</table>

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24-3
### Table: Commercial Land Uses and Maximum Parking Allowed

<table>
<thead>
<tr>
<th>Commercial Land Uses</th>
<th>Maximum Parking Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.0 Non-Government Utility Facility</td>
<td>3 spaces per facility</td>
</tr>
<tr>
<td>7.0 Telecommunication</td>
<td>1 space per service provider</td>
</tr>
<tr>
<td>8.0 Assembly</td>
<td>1 space for every two seats in sanctuaries/chapels plus 3 spaces per 1000 ft² for daycares</td>
</tr>
<tr>
<td>9.0 Education</td>
<td>5 spaces per classroom</td>
</tr>
<tr>
<td>11.29 Vehicle Sales and Service</td>
<td>3 spaces/1000 ft² GFA, plus 2 spaces/1000 ft² of outdoor display, plus 2 per service bay</td>
</tr>
<tr>
<td>11.30 Equipment Sales and Service</td>
<td></td>
</tr>
<tr>
<td>11.31 Moped Sales and Service</td>
<td></td>
</tr>
<tr>
<td>11.32 Boat or Marine Craft Sales and Service</td>
<td></td>
</tr>
<tr>
<td>1.05 Manufactured Home Park</td>
<td></td>
</tr>
<tr>
<td>4.01 Airport/Land Strip</td>
<td></td>
</tr>
<tr>
<td>4.02 Heliport</td>
<td></td>
</tr>
<tr>
<td>4.04 Cemetery</td>
<td></td>
</tr>
<tr>
<td>4.07 Animal Sanctuary</td>
<td></td>
</tr>
<tr>
<td>5.0 Government Uses</td>
<td></td>
</tr>
<tr>
<td>13.0 Agricultural Uses</td>
<td></td>
</tr>
<tr>
<td>17.01 Passenger Terminals</td>
<td></td>
</tr>
<tr>
<td>A-19 Helistop</td>
<td>As determined by the Administrator</td>
</tr>
<tr>
<td>T-8 Temporary Non-Fixed Site Event Venue</td>
<td></td>
</tr>
</tbody>
</table>

#### 24.01.05 Exceptions in the B1 Downtown Core District
Development in the B1 Downtown Core District is not required to meet the requirements of this Article, and will be construed as conforming to the requirements of this Article; provided, however, that (i) this exception does not apply to multi-family use(s) or Use 3.09 Hotel, Small, and (ii) this exception applies to motor vehicle parking and loading/unloading areas, and does not apply with respect to bicycle parking.

#### 24.01.05 Maximum Parking; Excess Parking

**A.** The maximum allowed parking spaces for a use subject only to a minimum per Table 24.01 shall be 120% of the required minimum, provided that the applicant may establish the need for a higher maximum as provided at subsection 24.01.09 below.

**B.** An applicant may be allowed additional parking in excess of the maximum established per subsection (A) above in the following instances:

1. The applicant is proposing to develop structured parking and is proposing extra spaces that will be available for public use and/or for shared or satellite parking as defined in this Article.
2. In the R3 and B3 districts, an applicant may be allowed additional parking spaces in surface parking lots in excess of the maximum established per subsection (A) above in the following instances:
   i. The additional parking spaces are to be used for shared parking or satellite parking, as defined in this Article, or for public use, and
   ii. The applicant provides double the landscape buffer otherwise required under this Ordinance.

24.01.06 Except as otherwise provided herein, all required parking shall be located on the same parcel as the use to be served.

24.01.07 When more than one (1) use is provided on any development or building lot, the parking requirements enumerated herein shall be the sum total of the parking requirements of the various uses, except as otherwise provided herein.

24.01.08 The number of parking spaces provided at the time of approval of the development may not be subsequently reduced or increased without the written approval of the permit-issuing authority upon proper written application.

24.01.09 Minimums and maximums may be adjusted by the permit-issuing authority when the applicant provides reliable and persuasive evidence (which may include but is not necessarily limited to a parking demand analysis prepared by a qualified engineer) demonstrating that the minimum parking required per the provisions of this Article would result in excess and unnecessary parking for the development, or that maximum parking allowed per the provisions of this Article is inadequate to meet the parking needed for the development.

A. Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth herein when it finds that:
   1. A residential development is irrevocably oriented toward the elderly;
   2. A business is primarily oriented to walk-in trade.

B. Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth herein, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

24.01.10 When a use is proposed which is not listed in Table 24.01 or is listed “To Be Determined”, the permit-issuing authority shall determine the number of spaces required or permitted, as relevant, by referencing the most similar use listed in Subsection 24.01.03 and such other factors as are deemed relevant, including the particular parking demand and trip generation characteristics of the proposed use.

A. If the permit-issuing authority concludes that no reasonably similar use is listed, it may require the applicant to a parking demand analysis prepared by a qualified engineer or
such other evidence as it reasonably deems necessary and/or adequate to determine the number of needed or permitted spaces for the proposed use.

B. A parking demand analysis shall include, at a minimum:
   i. Estimates of parking demand based on reliable data collected from comparable uses or based on external data from credible research organizations; and
   ii. Be based on developments and/or uses that are comparable in density, intensity, bulk, scale, type of activity and location; and
   iii. Studies must document the source of all data used to develop the recommended requirements; and
   iv. The submitted study must include all source materials and data logs used to develop the recommendation as exhibits to the recommendation; and
   v. The submitted demand study must include an executive summary that succinctly outlines the methodology and recommendation.

24.01.11 Allowed Reductions in Parking Requirements for Multi-Family Dwellings

A. The minimum parking required for multi-family dwellings may be reduced for each of the following by the factor indicated, with a maximum reduction of 15%:

   1. If the development is located within ½ mile of the Appalachian State University main campus or the Appalachian Health Sciences Building, the minimum parking may be reduced by 10%.

   2. If the development is served by a public transit route, with a transit shelter or bus pull-off existing or to be constructed within ¼ mile of the development, the minimum parking may be reduced by 10%; provided, that the transit route has capacity to serve the development and that such is demonstrated by the applicant to the reasonable satisfaction of the Administrator. To be entitled to this reduction for a route and/or transit stop that is not currently in existence, the applicant must provide written documentation establishing to the satisfaction of the Administrator that the transit authority will establish the route and/or facility prior to or simultaneously with first occupancy of the development.

   3. For every six (6) bicycle parking spaces in excess of the short- or long-term bicycle parking space requirements, the motor vehicle parking requirement may be reduced by one (1) space.

24.01.11 For Residential Uses 1.01 through 1.10, driveways may be used to satisfy minimum on-site parking requirements, provided that sufficient space is available to prevent vehicle encroachment onto sidewalk and/or into adjoining vehicular travel lanes.

24.02 Parking Space Dimensions and Required Widths of Parking Area Aisles and Driveways

24.02.01 Subject to Subsections 24.02.02, 24.02.03 and 24.02.06, each parking space shall contain a rectangular area at least seventeen- and one-half feet long (17.5’) and nine feet (9’) wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this Section.

24.02.02 In parking areas containing ten (10) or more parking spaces, a rectangular area of only seven- and one-half feet (7.5’) in width by fifteen feet (15’) in length, may be conspicuously designated as reserved for compact cars in the following situations:

A. Multi-family uses may provide up to fifty percent (50%) of the parking spaces for compact cars.

B. All other uses may provide up to thirty-five percent (35%) of the parking spaces for compact cars.

C. Compact spaces must be signed as “compact”.

24.02.03 Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-three feet (23’) by nine- and one-half feet (9.5’).

24.02.04 Parking area aisle widths shall conform to the Table 24.02 Geometric Design Standards for Parking Table, which varies the width requirement according to the angle of parking.

24.02.05 Driveways shall not be less than eleven feet (11’) in width for one-way traffic and eighteen feet (18’) in width for two-way traffic, except that eleven feet (11’) wide driveways are permissible for two-way traffic when:

A. The driveway is no longer than fifty feet (50’), and

B. The driveway provides access to not more than six (6) spaces, and

C. Sufficient turning space is provided so that vehicles need not back into a public street.

Table 24.02 Geometric Design Standards for Parking

<table>
<thead>
<tr>
<th>Parking Angle (degrees)</th>
<th>Stall Width (feet)*</th>
<th>Stall Depth (to Curb) (feet)</th>
<th>Aisle Width (feet)</th>
<th>Stall Width Parallel to Aisle (feet)</th>
<th>Module Width (feet)</th>
<th>Bumper Overhang (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>9.5</td>
<td>N/A</td>
<td>12.0</td>
<td>23.0</td>
<td>31.0</td>
<td>N/A</td>
</tr>
<tr>
<td>45</td>
<td>9.0</td>
<td>17.5</td>
<td>12.0</td>
<td>12.7</td>
<td>47.2</td>
<td>2.0</td>
</tr>
<tr>
<td>60</td>
<td>9.0</td>
<td>19.0</td>
<td>16.0</td>
<td>10.4</td>
<td>54.0</td>
<td>2.5</td>
</tr>
<tr>
<td>75</td>
<td>9.0</td>
<td>19.5</td>
<td>23.0</td>
<td>9.3</td>
<td>62.0</td>
<td>2.5</td>
</tr>
<tr>
<td>90</td>
<td>9.0</td>
<td>18.0</td>
<td>24.0</td>
<td>9.0</td>
<td>60.0</td>
<td>3.0</td>
</tr>
</tbody>
</table>

*Note: Stall width shall be measured perpendicular to the vehicle not parallel to the aisle.
Town of Boone
Unified Development Ordinance
Article 24 Parking

Geometric Design for Compact Automobiles

<table>
<thead>
<tr>
<th>Parking Angle (degrees)</th>
<th>Multi-Family Stall Width (Feet)*</th>
<th>Other Uses Stall Width (Feet)</th>
<th>Stall Depth (to Curb) (feet)</th>
<th>Aisle Width (feet)</th>
<th>Stall Width (Parallel to Aisle) (feet)</th>
<th>Module Width (feet)</th>
<th>Bumper Overhang (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>8.0</td>
<td>8.0</td>
<td>N/A</td>
<td>11.0</td>
<td>1.0</td>
<td>27.0</td>
<td>N/A</td>
</tr>
<tr>
<td>45</td>
<td>7.5</td>
<td>8.0</td>
<td>16.0</td>
<td>11.0</td>
<td>10.5</td>
<td>43.0</td>
<td>2.0</td>
</tr>
<tr>
<td>60</td>
<td>7.5</td>
<td>8.0</td>
<td>16.7</td>
<td>14.0</td>
<td>8.7</td>
<td>47.4</td>
<td>2.3</td>
</tr>
<tr>
<td>75</td>
<td>7.5</td>
<td>8.0</td>
<td>16.3</td>
<td>17.4</td>
<td>7.8</td>
<td>50.0</td>
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<tr>
<td>90</td>
<td>7.5</td>
<td>8.0</td>
<td>15.0</td>
<td>20.0</td>
<td>7.5</td>
<td>50.0</td>
<td>2.5</td>
</tr>
</tbody>
</table>

*Note: Stall width shall be measured perpendicular to the vehicle not parallel to the aisle.

(Ord. PL00258-020917, 04-20-2017)

24.03 General Design Requirements

24.03.01 Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing into a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, but a design requiring backing onto arterial streets is to be avoided unless there is no reasonable alternative.

24.03.02 Vehicle accommodation areas of all developments shall be designed so sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

24.03.03 Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

24.03.04 Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

24.03.05 All vehicle accommodation areas shall designate parking space for handicapped persons in accordance with the state Building Code.

24.03.06 Location of Residential Parking: Parking outside a substantially enclosed structure of more than four (4) motor vehicles between the front building line of the principal building and the street is prohibited on any lot used for purposes that fall within the following principal use classifications: 1.01, 1.02, 1.03, 1.04, 1.05, 1.06.

24.03.07 Vehicle accommodation areas shall be designed to minimize breaks in the pedestrian environment along the public street and create safe and comfortable passage for pedestrians. Curb cuts shall be minimized in width and number.

24.03.08 To the extent such can be reasonably avoided, property located at a street intersection shall not have parking, loading, or service areas within 25’ of a corner.
24.03.09 Uninterrupted areas of parking lot shall be limited to 36 spaces. Parking lots with more than 36 spaces shall be broken by landscape features, which can include natural features designed to handle storm water runoff.

24.03.10 Multiple parking lots serving a non-residential or multi-family development should be interconnected where reasonably possible.

24.03.11 Except for single- or two-family dwellings and excluding vehicle accommodation areas designed for two (2) vehicles or less, all vehicle accommodation areas shall be surfaced with a bituminous paving or NCDOT standard ABC stone. ABC stone may not be used on vehicle accommodation areas with slopes greater than five percent (5%).

24.03.12 Parking spaces in areas surfaced with bituminous paving shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced with NCDOT standard ABC stone shall be demarcated whenever practicable.

24.03.13 Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicular accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

24.03.14 Use of pavement or asphalt sealant, coating or like product (hereafter referred to as “sealant”).

A. Any sealant may only be used in conformity with its manufacturer’s specifications and is further subject to the following requirements:

1. No person may apply a sealant nor authorize its application without first obtaining a zoning permit from the Administrator. As part of the permit application, the applicant must disclose the date the sealant will be applied, the location of the area to which the sealant will be applied, the type of sealant which will be applied and such other information as the Administrator shall request. The Administrator may charge appropriate fees to defray the costs of inspections needed to verify compliance with this Section.

2. A sealant may not be applied unless the pavement and air temperatures at the location of the application, at all times during application and for at least forty-eight hours thereafter, are and are predicted to be at least fifty-five degrees (55°) Fahrenheit and stable or rising, but less than eighty degrees (80°) Fahrenheit.

3. A sealant may not be applied during rainy or wet weather.

4. Any person applying a sealant must have on site for ready inspection by the Administrator a copy of the manufacturer’s specifications for application of the sealant.

B. Additional Requirement for Non-Coal-Tar-Based Sealants: In addition to the foregoing requirements of Subsection 24.04.04(A), a non-coal-tar-based sealant may not be
applied if at the time the application is to begin, any chance of precipitation is predicted by the National Weather Service for any portion of the period during which the sealant is expected to be applied, or at the time application begins there is more than a fifteen percent (15%) chance of precipitation predicted by the National Weather Service for any portion of the forty-eight (48) hours following the anticipated completion of the application.

C. Additional Requirement for Coal-Tar-Based Sealants:

1. In addition to the foregoing requirements of Subsection 24.04.04(A), a sealant containing coal tar may not be applied if at the time the application is to begin, any chance of precipitation is predicted by the National Weather Service for any portion of the period during which the sealant is expected to be applied; at the time application begins there is a ten percent (10%) or more chance of precipitation predicted for any period within the forty-eight (48) hours following the anticipated completion of the application; or if at the time application begins, there is more than a twenty (20%) percent chance of precipitation predicted for any period within seven (7) full days following the anticipated completion of the application, each as predicted by the National Weather Service.

2. A sealant containing coal tar may never be applied to a surface, any part of which is located within a flood way, nor to a surface, any part of which is within 200 feet from the closest point of any natural watercourse, and shown on a map labeled as the “NC Stream Map” as produced by the North Carolina Stream Mapping Project (http://www.ncstreams.org)” on file with and available through the Administrator.

3. A sealant containing coal tar may only be applied to a surface, any part of which is located in an area of special flood hazard, if buffering is placed along all portions of the downslope perimeter of the surface sufficient to absorb and impede any draining of the sealant from the surface to a degree equivalent or more effective than the absorption and impedance which can be achieved with bales of hay, laid end to end, and such buffering is maintained in place for a period of no less than seven days following application of the sealant. For purposes of this paragraph, the use of bales of hay of normal size and weight, laid end to end, shall be considered sufficient to meet the requirements of this paragraph.

4. A sealant containing coal tar may only be applied to a surface, any part of which contains a storm drain, if buffering or filters are placed around the full perimeter of the storm drain sufficient to absorb and impede any draining of the sealant from the surface to a degree equivalent or more effective than the absorption and impedance which can be achieved with bales of hay, laid end to end, and such buffering is maintained in place for a period of no less than seven days following application of the sealant. For purposes of this paragraph, the use of bales of hay of normal size and weight forming an unbroken perimeter around a storm drain.
shall be considered a sufficient buffer and filter to meet the requirements of this paragraph.

(Ord. PL00258-020917, 04-20-2017)

24.04 Reserved

(Ord. PL00258-020917, 04-20-2017)

24.05 Shared Parking

24.05.01 One parking area may contain required spaces for several different uses, but except as otherwise provided in this Section, the required space assigned to one use may not be credited to another use.

24.05.02 To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally ninety percent (90%) vacant on weekends, another development that operates only on weekends could be credited with ninety percent (90%) of the spaces on that lot. Or, if a church parking lot is generally occupied only to fifty percent (50%) of capacity on days other than Sunday, another development could make use of fifty percent (50%) of the church lot’s spaces on those other days.

24.05.03 If the joint use of the same parking spaces by two or more (2+) principal uses involves satellite parking spaces, then the provisions of Section 24.06 are also applicable.

24.05.04 Where motor vehicle access is provided between adjoining non-residential sites and the operating hours of adjoining uses do not significantly overlap, the uses may share up to 50 percent of required parking spaces.

24.05.06 Bicycle parking may be provided in a common area of a shared parking area for adjacent sites.

24.05.07 An applicant proposing the use of shared parking must:

A. Demonstrate that the applicant has the express legal right to use the spaces in question; and

B. Provide the shared use agreement detailing how the spaces will be shared among the uses; and

C. Provide proof to the Administrator of a continuation of the right to use the shared parking annually, on January 15 of each year, unless the Administrator has provided for a different frequency of such reporting; and

D. The applicant must sign an acknowledgment that the continuing validity of the applicant’s permit depends upon the continuing ability to provide the requisite number of parking spaces. If the shared parking is no longer available or the landowner or applicant fails to comply with the requirements of the Section, the parking requirement
reverts to those requirements found in Table 24.01 and the landowner or applicant must demonstrate compliance with said requirements or its zoning Certificate shall be revoked.

(Ord. PL00258-020917, 04-20-2017; Ord. PL04727-050721, 07-01-2021)

24.06 Satellite Parking

24.06.01 Required parking spaces may be provided on adjacent or nearby lots in accordance with the provisions of this Section. These off-site spaces are referred to in this Section as satellite parking spaces.

24.06.02 All satellite parking spaces must be located within ¼ mile of a public entrance of a principal building housing the use associated with such parking, or within ¼ mile of the lot on which the use associated with such parking lot is located if the use is not housed within any principal building; provided, however, that this limitation does not apply to on-campus housing located in the UI district; and further provided that satellite parking may not be used for visitor or customer parking required for any use unless the satellite parking spaces are within 200 feet of the parcel to be served by such parking.

24.06.03 The applicant wishing to take advantage of the provisions of this Section must present satisfactory written evidence that the applicant has the legal right to use the satellite parking spaces, and that such right is exclusive during the operating hours of the use in question. The applicant must also sign an acknowledgment that the continuing validity of the applicant’s permit depends upon the continuing ability to provide exclusive use during operating hours of the requisite number of parking spaces. If the parking spaces are required for residential uses, “operating hours” shall be considered to be 24 hours a day for purposes of this section.

24.06.04 Persons who obtain satellite parking spaces in accordance with this Section are not responsible for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this Article.

24.06.05 The applicant using satellite parking to comply with the requirements of this Article must provide proof to the Administrator of a continuation of the right to use the shared parking annually, on January 15 of each year, unless the Administrator provides for a different frequency of reporting.

24.06.06 The applicant using satellite parking to comply with the requirements of this Article must sign an acknowledgment that the continuing validity of the applicant’s permit depends upon the continuing ability to provide the requisite number of parking spaces. If the applicant fails to comply with the requirements of the Section, the parking requirement reverts to those requirements found in Table 24.01 and the property owner or applicant must demonstrate compliance with said requirements or the zoning Certificate may be revoked.

(Ord. PL00258-020917, 04-20-2017; Ord. PL04727-050721, 07-01-2021)
24.07 Reserved
(Ord. PL00258-020917, 04-20-2017)

24.08 Loading and Unloading Areas

24.08.01 Subject to Subsection 24.08.06, whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area, located at the rear, side or end of the business, must be provided initially and continually in accordance with this Subsection to accommodate the delivery or shipment operations in a safe and convenient manner.

24.08.02 The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. Subsection 24.08.03 indicates the number of spaces that, presumably satisfies the standard set forth in this Subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to serve the development.

24.08.03 For the purpose of this Section, the off-street loading and unloading space shall have the minimum dimensions of twelve feet (12’) by fifty-five feet (55’) and overhead clearance of fourteen feet (14’) from street grade.

A. Retail business shall provide one (1) space of 300 square feet for each 5,000 square feet of floor space.

B. Wholesale and industry shall provide one (1) space of 500 square feet for each 10,000 square feet of floor area.

C. In the case of mixed uses, the total requirements for off-street loading or unloading space shall be the sum of the requirements for the various uses except to the extent the applicant can demonstrate to the satisfaction of the Administrator that different operating hours or other factors will permit different users or tenants to share the same loading spaces. It shall be an express condition of the permit issued to an applicant taking advantage of this provision that the loading spaces are to be practically adequate to serve the development, and if such spaces prove to be inadequate the Administrator may require that the development provide additional loading spaces or, if additional spaces are not provided, revoke the permit for the development.

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

24.08.05 No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
24.06 Whenever (i) there exists a lot with one or more structures on it constructed before the effective date of this Ordinance, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the loading requirements of this Section cannot be satisfied because there is not sufficient area available on the lot that can be practicably be used for loading and unloading, then the applicant need only comply with this Section to the extent reasonably possible.

(Ord. PL00258-020917, 04-20-2017; Ord. PL04727-050721, 07-01-2021)

24.09 Bicycle Parking

24.09.01 The number of bicycle spaces included in the required bicycle parking facilities shall be determined by the following table of uses. Use descriptions are abbreviated and are for descriptive purposes only. Uses listed below are preceded by a number which corresponds to a use category in the Table of Principal Uses, supra, and include all specific uses described in association with that number. In those instances, when alternative measures are associated with a particular use, e.g., “2, or 1 per 20 units,” the measure providing the higher number of bicycle parking spaces shall be used.

A. When required, the minimum number of bicycle parking spaces for any multi-family or non-residential use is two (2) spaces or one (1) rack.

B. A single “inverted U” bicycle parking rack will count as two bicycle parking spaces.

C. Table 24.09

<table>
<thead>
<tr>
<th>Use Type</th>
<th>Specific Use</th>
<th>Short-Term Bicycle Parking Minimum 2</th>
<th>Long-Term Bicycle Parking Minimum 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0 Household Living</td>
<td>1.01 Single-Family Dwelling</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.02 Manufactured Home “Class A”</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.03 Manufactured Home “Class B”</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.06 Duplex</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.07 Duplex</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.05 Manufactured Home Park</td>
<td>1 per 20 beds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.08-1.10 Townhouse</td>
<td>1 per 20 units</td>
<td>1 per 4 units</td>
</tr>
<tr>
<td></td>
<td>1.11-1.13 Multi-Family</td>
<td>1 per 20 units</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.14-1.16 Multi-Family</td>
<td>1 per 20 units</td>
<td>1 per 4 units</td>
</tr>
<tr>
<td></td>
<td>1.17 Adult Living Community (Multi-Family Only)</td>
<td>1 per 20 units</td>
<td>1 per 10 units</td>
</tr>
<tr>
<td>2.0 Group Living</td>
<td>2.01 Family Care Home</td>
<td>1 space per 5 employees</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.02 Family Care Institutions</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.03-2.04 Halfway House</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.05 Residential Care Facility</td>
<td>1 space per 5 employees</td>
<td></td>
</tr>
<tr>
<td>Use Type</td>
<td>Specific Use</td>
<td>Short-Term Bicycle Parking Minimum</td>
<td>Long-Term Bicycle Parking Minimum</td>
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<td>----------------------------------</td>
</tr>
<tr>
<td>2.06 Fraternity or Sorority Dwelling</td>
<td>1 space per 20 beds</td>
<td>1 space per 10 beds</td>
<td></td>
</tr>
<tr>
<td>2.07 Board Housing</td>
<td>1 space per 20 beds</td>
<td>1 space per 10 beds</td>
<td></td>
</tr>
<tr>
<td>3.01 Home for Survivors of Domestic Violence</td>
<td>2 spaces</td>
<td>2 spaces</td>
<td></td>
</tr>
<tr>
<td>3.02-3.03 Shelter for Homeless</td>
<td>2 spaces</td>
<td>2 spaces</td>
<td></td>
</tr>
<tr>
<td>3.04-3.05 Bed &amp; Breakfast</td>
<td>2 spaces</td>
<td>2 spaces</td>
<td></td>
</tr>
<tr>
<td>3.06 Vacation Rental</td>
<td>2 spaces</td>
<td>2 spaces</td>
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<tr>
<td>3.08 Motel</td>
<td>2 spaces</td>
<td>2 spaces</td>
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<tr>
<td>3.09-3.11 Hotel</td>
<td>2 spaces</td>
<td>2 spaces</td>
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<tr>
<td>4.01 Airport/Land Strip</td>
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<tr>
<td>4.02 Heliport</td>
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<td>TBD</td>
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<tr>
<td>4.04 Cemetery</td>
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<tr>
<td>4.07 Animal Sanctuary</td>
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<td>TBD</td>
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<tr>
<td>4.03 Funeral Home Establishment</td>
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<tr>
<td>4.05 Post Office</td>
<td></td>
<td>TBD</td>
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</tr>
<tr>
<td>4.06 Post Office, Distribution</td>
<td></td>
<td>TBD</td>
<td></td>
</tr>
<tr>
<td>5.0 Government Uses</td>
<td>All Government Uses</td>
<td>TBD</td>
<td></td>
</tr>
<tr>
<td>6.0 Non-Governmental Utility Facility</td>
<td>All Non-Government Utility Facility</td>
<td>-</td>
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</tr>
<tr>
<td>7.0 Telecommunications</td>
<td>All Telecommunication Uses</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>8.01-8.03 Religious Assembly</td>
<td>1 space per 2,000 ft² GFA³</td>
<td>1 space per 5,000 ft² GFA³</td>
<td></td>
</tr>
<tr>
<td>8.04-8.05 Assembly Uses</td>
<td>1 space per 1,000 ft² GFA³</td>
<td>1 space per 10,000 ft² GFA³</td>
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</tr>
<tr>
<td>9.01-9.05 Education Uses</td>
<td>3 spaces per classroom</td>
<td>.5 spaces per classroom</td>
<td></td>
</tr>
<tr>
<td>9.06-9.09 Education Uses</td>
<td>3 spaces per classroom</td>
<td>.5 spaces per classroom</td>
<td></td>
</tr>
<tr>
<td>10.0 Daycare</td>
<td>All Daycare Uses</td>
<td>2 spaces</td>
<td></td>
</tr>
<tr>
<td>11.01 Kennel</td>
<td>1 space per 5,000 ft² GLA³</td>
<td>1 space per 10,000 ft² GLA³</td>
<td></td>
</tr>
<tr>
<td>11.02-11.03 Veterinary Office/Hospital</td>
<td></td>
<td></td>
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<tr>
<td>11.04 &amp; 11.05 Financial Institution</td>
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<tr>
<td>11.12 ABC Store</td>
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<td></td>
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<tr>
<td>11.14 - 11.15 Personal Service Establishment</td>
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<td></td>
<td></td>
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<tr>
<td>11.16-11.18 Retail Store</td>
<td></td>
<td></td>
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<tr>
<td>Use Type</td>
<td>Specific Use</td>
<td>Short-Term Bicycle Parking Minimum</td>
<td>Long-Term Bicycle Parking Minimum</td>
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<tr>
<td></td>
<td></td>
<td>1 space per 5,000 ft² GLA&lt;sup&gt;4&lt;/sup&gt;</td>
<td>1 space per 10,000 ft² GLA&lt;sup&gt;4&lt;/sup&gt;</td>
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<tr>
<td></td>
<td></td>
<td>1 space per 2,000 ft² GFA&lt;sup&gt;6&lt;/sup&gt;</td>
<td>1 space per 10,000 ft² GFA&lt;sup&gt;6&lt;/sup&gt;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 space per 20 motor vehicle spaces</td>
<td>TBD</td>
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</tbody>
</table>

<sup>1</sup> TBD: To be determined

<sup>2</sup> Short-Term Bicycle Parking Minimum

<sup>3</sup> Long-Term Bicycle Parking Minimum

<sup>4</sup> GLA: Gross Living Area

<sup>6</sup> GFA: Gross Floor Area
Use Type | Specific Use | Short-Term Bicycle Parking Minimum<sup>1</sup> | Long-Term Bicycle Parking Minimum<sup>2</sup> |
---|---|---|---|
19.0 - Particular Activities which Pose Particular Concerns to Public Health | All Particular Activities which Pose Particular Concerns to Public Health Uses | 1 space per 5,000 ft<sup>2</sup> GFA<sup>6</sup> | 1 space per 10,000 ft<sup>2</sup> GFA<sup>6</sup> |
| A-1 Secondary Suite | - | - |
| A-3 Accessory Dwelling Unit | - | - |
| A-10 Produce Stand | - | - |
| A-21 Caretaker’s Residence | - | - |
| A-19 Helistop | TBD | - |
| A-24 Chemical Storage Facility | - | - |
| Accessory Uses | | | |
| T-1 Temporary Family Health Care Structure | - | - |
| T-2 Temporary Construction or Repair Dwelling | - | - |
| T-3 Temporary Construction Trailer | - | - |
| T-8 Temporary Non-Fixed Site Event Venue | TBD | - |
| Temporary Uses | | | |

Notes:
1. For uses not listed, or for uses To Be Determined by the Administrator, refer to 24.01.09.
2. The minimum number of short-term bicycle parking spaces is 2 unless no bicycle parking is required. In no case shall more than 20 short-term spaces be required.
3. The minimum number of long-term bicycle parking spaces is 2 unless no bicycle parking is required.
4. GLA = Gross Leasable Area
5. DU = Dwelling Unit.
6. GFA = Gross Floor Area and includes both indoor and outdoor space used.
7. Calculating spaces based on employees or other occupants must be based on the total number of persons present or on duty at the time of maximum use.

**24.09.04 Bicycle Parking facilities shall meet the following standards:**

A. Bicycle parking facilities shall conform with the design guidelines promulgated by the Association of Pedestrian and Bicycle Professionals (APBA) as found in the “Bicycle Parking Guidelines” manual.

B. Bicycle racks shall provide for at least two (2) points of contact with the bicycle frame and for the locking of at least one wheel using varying types of bike locks (U-lock, wire cable, etc.)

C. All racks must be safe, sturdy and well-anchored.

Examples of acceptable facilities:
Examples of unacceptable facilities (because they secure only one wheel):

D. Outside bicycle parking facilities shall be illuminated in conformity with the standards for "open parking areas" of UDO Section 25.05. Inside bicycle parking facilities shall be illuminated in conformity with the standards for "building entries" of UDO Section 25.05.

E. Areas set aside for outside bicycle parking shall be clearly marked and reserved for bicycle parking only. Where the location of said parking is not easily visible from the street, a sign that does not exceed four square feet (4 ft²) in area and directs cyclists to parking shall be provided on site and must be visible from the street or from the main building entrance. For purposes of this Section, "main building entrance" shall connote and refer to the primary doorway by which residents, visitors or customers enter and exit a building, whether or not said entrance is oriented facing the public street. Signs shall comply with the MUTCD for Bicycle parking signage.

Examples of acceptable signs:
F. Bicycle parking shall be located so as to avoid impeding or creating a hazard to pedestrians from parked or approaching bicycles, and to avoid creating a hazard to bicyclists or bicycles from automobiles or other motor vehicles. Bicycle racks installed on private sidewalks within the development must provide a clear, unobstructed passage of at least five feet (5') for pedestrians and should be installed at least three feet (3') from the face of any curb. Bicycle racks may not be installed on public sidewalks without the express authorization of the Boone Town Council, subject to such conditions which may be attached to such authorization.

24.09.05 Short Term Bicycle Parking

A. Short-term bicycle parking shall meet the needs of people visiting businesses, institutions and other uses with similar needs – typically lasting up to two (2) hours. Since short-term users are infrequent visitors to these locations, the parking installation should be readily visible and self-explanatory.

B. Parking facilities for short term bicycle parking must be located no farther from the main building entrance than the distance to the closest non-handicap vehicle space, or fifty feet (50’), whichever is greater, and visible from public sidewalk areas along the public street frontage adjoining the use and located directly in front of the main building entrance unless the main building entrance is not oriented toward the public street. In those instances, where the main building entrance is not oriented toward the public street, the parking facilities must be visible from such locations, as determined by the Administrator or permit-issuing authority, which will provide the greatest level of visibility to achieve the dual purposes of security for the bicycles using the facilities and availability to bicyclists visiting the building for the first time.

C. Short term bicycle parking, when allowed within a public right-of-way, should be coordinated with street furniture as applicable and may (but is not required to) be covered.

24.09.06 Long Term Bicycle Parking

A. Long term bicycle parking shall provide for daily, overnight or even longer duration bicycle parking by residents and employees. These users often leave bicycles unattended and unmonitored for extended periods and require exclusive access, additional security and weather protection.

B. Long term bicycle parking shall be covered or enclosed, and must provide security and protection from weather and the elements. Long term parking spaces may include indoor parking, racks in covered loading dock areas, racks in garage structures, bicycle lockers or other means, and should be incorporated whenever possible into the building design.

24.10 Motorcycle Parking

24.10.01 The B – 1 Central Business zoning district is exempt from the requirements of this Section.

24.10.02 Motorcycle parking facilities meeting the standards of this Section shall be provided by a permit applicant under each of the following circumstances, and one (1) motorcycle parking space shall be provided for every 40 motor vehicle parking spaces:

A. When a new building is constructed;
B. When any addition or enlargement of an existing building is constructed;
C. When a change in occupancy of any building occurs where 40 or more vehicle parking spaces are provided.

24.10.03 Motorcycle parking facilities shall meet the following design standards:

A. Each motorcycle parking space shall be no less than eight feet (8’) long by four feet (4’) wide, and sufficient space for access shall be provided.

B. Motorcycle parking facilities must be visible from public sidewalk areas along the public street frontage adjoining the use and located directly in front of the main building entrance unless the main building entrance is not oriented toward the public street. In those instances, where the main building entrance is not oriented toward the public street, the motorcycle parking facilities must be visible from such locations, as determined by the Administrator or permit-issuing authority, which will provide the greatest level of visibility to achieve security for the motorcycles using the facilities. Motorcycle parking facilities must also include features to provide reasonable security for motorcycles. Designers are encouraged to include fixed features such as rails, hoops, or posts designed to provide a simple locking point to secure a motorcycle or scooter using a chain or similar device.

C. Motorcycle parking facilities shall be clearly marked and reserved for motorcycle parking only, using signage and/or pavement marking determined by the Administrator or permit-issuing authority as adequate to both direct motorcycle riders to the proper facilities and to prevent use of the motorcycle parking facilities by other motor vehicles.

D. The slope of motorcycle parking facilities should be as close to level as possible while still providing adequate drainage. “Adequate drainage” is such drainage as will prevent the buildup of water and ice in included motorcycle parking spaces. Motorcycle parking facilities must have a firm surface capable of supporting the weight supported by the stand of the heaviest of models of motorcycle.
ARTICLE 25  COMMUNITY APPEARANCE STANDARDS

25.01  Applicability

This Article is applicable to the publicly visible portions of building elements, as defined herein.

A. A building façade shall be deemed publicly visible when more than thirty percent (30%) of the façade is visible from any street or adjacent residentially zoned property.

B. Each element of a building shall be evaluated independently for public visibility.

C. If building elements are not publicly visible at the time of construction due to existing site features (earthen berms, heavily wooded areas, vegetative buffer, existing buildings to remain), then these existing site features must remain indefinitely. If they are altered at any time to allow greater visibility, then the element made visible must comply with the standard.

D. The following uses are exempted from the requirements in this Article: 1.01 Single Family Dwelling, 1.02 & 1.03 Manufactured Home, 1.05 Duplex, 2.01 Family Care Home, A-1 Secondary Suite, A-2 Home Occupation, A-3 Accessory Dwelling Unit, all Temporary Uses.

(Ord. PL01390-032818, 04-26-2018)

25.02  Building Design

25.02.01  Pedestrian-Oriention: The intent of this Section is to provide a design of buildings that support a safe and attractive pedestrian environment.

A. Primary façade and main building entry shall face the primary public way.

B. If site constraints are present, the applicant’s intent to use a “stock plan” is not a basis for appeal.

C. The Administrator may approve a redesign in which the main primary entrance does not face the primary public way provided the following:

1. The main building entrance, when not facing the primary public way, shall provide a safe and convenient access for pedestrians from the main building entrance to the primary public way. The pedestrian way must provide additional landscape amenities.
2. Entrances which are oriented on a diagonal are permitted, provided that they are integrated with the overall architectural design, and not merely angled appendages or alcoves.

3. Ground floor windows or window displays shall be provided along at least ten percent (10%) of the building’s (ground floor) street-facing elevation(s); windows and display boxes shall be integral to the building design and not mounted to an exterior wall. Parapets above the first floor are excluded from the calculations when the building is over eighty feet (80’) in length.

25.02.02 Exterior Walls: The intent of this Section is to require running lengths of walls to be interrupted by architectural features which lend a more human scale to the overall massing.

A. Features include:
   1. Offsets of the building wall or other elements in plan of four feet (4’);
   2. A colonnade with columns or other vertical elements of sixteen feet (16’) or less on center;
   3. A change in building material, with a maximum of two (2) uses of this option being counted toward the schedules below;
   4. Awnings or canopies;
   5. Covered entries or porticos;
   6. Windows with a minimum width of two feet and eight inches (2’8”) and a minimum height of three feet and four inches (3’4”);
   7. Trellises;
   8. Pilasters, which must be a different material or contrasting color than their background;
   9. A combination of the above; and
   10. Any other type of feature not listed here which is deemed by Staff to meet the intent of this Ordinance.

B. Plumbing, mechanical, electrical service components and gutter downspouts are not considered features and may require screening. Such screening is not considered an architectural feature.

C. Required features must be distributed throughout the building façade and shall not be clustered.

D. Features shall be provided in accordance with the following feature schedules:
Table A
Feature Schedule – Plan

<table>
<thead>
<tr>
<th>Linear Dimensions, in Plan</th>
<th>Minimum # of Feature Types</th>
<th>Minimum # of Total Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>10’ to less than 40’</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>40’ to less than 80’</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>80’ to less than 120’</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>120’+</td>
<td>5</td>
<td>16</td>
</tr>
</tbody>
</table>

Table B
Feature Schedule – Elevation

<table>
<thead>
<tr>
<th>Linear Dimensions, in Elevation</th>
<th>Number of Features Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>10’ to less than 16’</td>
<td>2</td>
</tr>
<tr>
<td>16’ to less than 32’</td>
<td>3</td>
</tr>
<tr>
<td>32’ to less than 48’</td>
<td>4</td>
</tr>
<tr>
<td>48’+</td>
<td>5</td>
</tr>
</tbody>
</table>

E. Features which serve to interrupt the building façade in both plan and elevation shall be credited as such using the above charts. Windows are considered plan and elevation features. See examples in Figures 3 and 4 below.

![Diagram of Building Design Example]
25.02.03  Roofs: This Section regulates both pitched and flat roofs. The intent is to interrupt expanses of pitched roofs and minimize or prevent the visibility of flat roofs.

A. Walls shall not appear to terminate at flat roofs. Flat roofs shall be concealed from view by using pitched roof features, parapets, or a mixture thereof. Where only one elevation has this condition, the parapet or other feature will continue four feet (4’) along the adjacent elevation. See Figure 5 below.
B. Buildings over two stories above grade may utilize a flat roof, provided the flat portion is not publicly visible. Compliance may not be possible if the adjacent road grade is substantially above the roof in question.

C. Minimum roof slope for pitched roofs is 4’(v):12'(h).

D. Publicly visible plumbing vent stacks shall be colored to match the roofing material.

E. Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall. See Figure 6 on page 22-17.

F. Awnings or canopies which are illuminated from within must be covered or finished with fully opaque material.

G. Publicly visible pitched roofs shall be articulated by features in accordance with the following schedule. Features shall be in proportion to the roof area where they appear. Features include:

<table>
<thead>
<tr>
<th>Roof Area</th>
<th>Number of Features Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1200 ft²</td>
<td>0</td>
</tr>
<tr>
<td>1200 ft² to less than 1600 ft²</td>
<td>1</td>
</tr>
<tr>
<td>1600 ft² to less than 2400 ft²</td>
<td>2</td>
</tr>
<tr>
<td>2400 ft² +</td>
<td>3</td>
</tr>
</tbody>
</table>
H. No part of this Ordinance shall be construed to prevent solar panels or any other type of renewable energy collection or storage method, provided the development follows the massing guidelines established herein.

25.02.04 Materials: The intent of this Section is to require materials indigenous to the area for a native, natural appearance.

A. For any publicly visible elevation, a minimum of twenty-five percent (25%) of the building finish material must be stone or concrete-simulated stone, wood or simulated wood in concrete board (such as “Hardi” products), or brick or concrete-simulated brick.

B. Mirrorized glass is prohibited from use. Reflective tinted glass is acceptable up to thirty percent (30%) tint. Anything above thirty percent (30%) tint is subject to review by the Administrator pursuant to 25.07.01.

C. Architectural concrete masonry such as split face, or ground-face block is acceptable.

D. Stucco and synthetic stone are acceptable finish materials.

E. Architectural concrete (containing a pattern or finish) as a finish material is acceptable. Gray, unfinished concrete is prohibited as a finish material. Concrete architectural detail elements intended to be a decorative enhancement for exterior walls and site walls are acceptable

F. Other materials subject to Staff review and approval include vinyl siding (which should simulate wood grain) and other manufactured materials. Vinyl siding shall be anchored to the exterior envelope sufficiently to avoid the appearance of deformation or bowing across the façade.

G. For publicly visible roof surfaces, allowed materials include standing seam metal, asphalt shingles, shakes, tile, or manufactured shingles which give an appearance of shingles, shakes, or other simulated natural material. Sheet materials other than those listed in this Section are subject to Staff review for use on publicly visible roofs.

H. Any materials which comprise less than ten percent (10%) of a publicly visible exterior building wall and are components of windows or trim systems are allowed (example: aluminum storefront, metal corner trim, etc.).

I. FRP, PVC, and other composites formed into architectural detail elements such as columns, cornices, etc., are approved for use as long as such material is intended to be a decorative enhancement for the façade.

25.02.05 Colors: The intent of this Section is to prevent inordinately bright façades and primary color ranges. All new construction elements are subject to color requirements, except pavement markings and signage.
A. Acceptable colors for site walls, site lighting, and any other outside construction elements (excluding signage) include that equivalent to Sherwin-Williams series “Essential” and “Fundamentally Neutral” in the Town of Boone Color Reference Guide.

B. Acceptable field colors and trim colors are those equivalent to Sherwin Williams series “Essential” and “Fundamentally Neutral” in the Town of Boone Color Reference Guide.
   1. The “LRV” Light Reflection Value of field colors must be below 60.
   2. Black is prohibited as a field color in the series “Essential”.


(Ord. 20150767, 11-19-2015; Ord. 20160438, 03-16-2017; Ord. PL04727-050721, 07-01-2021)

25.03 Parking Structures

25.03.01 The intent of this Section is to regulate aesthetic features on parking structures to prevent a utilitarian appearance, and to provide a safe, secure environment for patrons, employees and vehicles.

25.03.02 Publicly visible facades must comply with provisions of this Article pertaining to exterior walls, materials, and colors.

25.03.03 All above-ground parking floors and decks shall be designed using a continuous façade incorporating window-like openings. The sill of any window-like opening must be a minimum of 42” above the finished floor.

25.03.04 Elevator and stair shafts shall be topped with gabled roofs or other architectural features and be oriented so that lobbies are visible from the street at each level.

25.03.05 Lighting shall be uniform throughout the structure so that dark hiding places are not created. Lighting levels must conform to IESNA standards.

(Ord. PL04727-050721, 07-01-2021)

25.04 Site Walls

25.04.01 The intent of this Section is to prevent walls which appear to dwarf the human scale and to encourage equalizing cut/fill or majority cut slope methods of grading.

25.04.02 No retaining wall may be more than eight feet (8’) in height. This height does not include decorative caps that are less than eight inches (8”) in height. Screen walls shall not be taller than necessary to conceal the item screened (such as a dumpster, HVAC equipment, etc.)

25.04.03 Buildings located near the top of site retaining walls shall be a minimum of four feet (4’) horizontally from the top of the retaining wall.
25.04.04 Retaining walls, any portion of which are within six feet (6’) of a sidewalk or pedestrian way, shall not exceed four feet (4’) in height. Subsequent walls must be offset a minimum of four feet (4’) in plan. See Figure 1 below.

![Figure 1: Retaining Wall Constraints](image)

25.04.05 A series of two (2) retaining walls must have a minimum of four feet (4’) horizontally from the back of the top of the lower wall face to the toe of the upper wall face in plan. See Figure 1 above. For three (3) or more walls in series, see item [g] below.

25.04.06 The space between retaining walls in series shall be landscaped with appropriate grasses, vines or other ground cover in accordance with provisions of in Appendix C, Town of Boone Details and Specifications Manual and may contain shrubs and trees not to exceed thirty-five feet (35’) in height at maturity. This area shall be maintained in accordance with the provisions of Section 31.12.

25.04.07 Retaining walls in series which collectively exceed sixteen feet (16’) in height shall have a minimum of one (1), ten foot (10’) wide Type “A” buffer (see Section 31.05), between two of the walls. Retaining walls which are separated by a building, a road, or a parking area shall be exempt from this requirement. See Figure 2 below.
25.04.08  Publicly visible site wall material and color shall be architecturally compatible with the principle building(s) on site.

25.05  Lighting

25.05.01  The intent of this Section is to prevent light from commercial developments from excessively illuminating the property in question, other properties, or the night sky.

25.05.02  Only light fixtures which are categorized as full cut-off (FCO) fixtures shall be permitted, except sports field fixtures which must comply with Section 25.05.04.

25.05.03  The following are specific standards for lighting intensity based upon the activity involved. Values are presented in allowable foot-candles (fc) maintained (measured horizontally) at grade and are to be averaged throughout the site to avoid hot spots, i.e. areas of extreme light intensity relative to the remainder of the site:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Min./Max. Uniformity Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pedestrian Areas/Sidewalks</td>
<td>.2 f.c.</td>
<td>1.0 f.c.</td>
<td></td>
</tr>
<tr>
<td>Building Entries</td>
<td>1.0 f.c.</td>
<td>10.0 f.c.</td>
<td></td>
</tr>
<tr>
<td>Street Lighting</td>
<td>.2 f.c.</td>
<td>1.0 f.c.</td>
<td></td>
</tr>
<tr>
<td>Open Parking Areas</td>
<td>.2 f.c. to 9 f.c.</td>
<td>3.6 fc</td>
<td>4:1</td>
</tr>
<tr>
<td>Playgrounds</td>
<td></td>
<td>5.0 fc</td>
<td></td>
</tr>
<tr>
<td>Site Perimeter</td>
<td></td>
<td>.5 fc</td>
<td></td>
</tr>
</tbody>
</table>

25.05.04  Lighting for sports fields and outdoor courts is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. All sports fields or tennis courts must meet the following minimum standards:
A. Fixtures must be fitted with the manufacturer’s glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.

B. Lighting shall be extinguished no later than one hour after the event ends.

C. Fixtures must be designed with a sharp cutoff and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.

25.05.05 Canopies associated with vehicle related services shall be illuminated at a maximum illuminance of 30 fc and individual fixtures shall be flush mounted or have the canopy edge below the lowest light-emitting point on the fixtures. All existing gas station canopies which exceed this standard shall be made compliant within seven (7) years of the date of adoption of this Article.

25.05.06 Up-lighting may be used to illuminate a building, landscaping element or architectural feature, provided the lighting design has a maximum illuminance of 12fc, measured in a vertical plane. Down lighting is preferred.

25.05.07 Parking decks and covered parking areas must conform to IESNA standards.

25.05.08 At the end of a development permit, the applicant shall submit a final certification that a post installation inspection was conducted to check for compliance with a light meter against the approved lighting plan. Substitutions by electricians and contractors are common and will not be accepted unless substitutions are reviewed and approved.

The post installation inspection should be conducted by a professional engineer with demonstrable expertise in lighting design and mitigation strategies, or a lighting specialist who is lighting certified (LC) by the National Council on Qualifications for the Lighting Professions (NCQLP).

(Ord. PL04727-050721, 07-01-2021; Ord. PL05270-110121, 12-08-2021; Ord. PL05272-110121, 12-08-21)

25.06 Flexibility in Administration

25.06.01 Flexibility in administration is required for this Article. When strict application of the standards within this Article undermines other provisions of the UDO, then those other provisions take precedence. For example, the retaining wall height limitation may be increased to afford an opportunity to preserve significant or historic tree(s).

25.07 Alternatives

25.07.01 Alternatives to the appearance standards provided herein may be permitted upon written review and approval of the Administrator.

25.07.02 The Administrator may approve an alternative not to exceed +/- 25% of the relevant standard or requirement if they find that the alternative meets the purpose and intent of the provisions contained within this Article. When the Administrator approves an
alternative, they specifically identify how the alternative meets the purposes and intent of this Article. The Administrator may, but is not required, to seek the recommendation of the Community Appearance Commission with respect to any proposed alternative. An applicant may not seek a variance with respect to any deviation allowed by the Administrator under this section.

(Ord. 20160438, 03-16-2017; Ord. PL04727-050721, 07-01-2021)
ARTICLE 26   SIGNS

26.01  Applicability

26.01.01 All signs constructed, installed, modified, moved, painted or replaced shall comply with the standards of this Article, whether such signs do or do not require a sign permit.

26.01.02 Signs shall only be placed on private property with the permission of the owner, whether such signs do or do not require a sign permit.

26.01.03 Any sign permitted by these regulations may display or publish a noncommercial message, whether such signs do or do not require a sign permit.

26.01.04 No sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure. The regulations of this Article are not intended to favor commercial speech over constitutionally-protected political or noncommercial speech. A sign containing a noncommercial message may be substituted for any sign containing a commercial message that is allowed by the regulations of this article.

26.01.05 Transitional Provisions

A. Subject to Subsection 7.05.02(C)(2), all permanent signs legally erected prior to July 1, 2023 may remain in place and in use:

1. Temporary signs are required to be made compliant with the standards set forth in Sections 26.05 and 26.06 by July 1, 2023.

2. An existing sign containing electronic/digital copy is required to come into compliance with the requirements set forth in Subsection 26.07.07 by January 1, 2024 unless compliance is not possible based on the technical limitations of the sign.

3. All window signage is required to come into compliance with the requirements set forth in Subsection 26.08.06(F) by January 1, 2024.

B. All violations of this Article in effect prior to July 1, 2023 shall remain violations of the Ordinances of the Town and all penalties and enforcement remedies set forth hereunder shall be available to the Town as though the violation were a violation of
this Article. However, if the effect of this Article is to make a sign that was formerly nonconforming become conforming, then enforcement action shall cease.

(Ord. PL05781-061322; 07-01-2023)

26.02 Permit and Inspections Required

26.02.01 Unless otherwise specified, the construction, installation, modification, movement, or replacement of any sign requires a sign permit.

26.02.02 All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building and Electrical Codes.

26.02.03 Except for temporary signs, upon notification of completion by the applicant, the Planning and Inspections Department shall make a final inspection of the sign to verify compliance with the permit and all applicable codes.

(Ord. PL05781-061322; 07-01-2023)

26.03 Maintenance

26.03.01 All permanent signs shall be maintained in good structural condition, firmly affixed to the ground, a building, or other support structure by direct attachment, and in compliance with all building and electrical codes.

26.03.02 The following maintenance activities do not require a sign permit:

A. Normal maintenance and repair of a sign, including such activity as painting, cleaning, and similar activities.
   1. Exception: The following activities are not considered normal maintenance or repair: structural changes, changes in the electrical components of the sign, an increase in any sign dimension, or changes in the location of a sign.

B. Changing or replacing the sign face within an existing sign structure so long as no electrical or structural changes are made to the sign structure and the size of the sign face is not increased.

C. Changing the copy of a changeable message component of a sign.

(Ord. PL05781-061322; 07-01-2023)

26.04 Enforcement; Removal of Certain Signs

26.04.01 Enforcement of this Article is addressed in Article 12 Enforcement.

26.04.02 Any temporary sign deemed to create a traffic hazard or otherwise pose a threat to public safety shall be removed at the direction of the Administrator.

26.04.03 Any temporary sign placed in the public right-of-way in violation of this Article shall be deemed a public nuisance and may be seized by the enforcement official or other representative of the Town, and the person owning or placing the sign may be charged
both with a violation of this chapter and with the cost of removing and disposing of the sign.

26.04.04 Removal of signs not in use or abandoned

A. Property owners shall be responsible for removing any abandoned sign or sign structure or signage not in current use within the time frames noted below. Removal shall include all sign support components and shall include repair to conceal any and all damage to any property resulting from the removal of the discontinued sign.

1. Within ninety (90) days, sign copy shall be removed from a sign or sign part as to which the advertised business, goods, service, or use has permanently or indefinitely ceased;

2. A sign structure that has been permanently or indefinitely abandoned shall be removed within 12 months of the commencement of such abandonment.

3. Signs that are associated with seasonal establishments such as ski shops, Horn in the West, etc. shall not be considered not in use or abandoned provided there is clear intent to continue in the coming season.

(Ord. PL05781-061322; 07-01-2023)

26.05 Prohibited

26.05.01 Signs that are not expressly allowed under these regulations are prohibited. Without limiting the foregoing, the following sign and sign structures are specifically prohibited:

A. Abandoned signs

B. Balloons, pennants, streamers

C. Signs with animation, streaming video, flashing, scrolling, fading, and other illusions of motion

D. Portable signs

E. Roof signs

F. Rotating signs

G. Snipe signs

H. Feather banners except those allowed per Section 26.06.

I. Inflatable signs except those allowed per Section 26.06.

J. Signs imitating or resembling official traffic or government signs or signals

K. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign(s). Vehicles or trailers that display signs must be operated for bona fide business purposes at least every forty-eight (48) hours during weekdays to be exempted from this provision.
L. Temporary signs except those allowed per Section 26.06.

M. Trademarks, emblems, pictures, etc. displayed in a three (3) dimensional nature

N. Pavement marking of any kind, except for traffic control

O. Offensive Signs as defined by N.C. Gen. Stat. § 19-1.1

P. Billboards or any other off-premise advertising

Q. Signs placed in the public right-of-way (whether Town- or state-maintained)

R. Signs that threaten public safety (for example, by blocking egress to the public way)

S. Lighting that has the primary intent or effect of drawing attention to goods or services offered on the premises, e.g., branding, rather than lighting intended to provide functional lighting or lighting traditionally used to accentuate landscaping or architectural features of a building.

T. Any other sign(s) not expressly authorized by another section of this Ordinance.

(Ord. PL05781-061322; 07-01-2023)

26.06 Temporary or Other Exempt Signs

26.06.01 General Regulations. Except as provided at Subsection 26.06.05 below (regarding temporary signs that require neither registration nor a permit), temporary signs require proper registration with the Administrator but do not require a permit.

A. Temporary signs shall either attach securely to a structure or shall be securely ground-mounted.

B. Temporary signs shall not be illuminated.

C. Temporary signs are not permitted in public-maintained rights of way unless expressly allowed herein.

D. Temporary signs are not permitted within 11 feet of the edge of pavement of any roadway or alley; provided, that with respect to parcels currently used for low-density residential purposes, noncommercial temporary signs may be closer than 11 feet to the edge of pavement if on property clearly maintained by the property owner/tenant rather than the town or NCDOT.

E. Temporary signs may not be or mounted upon trees, utility poles, traffic control signs, lights, or devices, or in any place or manner prohibited by the provisions herein, or upon a portable sign structure.

F. Unless specifically provided otherwise herein, temporary signs may not exceed 4 square feet in size.

G. No compensation (including by barter) may be given for permission to post an off-premise sign.
H. Temporary signs otherwise allowed under the provisions of this Section 26.06 placed on the parcel located on the northwestern side of Highway 105 and bounded by Blowing Rock Road, Highway 105, and Faculty Streets are exempt from the provisions of subsections C, D, and F of this Subsection 26.06.01, subject to the following:

1. A maximum of one (1) thirty-two square foot sign (32 sq. ft.) or two (2) signs equaling thirty-two square feet (32 sq. ft.) per event/organization are allowed.

2. Signs shall not exceed eight feet (8’) in height or ten feet (10’) in width.

3. Signs shall be located (in their entirety) within thirty-five feet (35’) of the pedestrian signals located at that corner.

4. Signs shall not disturb landscaping, interfere with any pedestrian signal, or impede pedestrian traffic along the public sidewalk.

5. A sign that does not comply with the requirements of this subsection G may be summarily removed by the Administrator.

6. This provision is not intended and shall not be deemed to abrogate in any way the rights of the property owner and/or tenant. Said owner and/or tenant retain all of their legal rights to consent or withhold consent to placement of any or all signs upon their property.

7. This subsection H is intended to accommodate local community members’ customary use of signs placed on said parcel for noncommercial expression and to provide notice of community events. Thus, this provision is intended to effectively designate a limited public forum. However, the Town retains its right to close this forum at any time should the advantages to the community of allowing this limited public forum become, in the view of the Town Council, outweighed by contrary public interests such as distraction to passing motorists, visual blight, or other public safety and welfare concerns.

26.06.02 On-premises temporary signs

A. General-use on-premises temporary signs. Each commercial-use parcel, or each tenant in a multi-tenant commercial development, is allowed to display one on-premise advertising temporary sign, subject to the following conditions:

B. Maximum size per sign is twenty-four square feet (24 sq. ft.).

C. Maximum height for any free-standing temporary sign shall not exceed eight feet (8’).

D. Any temporary sign attached to a building façade shall be placed on the façade the commercial use being advertised is located.

E. Except in the B1 Downtown Core and B1 Downtown Interface zoning districts, the use of a feather banner is allowed.

F. The sign may not be illuminated.
G. Temporary signs are limited to a display period of fourteen (14) consecutive days and there shall be at least thirty (30) days between display periods.

H. On-premises temporary signs for special events.

1. For purposes of this Subsection (H), a “special event” means:
   a. A civic, community, or business event up to one week in duration that is held no more than annually; provided, that a particular business may have only one qualifying event per year for purposes of this section; or
   b. The opening, change in location, or substantial expansion of a business, civic organization, or civic campaign/effort.

2. The sponsor(s) of a special event is allowed to display up to two (2) signs at the event site. Each sign may not exceed twenty-four square feet (24 sq. ft.).

3. Other than the signs allowed in Subsection 26.06.05, in no event may more than two (2) on-premises advertising temporary signs be displayed at any one time under any authority granted under section 26.06, including the sign allowed per Subsection 26.06.02(A).

4. The signs may not be illuminated.

5. Signs may not be displayed for more than thirty (30) days.

6. Inflatable Signs: An inflatable sign may be used as an on-premises sign allowed under this subsection, on the following conditions:
   a. Only one (1) inflatable sign may be displayed per tax parcel for no more than one period of up to seven days per year per business or event. This limitation shall not apply, however, to events permitted by the Town of Boone pursuant to Chapter 94 of the Boone Code of Ordinances.
   b. Any inflatable sign must be set back and away from any pedestrian or vehicular right-of-way, any utility poles, above ground utility lines and any other hazardous structure, at least the vertical distance from the ground to the top of the sign when it is displayed at its maximum height, plus ten feet (10’).
   c. An inflatable sign may not obstruct visibility for vehicular traffic.
   d. Any inflatable sign must be secured to the ground in conformity with the manufacturer's specifications.
   e. No inflatable sign may be displayed in such a way that the top of the sign is more than twenty-five feet (25’) above the ground level.
   f. Inflatable signs shall not be illuminated.
   g. No inflatable sign may exceed 400 cubic feet when fully inflated.
26.06.03 Off-premises advertising temporary signs generally prohibited. Off-premises advertising temporary signs are prohibited except as provided in Subsection 26.06.04.

26.06.04 Temporary signs advertising public special events. A “public special event” for purposes of this Subsection 26.06.04 means and includes a temporary event that:

A. Is lawfully held at a facility owned by the town, Watauga County, Watauga County School Board, or State of North Carolina; or

B. Is approved as a special event pursuant to the town’s Special Event Policy per Chapter 116 of the Town of Boone Code of Ordinances.

1. Signs may be used to advertise public special events, subject to the following conditions: The sign is limited to four square feet (4 sq. ft.) in area and no more than three feet (3’) in height.

2. The sign may be posted for display no earlier than seventy-two (72) hours before the beginning of the advertised event, and the sign must be removed within forty-eight (48) hours following that event.

3. The owner or tenant of the parcel on which the sign is posted must specifically consent to the posting of the sign.

4. No more than 12 signs may be posted within the town’s corporate limits.

26.06.05 Temporary or other signs requiring neither a permit nor registration. Neither registration nor permitting is required for the following signs; provided, that any such sign shall conform to any applicable standard set forth in this article:

A. Noncommercial Message Temporary Signs:

1. Noncommercial message temporary signs are allowed in all districts, subject to the general regulations set forth at Subsection 26.06.01.

2. Noncommercial messages are messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

B. A-Frame Signs: A-frame signs provided they meet the following requirements:

1. Allowed for all uses within all zoning districts.

2. One (1) A-frame sign is permitted per building entrance regardless of the number of tenants.

3. The A-frame sign shall be placed within ten feet (10’) of the building entrance.
4. In accordance with Town Code § 96.002, a minimum unobstructed sidewalk clearance of four-foot (4’) in width must be left clear and unimpeded for pedestrians.

5. A-frames signs shall not interfere with pedestrians (including egress paths to public way) or vehicular surface areas.

6. The A-frame sign is limited to six square feet (6 sq. ft.) in area per side and four feet (4’) in height.

7. Illumination of such signs is prohibited and the sign is prohibited from having any type of electronic component.

8. A-frame signs shall be used while the establishment is open to the public only and shall be stored indoors at any other time.

C. ATM Signs: ATM signs provided total signage may not exceed fifteen square feet (15 sq. ft.) in area per machine.

D. Bench Signs: Bench Signs provided they meet the following requirements:

1. Shall be located on private property zoned R3, B1, B2, B3, OI, WD, M1, U1, E1, E2, or E2.

2. The size of the sign may not exceed fifteen square feet (15 sq. ft.).

3. Signage shall not extend beyond any dimension of the bench.

E. Building Identification Signs: Signs that identify buildings and that are permanently integrated in a building’s facade with etching, embossing and/or engraving.

F. Construction Signs: Temporary construction signs provided they meet the following requirements:

1. The sign is posted on a lot currently under construction pursuant to a valid zoning or building permit.

2. Only one non-illuminated sign with a maximum of two (2) sides per lot is permissible.

3. The sign must be removed upon issuance of a certificate of occupancy for all construction at that site.

G. Fence Wraps: Fence wraps displaying signage when affixed to perimeter fencing at a construction site provided they meet the following requirements:

1. Such fence wraps are allowed until a certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever time period is shorter. After such period has elapsed, the signage must be removed or covered.
2. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

H. **Government Sign**: A duly authorized temporary or permanent government sign.

I. **Historical plaques or markers** approved by a governmental entity or the National Registry of Historic Places or similar bona fide authority empowered to recognize historic places or structures.

J. **Home Occupation Signs**: A permanent non-illuminated wall sign that may not exceed four square feet (4 sq. ft.).

K. **Living Sign**: A non-illuminated sign constructed of living materials such as shrubs, trees, and/or flowers.

L. **Logos**: Logos, labels, and trademarks located on mechanical equipment, solid waste or recycling containers, newspaper and soft drink dispensers, gas station pumps, and similar equipment are not regulated by this Article.

M. **Parking-control Warning Signs**: Parking control warning signs shall comply with the requirements of Boone Town Code § 73 Towing.
   1. A building(s) with a single-establishment shall prominently display the name of the establishment.
   2. Shopping Center/Mall developments shall follow the regulations set forth in 26.12.01(F).
   3. All signs shall be clearly visible from the controlled parking spaces.

N. **Political Signs In the Public Right of Way**: Political signs are permitted in the public right of way only to the extent such signs comply with the requirements as to size and time of posting set forth at N.C. General Statute § 136-32, as such may be re-codified or amended from time to time. For the definition of political signs as used herein, see N.C. General Statute § 136-32(c).
   1. Such signs may not exceed 864 square inches in area per display face and two faces per sign and may not be higher than 42” above the edge of the pavement of the road.
   2. Such signs may only be placed with the permission of the property owner fronting the right of way where the sign is to be placed.
   3. In all cases, the property owner and the political candidate shall be equally responsible for the removal of the signs within 48 hours after the election.
   4. Any political sign that remains in a right-of-way maintained by the town more than 30 days after the election is to be deemed unlawfully placed and abandoned.
property, and any person may remove and dispose of such political sign without penalty.

O. **Pushcart Signs**: Signs contained on vendor push carts that do not exceed fifteen square feet (15 sq. ft.) in area per push cart.

P. **Real Estate Signs**: A real estate sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale. Real estate signs are permissible subject to the following regulations:

1. Only one (1) sign per lot is allowed.
2. The sign shall not be illuminated.
3. Area and Height Requirements:

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Maximum Area</th>
<th>Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Zoning Districts</td>
<td>4 ft²</td>
<td>5 ft.</td>
</tr>
<tr>
<td>B1 Downtown Core</td>
<td>4 ft²</td>
<td>5 ft.</td>
</tr>
<tr>
<td>Remaining Zoning Districts</td>
<td>20 ft²</td>
<td>8 ft.</td>
</tr>
</tbody>
</table>

4. The real estate sign shall be removed either within forty-eight (48) hours after the property closing or execution of a leasing contract.

Q. **Temporary Decorations**: Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday/celebration.

R. **Temporary Use/Seasonal Sale Signs**: Temporary signs shall be allowed in conjunction with lawfully established temporary uses in all districts. Such signs must be located on the parcel on which the temporary use is occurring and may be attached or freestanding subject to the following:

1. Temporary uses may be permitted up to two signs.
2. These signs shall not exceed a cumulative total of sixteen square feet (16 sq. ft.) in area.
3. Signs for temporary uses are allowed for the duration of the temporary use.

S. **Umbrella Signs**: Umbrella signs used in connection with outdoor seating provide they meet the following requirements:

1. The signs shall be painted or printed on the umbrella.
2. Umbrellas shall not be erected at an acute angle for the purpose of serving as signage.
3. Umbrella signs shall be located on the umbrella itself and shall not be suspended from or otherwise hang from an umbrella.
4. Signage shall not be illuminated.

T. Vehicle Signs: Vehicle signs, unless such signs are used in a manner prohibited hereinafter, provided they meet the following requirements;

1. Vehicles must be operated in the normal course of business and may include the name of the owner or business;

2. Signage when affixed or painted onto vehicles and equipment and the like, are exempt from regulation, provided that, when not being so operated, such vehicles are parked or stored in areas appropriate to their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible.

3. All such vehicles must have current and valid registration and inspection.

4. Vehicles or equipment that display signs must move to perform only business-related activities at least every forty-eight (48) hours.

(Ord. PL05781-061322; 07-01-2023)

26.07 General Requirements for Signs

26.07.01 Sign Area

A. The sign area includes the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustration, or ornamentations, together with any material or color forming an integral part of the display or differentiating the sign from the background to which it is placed. Structural supports with no sign copy shall not be included in the sign area. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area.

B. Where a sign has two (2) sign areas back-to-back, the area of only one side shall be considered as the sign area. The maximum angle of a double-faced sign is 45 degrees, except for signs located on corner lots in which case the angle may be 90 degrees.

C. All signs are limited to two (2) sides.

26.07.02 Sign Height

A. Freestanding: The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.
1. The Administrator may approve deviations from this provision in order to accommodate topographic peculiarities of a particular parcel, so long as the result of such deviation serves the manifest objectives of this subsection.

B. Attached: Attached signs shall not project higher than the building soffit or eave height.

26.07.03 Vertical Clearance

A. For attached signs, vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign. Any sign encroaching onto a sidewalk may be no less than eight feet (8’) at the lowest point from the lowest point of the sign as measured to the sidewalk underneath.

26.07.04 Sign Setback

A. A sign setback of at least one foot (1’) is required from any easement, property line, or right-of-way. This setback is measured from the applicable easement, property line, or right-of-way to the closest component of the sign or sign structure.

26.07.05 Location

A. Signs shall be located on the same lot/building as the use being advertised unless a permanent off-premise sign in an access easement is permitted subject to the following requirements:

1. Application required: No permanent off-premise sign may be placed or displayed in an access easement area until a permit authorizing its display is issued.

2. No permit for a sign that will be displayed or located within an access easement may be issued unless there are no roads contiguous with the lot upon which the development is located, or the access easement in which the sign is to be located is the only available and planned vehicular access to the aforementioned lot.

3. The applicant must submit a certified copy of the instrument creating the easement with the application. The access easement area must be the only available and planned access for the development requesting the permanent off-premise sign. The Administrator may require that the applicant provide a signed statement from an attorney that such easement confers upon the applicant the right to display a sign within the easement if the Administrator is unsure of the scope of the rights created by the easement. Unless the easement affords rights to display a sign for the full potential life of the development, it will be considered legally insufficient.

4. The only sign that may be permitted for display in an off-premise easement is a ground mounted/monument sign which must meet all dimensional, separation, location, and lighting requirements of this Article for a ground mounted/monument sign in the zoning district in which it will be placed or the development is located, whichever is more restrictive, unless any such requirement is explicitly superseded by this section.
5. Limitations on the number of signs allowed: Only one (1) permanent off-premise sign will be allowed on a lot which is subject to an access easement which also allows a permanent off-premise sign (further known as the hosting lot). The permanent off-premise sign shall count as one of the free-standing signs (not including directory signs) allowed for the hosting lot. Furthermore, if at the time of application, existing signs on the hosting lot have either a combined square footage that meets/exceeds the maximum square footage allowed, or meet/exceed the maximum number of freestanding signs allowed, the applicant must provide a written declaration from the owner or occupant of the hosting lot indicating which sign(s) will be removed. If any signs are required to be removed, this shall be done prior to the issuance of the permit for the permanent off-premise sign.

B. Signs may be located in a required building setback or landscaped street-yard or buffer. If a sign is located in a required setback it shall not be otherwise located so as to obstruct pedestrian or vehicular traffic.

C. To ensure that signs do not constitute a traffic hazard, a sight triangle ten feet (10’) by seventy feet (70’) will be observed at all intersections of driveways/streets with adjacent streets (see diagram below).

D. No sign shall be located in or overhang any easement or right-of-way for public use, including alleys and sidewalks.

1. Exempted from this requirement are any signs within a B1 zoning district. These signs shall first obtain an encroachment agreement authorizing such incursion in accordance with Chapter 96 of the Boone Town Code.
   a. An encroachment agreement shall be required for any replacement of signs that do not have an encroachment agreement.

26.07.06 Audio Components

A. Audio components are prohibited as part of any sign, except for drive-through signs where the audio component is designed, located, shielded, and directed to prevent detection from surrounding properties.

26.07.07 Changeable/Digital Copy
A. Up to 50% of a permissible principal sign permitted in Section 26.08 may contain changeable/digital copy subject to the regulations herein and shall be limited to a dark background with light colored numerals and letters.

B. Only one of the two allowable signs may contain changeable/digital copy.

C. No such sign can be placed within 100 feet of a residential zoned property except for non-residential uses along a major traffic corridor, collector, or arterial street as defined in Article 34.

D. A sign with a changeable/digital copy shall contain additional information so the sign is not completely blank if the changeable message area is removed.

E. For electronic/digital changeable copy, the maximum brightness is limited to 5,000 nits when measured from the sign’s face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign’s face at its maximum brightness between dusk and dawn, i.e., the time of day between sunset and sunrise. The sign shall have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise. No sign may display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver or result in a nuisance to a driver.

1. Applicants shall submit a certification from the sign manufacturing confirming compliance with the standards set forth above.

F. Images and messages displayed in changeable/digital copy area must be complete in themselves, without continuation in content to the next image or message or to any other sign. The image shall be static with all animation, streaming video, flashing, scrolling, fading, and other illusions of motion otherwise prohibited. For example, the transition between messages shall be instantaneous and without special effects.

G. Any sign containing changeable/digital copy located on a local historic landmark or within a local historic district must obtain a Certificate of Appropriateness from the Historic Preservation Commission as outlined in UDO Article 8 prior to the issuance of a sign permit.

H. Changeable copy messages may change or alternate every five (5) minutes.

26.07.08 Illumination

A. Where permitted, permanent signs may be internally or externally illuminated. In no case shall a temporary sign be illuminated.

B. Lighting for permanent signs shall be consistent throughout a project, unless otherwise permitted within a Master Sign Plan, in which there is a variety of façade design and building types.
C. All external illumination of a sign shall concentrate the illumination upon the printed area of the sign face.

D. The use of blinding, flashing, moving, rotating, intermittent, or otherwise distracting lighting is prohibited.

E. All sign illumination, both external and internal, shall be designed, located, shielded, and directed to prevent the casting of glare or direct light upon rights-of-way and surrounding properties, and prevent the distraction of motor vehicle operators or pedestrians in the rights-of-way.

F. Internal illumination shall be allowed for certain types of permanent signs within the following zoning districts: B1 Downtown, B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, WD Wellness District, and Education districts.

1. Cabinets may be utilized, provided all electrical wiring is contained within the cabinet or support structure. Sign copy must be translucent and all background materials must be opaque.

26.07.09 Materials

A. Unless otherwise specified, permanent signs shall be constructed of brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction.

B. Unless otherwise specified awning signs may also be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric held taut between sign framework.

C. Unless otherwise specified, temporary signs shall be made of canvas, nylon, vinyl-coated fabric or similar weatherproof materials.

(Ord. PL05781-061322; 07-01-2023)

26.08 Signs Requiring a Permit

26.08.01 All principal signs shall require a permit, and are divided into three subcategories: attached, freestanding, and accessory.

A. Accessory signs shall require a permit, unless otherwise noted. Accessory sign copy is not included in principal sign calculations.

26.08.02 Number of Signs Allowed

A. Each establishment is permitted two (2) principal signs. In no case may both signs be of the same type, except for wall signs in compliance with Subsection 26.08.04(D)(3).

1. Exception 1: Tenants within a multi-tenant development are permitted two (2) attached signs and the development overall will be allowed a tenant directory sign in compliance with Subsection 26.08.06(E).
B. Each development is permitted the use of accessory signs in accordance with the guidelines set forth herein.

### Table of Permanent Signs

<table>
<thead>
<tr>
<th>Zoning Districts:</th>
<th>Residential</th>
<th>R3</th>
<th>B1</th>
<th>B2</th>
<th>B3</th>
<th>O/I</th>
<th>M1</th>
<th>WD</th>
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#### ATTACHED

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<tr>
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<tr>
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<td>Tenant Directory</td>
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<td>26.08.06(F)</td>
</tr>
</tbody>
</table>

### 26.08.03 Master Sign Plans

A. A Master Sign Plan is required for all residential subdivisions, multi-family and townhouse developments, non-residential subdivisions, and all multi-building and multi-tenant commercial developments before any permanent signs and their components may be erected.

1. All owners, tenants, subtenants and purchasers of individual units within the development shall comply with the approved Master Sign Plan.

2. Residential developments that have only one (1) entrance sign, and have no other signs, shall not be required to submit a Master Sign Plan.

B. A Master Sign Plan Application shall include all of the following:

1. The location of each principal and accessory sign.

2. Sign type, size, height, materials, color, illumination, and landscaping (if applicable) for each principal or accessory sign.
3. Computations of the total sign areas demonstrating compliance with all sections of this Article.

4. Allocation of permitted wall sign area among tenants in proportion to the overall building frontage as set forth in Subsection 26.08.04(D).

C. All lighting and landscaping elements of signs within a Master Sign Plan shall be consistent throughout the development, unless explicitly specified within the plan.

D. Amendments to approved plans. A Master Sign Plan may be amended via application submitted by the owner of the property, or an agent, tenant, or contract purchaser specifically authorized by the owner. The application must include written authorization from all owners affected by the proposed amendment(s). If an association for the property exists, then the association shall provide written authorization for all owners within the development.

E. After approval of, or amendment to, a Master Sign Plan, no permanent sign shall be erected except in accordance with such plan.

F. Master Sign Plans shall be enforced in the same way as any other provision in this Article.

G. In the case of any conflict between a provision of an approved Master Sign Plan and one (1) or more provisions of this Article, the Master Sign Plan shall control.

26.08.04 Attached Permanent Sign Types

A. Awning/canopy signs.

1. On a single-tenant property one (1) awning or canopy sign is allowed only in lieu of all other attached signage permitted on the wall the awning is attached that abuts a public or private street or right-of-way. Tenants occupying spaces with facades abutting multiple streets are permitted one awning or canopy sign per façade.

2. Sign copy on any awning or canopy sign surface is limited to 25% of the total surface area including any valances, not to exceed forty-eight square feet (48 sq. ft.).
   a. Sign copy allowed above may be applied directly to the awning/canopy or attached to or directly above the top of the awning/canopy with a maximum height of twenty-four inches (24”).

3. Signs may be externally illuminated only.

B. Marquee signs.

1. A marquee sign shall be allowed for theaters, museums, auditoriums, and other entertainment facilities in addition to the two allowable principal signs, subject to the following requirements:
   a. Marquee signs shall conform to the applicable sign requirements for the district in which they are located, however the area of the marquee sign shall
be permitted an increase in size up to an additional 100% provided that one of
the other signs to which the establishment is entitled is reduced in size. The
percentage of increase in area shall be equal to the reduction in area of the
other permitted sign.

2. The following regulations shall apply solely to a historical reconstruction of a
projecting theater marquee:
   a. A projecting theater marquee shall be allowed only in the B1 Downtown Core.
   b. No portion of a projecting theater marquee shall be less than eight feet (8’)
      above grade nor higher than sixteen feet (16’).
   c. A projecting theater marquee and supporting structures shall not extend over
      the edge of any sidewalk or into any street right-of-way absent an
      encroachment agreement authorizing such incursion by the Town.
   d. The projecting theater marquee shall only be attached to the building in which
      the theater is located and must be above an entrance to the theater. No
      projecting theater marquee sign shall be wider than the building to which it is
      attached.
   e. Signage may be installed directly upon the vertical face or faces of a projecting
      theater marquee with the following conditions:
      i. Channel letters may extend above such vertical face or faces provided that
         the letter height is restricted to twelve inches (12”) in height.
      ii. No sign may extend below such vertical face or faces with the exception of
          lighting elements. All lighting elements shall meet the requirements of
          Subsection 26.08.04(B)(2)(b) above.
      iii. The changeable copy portions of a projecting theater marquee shall not
           exceed fifty percent (50%) of the total area of all faces and comply with
           Section 26.07.07.
      iv. All other signage attached to a projecting theater marquee may not exceed
          twenty percent (20%) of the total area of all faces.
   f. A projecting theater marquee may include the use of flashing, scrolling, or
      intermittent lights subject to the following conditions:
      i. The flashing, scrolling, blinking, or intermittent lights may only be in
         operation during the time the theater is open to the public and prohibited
         between the hours of 11 p.m. to 7 a.m.
      ii. Light fixtures on the projecting theater marquee do not have to meet the
          requirement for full cut-off fixtures as required in Subsection 25.05.02.
g. Encroachment: Where a projecting theater marquee extends over a public sidewalk or other public property, an executed encroachment agreement approved by the Boone Council shall be required prior to issuance of any sign permit for a projecting theater marquee.

h. A projecting theater marquee may be constructed either as part of a new structure or as an addition to an existing structure as follows:

i. Site-specific plans and specifications must be submitted from a registered North Carolina licensed structural engineer demonstrating that the projecting theater marquee complies in all ways with appropriate code provisions of the Town and the State of North Carolina, including but not limited to, materials, drainage, roof strength, bracing and anchorage.

ii. A final certification from the registered North Carolina licensed structural engineer shall be required stating that the projecting theater marquee complies with all appropriate code provisions of the Town and the State of North Carolina and that the projecting theater marquee has been constructed according to their submitted design.

C. Projecting signs.

1. Projecting signs shall be erected so that the sign is perpendicular to the building wall on which they are attached. In cases where a projecting sign has two sign faces that are not perpendicular, the interior angle formed between faces shall be sixty (60) degrees or less.

2. The maximum area for a projecting sign is eight square feet (8 sq. ft.) in residential zoning districts, and sixteen square feet (16 sq. ft.) in all other zoning districts.

3. Projecting signs shall not project more than four foot (4") from any building on which they are attached.

4. Projecting signs shall be centered over, or located near, the principal doorway.

5. Projecting signs may be externally or internally illuminated.

D. Wall signs.

1. Wall signs shall be erected so that the sign is attached flush against and parallel to the exterior wall or surface of a building. Where a wall sign utilizes channel letters for interior lighting, a raceway may separate the sign from the wall provided that all electrical components of the sign are housed within the raceway, and the raceway does not extend more than six (6) inches from the face of the wall or surface of the building.

2. The maximum area for wall signs shall be determined by a ratio of allowable square feet of sign area per linear foot of building frontage. In no case may a wall sign in any district exceed the maximum, as listed in the table below:
### Zoning Districts

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Ratio</th>
<th>Maximum Area (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential districts (residential uses)</td>
<td></td>
<td>4 sq. ft.</td>
</tr>
<tr>
<td>Residential districts (non-residential uses)</td>
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<td>16 sq. ft.</td>
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<tr>
<td>Residential districts (non-residential uses on major traffic corridors, arterial or collector streets)</td>
<td>0.5:1</td>
<td>48 sq. ft.</td>
</tr>
<tr>
<td>R3 Multi-family residential</td>
<td></td>
<td>16 sq. ft.</td>
</tr>
<tr>
<td>B1 Downtown Core</td>
<td>0.5:1</td>
<td>48 sq. ft.</td>
</tr>
<tr>
<td>B1 Downtown Interface</td>
<td>1:1</td>
<td>80 sq. ft.</td>
</tr>
<tr>
<td>B2 Neighborhood Business</td>
<td>1:1</td>
<td>80 sq. ft.</td>
</tr>
<tr>
<td>B3 General Business</td>
<td>1:1</td>
<td>120 sq. ft.</td>
</tr>
<tr>
<td>O/I Office/Institutional</td>
<td>1:1</td>
<td>64 sq. ft.</td>
</tr>
<tr>
<td>M1 Manufacturing</td>
<td>1:1</td>
<td>120 sq. ft.</td>
</tr>
<tr>
<td>WD Wellness district</td>
<td>1:1</td>
<td>80 sq. ft.</td>
</tr>
<tr>
<td>Education districts</td>
<td>1:1</td>
<td>64 sq. ft.</td>
</tr>
</tbody>
</table>

3. Wall signs may be placed on either the primary or secondary façade, but allowable size calculations shall be measured along the primary façade. Where an establishment elects to have two (2) wall signs, one shall be placed on the primary façade and the other on a secondary façade. The two (2) signs may be equal in size, but in no case may the secondary façade sign be larger than the primary façade sign. The sum of the area of the two (2) wall signs shall not exceed the allowable square footage defined in the table in Subsection 26.08.04(D)2.

4. No portion of a wall sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.

5. Wall signs may be externally or internally illuminated.

#### E. Painted wall signs.

1. Painted wall signs shall be allowed on secondary façades in the B3 General Business zoning district, provided they meet the requirements of the table in Subsection 26.08.04(D)2.

2. Painted wall signs may be externally illuminated.

#### 26.08.05 Freestanding Permanent Signs.

A. Maximum area and height of freestanding signs can be found in Table 26.08.05 below.

B. No freestanding sign shall be placed less than forty feet (40’) from another freestanding sign unless no other option is available.

C. Freestanding signs must be placed in either:
Town of Boone  
Unified Development Ordinance  
Article 26 Signs

1. A landscaped streetyard or buffer that meets current standards; or

2. A landscaped area that is at least three feet (3’) in width and the least the length of the greatest dimension of the sign.

D. Multi-Tenant Developments

1. In lieu of a separate freestanding sign per individual tenant, multi-tenant developments are allowed a freestanding multi-tenant directory monument sign that is approximately fifty percent (50%) larger than the size of a monument sign for a single establishment (for most zoning districts). See Table 26.08.04 for more detail.

   a. Exception: Tenants in a multi-tenant development will be allowed to have a freestanding sign if the establishment has an exterior building frontage in the development of eighty linear feet (80 lf) or more. In the instance the exterior frontage requirement has been met, then the establishment may be permitted a freestanding sign as one (1) of its two (2) permitted signs along the street that the building frontage is located along.

E. Monument Signs.

1. So as to incentivize the use of monument signs over pole/pylon signs (if the latter is allowed), the maximum size of a monument sign is approximately thirty-five percent (35%) larger than the alternative pole/pylon sign.

2. In addition to the standards above, in the B1 districts, a monument sign is only allowed in areas that have either a pedestrian-oriented courtyard, landscaped greenspace, or landscaped buffer that contains four times the size (in area) of the proposed sign and shall be set back either a minimum of six feet (6’) from the edge of right-of-way or back of the public sidewalk, whichever is the most restrictive.

3. Developments in the B1DI, B3, OI, WD, and M1 zoning districts shall be allowed additional monument signs at secondary entrances for the general public provided that:

   a. The height of the monument sign located at the secondary entrance shall not exceed four feet (4’) in height.

   b. The maximum area of the monument sign located at the secondary entrance shall not exceed 50% of the maximum area of the freestanding sign located at the primary entrance.

   c. The monument sign located at the secondary entrance does not front the same linear public or private street as the freestanding sign located at the primary entrance.

   d. All other requirements for monument signs are met.
Table 26.08.05 Types of Freestanding Signs

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Pole/Pylon Signs Maximums</th>
<th>Monument Signs Maximum Area/Height Maximums</th>
<th>Multi-Tenant Directory Monument Signs Maximums</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Area (Square Feet)</td>
<td>Height (Feet)</td>
<td>Area (Square Feet)</td>
</tr>
<tr>
<td>Residential districts (residential uses)</td>
<td></td>
<td>30</td>
<td>6</td>
</tr>
<tr>
<td>Residential districts (non-residential uses)</td>
<td></td>
<td>30</td>
<td>6</td>
</tr>
<tr>
<td>Residential districts (non-residential uses on major traffic corridors, arterial or collector streets)</td>
<td>41</td>
<td>6</td>
<td>62</td>
</tr>
<tr>
<td>B1 Downtown Core</td>
<td>32</td>
<td>6</td>
<td>16</td>
</tr>
<tr>
<td>B1 Downtown Interface</td>
<td>41</td>
<td>6</td>
<td>41</td>
</tr>
<tr>
<td>B2 Neighborhood Business</td>
<td>30</td>
<td>20</td>
<td>41</td>
</tr>
<tr>
<td>B3 General Business</td>
<td>50</td>
<td>20</td>
<td>68</td>
</tr>
<tr>
<td>O/I Office/Institutional</td>
<td>30</td>
<td>20</td>
<td>41</td>
</tr>
<tr>
<td>M1 Manufacturing</td>
<td>50</td>
<td>20</td>
<td>68</td>
</tr>
<tr>
<td>WD Wellness district</td>
<td>30</td>
<td>20</td>
<td>41</td>
</tr>
<tr>
<td>Education districts</td>
<td>50</td>
<td>20</td>
<td>68</td>
</tr>
</tbody>
</table>

26.08.06 Accessory Signs

A. Directional signs.

1. Directional signs shall be allowed for all uses in association with vehicle and pedestrian entrances, parking areas, and general wayfinding. They may be attached or freestanding, but may not exceed four (4) square feet in area.

2. Attached directional signs are subject to the following requirements:

   a. Shall be limited to wall signs.

   b. Shall be attached flush against and parallel to the exterior wall or surface of a building.

   c. No portion of the sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.

   d. Attached directional signs may be externally illuminated.

3. Freestanding directional signs are subject to the following requirements:
a. May not exceed three feet (3’) in height outside of any required site triangle and may not exceed two feet (2’) within any required site triangle.

b. Freestanding directional signs may be externally or internally illuminated in the B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, M1 Manufacturing; and externally illuminated in all other districts.

B. Incidental signs.

1. Incidental signs shall be allowed in all districts provided they contain no logo or on-premise advertising. They may be attached or freestanding, but may not exceed four (4) square feet in area.

2. Attached incidental signs are subject to the following requirements:
   a. Shall be limited to wall signs.
   b. Shall be attached flush against and parallel to the exterior wall or surface of a building.
   c. No portion of the sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.
   d. Attached incidental signs may be externally or internally illuminated.

3. Freestanding incidental signs are subject to the following requirements:
   a. May not exceed three (3) feet in height outside of any required site triangle and may not exceed two feet (2’) within any required site triangle.
   b. Freestanding incidental signs may be externally or internally illuminated in the B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, M1 Manufacturing; and externally illuminated in all other districts.

C. Menu Boards.

1. In the B1 zoning districts, each building entrance may have one walk-up menu board, subject to the following requirements:
   a. The menu board must be located inside a display box, permanently mounted adjacent to the building entrance.
   b. The display box shall not exceed eight (8) square feet in area.
   c. The display box shall be appropriate in size, location, and design to the character and architectural detail of the building.
   d. The display box may be externally illuminated, or internally illuminated utilizing full cut-off fixtures within the display box.

2. In the remaining zoning districts, where allowed, uses that utilize a drive-thru or walk-up service may erect one (1) menu board for each drive-thru or walk-up lane.
Menu boards may be attached or freestanding, subject to the following requirements:

a. Attached menu boards shall be limited to wall signs, which shall be attached flush against and parallel to the exterior wall or surface of a building, with no portion of the sign extending above, below, or beyond the edge of the wall or surface on which it is attached and shall not exceed fourteen square feet (14 sq. ft.).

b. Freestanding menu boards shall not exceed eight (8) feet in height, must be placed within an approved landscaped area, and shall be set back one (1) foot from interior lot lines and shall not exceed twenty-eight square feet (28 sq. ft.) in area.

c. Each drive-thru menu boards shall not exceed twenty-eight (28) square feet.

d. Menu boards shall not be legible from any public street.

e. Menu boards may be externally or internally illuminated.

D. Suspended Signs

1. Suspended signs shall be allowed under canopies and along pedestrian arcades provided that they are attached in a secure manner, with brackets and mounting devices maintained and in good repair. Signs shall be mounted so that the method of installation is concealed to the extent practical.

2. The maximum area for a suspended sign shall not exceed four (4) square feet in all districts.

3. Unless specifically authorized by an encroachment agreement approved by the Town Council, no suspended sign may overhang a public street or public sidewalk.

4. Suspended signs may not be illuminated.

E. Tenant directory wall signs.

1. Developments with more than one tenant shall be permitted to install a tenant directory wall signs subject to the requirements herein.

a. Each building with multiple tenants is allowed a tenant directory sign at each entrance into the building.

b. Tenant directory signs shall be attached flush against and parallel to the exterior wall or surface of a building, with no portion of the sign extending above, below, or beyond the edge of the wall or surface on which it is attached.

c. Tenant directory signs may not be illuminated.

F. Window signs.
1. Window signs placed on the interior of a window or door are limited to the ground floor in the R3 Multi-Family and B2 Neighborhood Business zoning districts. All other commercial uses in all other zoning districts are permitted window signs up to and including the third story.

2. With the exception of one open/closed sign, window signs shall not be illuminated, including by means of any electronic discharge tubing or similar lighting manufactured into shapes that forms letters, parts of letter, skeleton tubing, or other decorative elements or logos. Additionally, in no case may a window or a door be outlined using any type of lighting.
   
   a. Exception 1: The use of seasonal string lighting for any legitimate merchandise display is exempt provided such lighting is both clearly temporary (not to exceed 60 days) and seasonal in nature.
   
   b. Exception 2: This regulation is not intended to prohibit the internal lighting of a storefront window/merchandise display.

26.08.07 Murals

A. Murals shall be treated as wall signs and subject to the same regulations, except as set forth in this section.

B. A mural shall not be treated as a sign, shall not require permitting, and shall be allowed without restriction as to size, if it meets the following criteria:

   1. Murals shall be limited to the rear and secondary facades and shall not be allowed on any primary facade.
   
   2. Murals are allowed to be applied only to wall surfaces. No mural or part of a mural is allowed on any part of any roof, fence, window, door, window trim, door trim, or other architectural feature.
   
   3. Murals proposed for structures located in a historic district or landmark may require approval per historic district/landmark standards. This section is not intended to in any way modify the applicable requirements of the historic district/landmark.

(Ord. PL05781-061322; 07-01-2023)
ARTICLE 27    RESERVED

(Ord. PL04727-050721, 07-01-2021)
TITLE VI

NATURAL RESOURCES
ARTICLE 29  WATERSHED PROTECTION

29.01 Adoption Date and Effective Date

(Ord. PL04727-050721, 07-01-2021)

29.02 Jurisdiction
The provisions of the Article shall apply within the areas designated as a Public Water Supply Watershed by the North Carolina Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Boone, North Carolina" ("The Watershed Map"), which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of this Article.

29.03 Exceptions to Applicability
Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Article amend, modify, or restrict any provisions of the Code of Ordinances of the Town of Boone; however, the adoption of this Article shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town at the time of the adoption of this Article that may be construed to impair or reduce the effectiveness of this Article or to conflict with any of its provisions.

29.03.02 It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose
greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

29.03.03 Existing development is not subject to the requirements of this Article. Expansions to structures classified as existing development must meet the requirements of this Article, however, the built upon area of the existing development is not required to be included in the density calculations.

29.03.04 A pre-existing lot owned by an individual prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this Ordinance. However, this exemption is not applicable to multiple contiguous lots under single ownership.

29.04 Establishment of Watershed Review Boards

29.04.01 The Planning Commission shall act as the Watershed Review Board on all subdivision regulation matters. The Board of Adjustment shall act as the Watershed Review Board on all other matters regarding this Ordinance.

29.05 Establishment of Watershed Areas

29.05.01 The purpose of this Section is to list and describe the watershed areas herein adopted.

29.05.02 For purposes of this Article the Town and its extraterritorial jurisdiction are hereby divided into the following areas, as appropriate:

A. WS-II-CA (Critical Area)
B. WS-IV-CA (Critical Area)
C. WS-IV-PA (Protected Area)

29.06 Watershed Areas Described

29.06.01 WS-II Watershed Areas Critical Area (WS-II-CA): In order to maintain a predominately undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one (1) dwelling unit per two (2) acres. All other residential and nonresidential development shall be allowed at a maximum six percent (6%) built upon area. New sludge application sites and landfills are specifically prohibited.

A. Allowed uses are:


2. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

3. Residential development, including both single family and all other residential.

4. Non-residential development, excluding:
a. The storage of toxic and hazardous materials unless a spill containment plan is implemented,
b. Landfills, and
c. Sites for land application of sludge/residuals or petroleum contaminated soils. New industrial development is required to incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are used, stored or manufactured on the premises.

B. Density and built upon limits:

1. Single family residential development shall not exceed one (1) dwelling unit per two (2) acres on a project by project basis. No residential lot shall be less than two (2) acres, except within an approved cluster development.

2. All other residential and non-residential development shall not exceed six percent (6%) built upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed.

29.06.02 *WS-IV Watershed Areas Critical Area (WS-IV-CA)*: In order to address a moderate to high land use intensity pattern, single family residential uses are allowed at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed twenty-four percent (24%) built-upon area. New sludge application sites and landfills are specifically prohibited.

A. Allowed uses are:


2. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

3. Residential.

4. Non-residential development, excluding:

   a. The storage of toxic and hazardous materials unless a spill containment plan is implemented,

   b. Landfills, and

   c. Sites for land application of sludge/residuals or petroleum contaminated soils.

B. Density and built upon limits:

1. Single family residential development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one half (1/2) acre, except within an approved cluster development.
2. All other residential and non-residential development shall not exceed twenty-four percent (24%) built upon area on a project by project basis. For the purpose of calculating the built upon area, total project area shall include total acreage in the tract on which the project is to be developed.

29.06.03 **WS-IV Watershed Areas Protected Area (WS-IV-PA):** In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built upon area.

A. Uses allowed are:


2. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

3. Residential development.

4. Non-residential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.

B. Density and built upon limits:

1. Single family residential development shall not exceed two (2) dwelling units per acre, on a project by project basis. No residential lot shall be less than one half (1/2) acre, except within an approved cluster development.

2. All other residential and non-residential development shall not exceed twenty-four percent (24%) built upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include acreage in the tract on which the project is to be developed.

29.07 **Cluster Development**

29.07.01 Clustering of development is allowed in all watershed areas under the following conditions:

A. Built upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.

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

C. The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owner’s association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
29.08  **Buffer Areas Required**

29.08.01  A minimum thirty-foot (30’) vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

29.08.02  No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

29.09  **Rules Governing the Interpretation of Watershed Area Boundaries**

29.09.01  The boundaries of the watershed areas are as shown on the Official Watershed Map. Where uncertainty exists, the Administrator shall interpret the Watershed Map as to location of such boundaries.

(Ord. PL04727-050721, 07-01-2021)

29.10  **Existing Development**

29.10.01  Any existing development may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Ordinance, however, the built upon area of the existing development is not required to be included in the density calculations.

29.11  **Watershed Protection**

29.11.01  Except where a single family residence is constructed on a lot deeded prior to the effective date of this Ordinance, no building or built upon area shall be erected, moved, enlarged or structurally altered, nor shall any zoning or building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Administrator. No watershed protection permit shall be issued except in conformity with the provisions of this Ordinance.

29.11.02  Watershed protection permit applications shall be filed with the Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Administrator.

29.11.03  Prior to issuance of a watershed protection permit, the Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

29.11.04  A watershed protection permit shall expire if a zoning or building permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.
29.12 Public Health, Safety, and General Welfare

29.12.01 All development shall be located, designed, and proposed so as to promote the public health, safety, and general welfare. All development shall comply with all required regulations and standards in this Ordinance as well as conform with the general plans for the physical development of the Town as embodied in this Ordinance and in the comprehensive plan.
ARTICLE 30  FLOOD DAMAGE PREVENTION

30.01 General Provisions

30.01.01 Lands to Which This Article Applies: This Article shall apply to all Special Flood Hazard Areas within the Town’s jurisdiction.

A. The use of any land or structure within the Special Flood Hazard Area shall comply with the use regulations in the UDO applicable to the underlying zoning district as well as any additional requirements imposed by this Article.

30.01.02 Basis for Establishing the Special Flood Hazard Areas: The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Watauga County dated December 3, 2009 which are adopted by reference and declared to be a part of this Article.

30.01.03 Establishment of Floodplain Development Permit: A Floodplain Development Permit shall be required in conformance with the provisions of this Article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Subsection 30.01.02 of this Article.

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

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

30.01.06 Interpretation: In the interpretation and application of this Article, all provisions shall be:

A. Considered as minimum requirements; and

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under State statutes.

30.01.07 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 consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town of Boone or by any
officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

(Ord. PL00147-010417, 02-16-2017)

30.02 Administration

30.02.01 Designation of Floodplain Administrator: See Subsection 2.06.04.

30.02.02 Floodplain Development Application, Permit and Certification Requirements

A. Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. A special flood hazard area site plan shall be submitted in accordance with Appendix A.

B. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

1. A description of the development to be permitted under the Floodplain Development Permit; and
2. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Subsection 30.01.02; and
3. The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities; and
4. The Regulatory Flood Protection Elevation required for the protection of all public utilities; and
5. All certification submittal requirements with timelines; and
6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable; and
7. The flood openings requirements, if in Zones A, or AE; and
8. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

C. Certification Requirements.

1. Elevation Certificates

   a. An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure
to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.

b. An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder’s risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

c. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

2. Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproof design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
3. If a manufactured home is placed within Zone A, or AE, and the elevation of the chassis is more than thirty-six inches (36”) in height above grade, an engineered foundation certification is required in accordance with the provisions of Subsection 30.03.02(D)(2).

4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer’s certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit.

5. Certification Exemptions. The following structures, if located within Zone A, or AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this Subsection:
   a. Recreational Vehicles meeting requirements of Subsection 30.03.02(G);
   b. Temporary Structures meeting requirements of Subsection 30.03.02(H); and
   c. Accessory Structures less than 150 square feet meeting requirements of Subsection 30.03.02(I).

30.02.03 Duties and Responsibilities of the Floodplain Administrator

A. The Floodplain Administrator shall perform, but not be limited to, the following duties:

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

2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received; and

3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained; and

5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Subsection 30.03.05 are met; and

6. Obtain actual elevation (in relation to mean sea level) of the reference level of the lowest floor (including basement) and all attendant utilities of all new and
substantially improved structures, in accordance with the provisions of Subsection 30.02.02(B); and

7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Subsection 30.02.02(C); and

8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Subsection 30.02.02(C); and

9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Subsection 30.02.02(C) and Subsection 30.03.02(C); and

10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation; and

11. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Subsection 30.01.02, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Subsection 30.03.03(B), in order to administer the provisions of this Article; and

12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Subsection 31.01.02, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Article; and

13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the landowner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA; and

14. Maintain a copy of the LOMA issued by FEMA in the Floodplain Development Permit file; and

15. Permanently maintain all records that pertain to the administration of this Article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended; and

16. Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation
of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action; and

17. Issue stop-work orders as required in accordance with the procedures of Section 12.08 of this Ordinance. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor; and

18. Revoke Floodplain Development Permits as required in accordance with procedures of Section 12.09 of this Ordinance. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked; and

19. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of the inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the planning jurisdiction of the Town at any reasonable hour for the purposes of inspection or other enforcement action; and

20. Follow through with corrective procedures of Subsection 3.02.04; and

21. Review, provide input, and make recommendations for reasonable conditions should a request for a variance be submitted; and

22. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Subsection 30.01.02 of this Article, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs; and

23. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

30.02.04 **Corrective Procedures:** The Administrator shall follow the corrective procedures in accordance with Article 12 of this Ordinance.
30.02.05 **Variance Procedures:** The Board of Adjustment shall hear and decide requests for variances from the requirements of this Article. See Article 6.

(Ord. PL04727-050721, 07-01-2021)

30.03 **Provisions for Flood Hazard Reduction**

30.03.01 **General Standards:** In all Special Flood Hazard Areas the following provisions are required:

A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

C. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and to minimize discharges from the systems into flood waters.

G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Any onsite sewage disposal system shall be located to avoid damage during flooding or interruption when evacuation is not necessary.

H. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Article, shall meet the requirements of “new construction” as contained in this Article.

I. Nothing in this Article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Article and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Article.
J. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 6.03. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area floodplain only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Subsection 30.02.02(C)(2).

K. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

L. All subdivision proposals shall on each lot intended for development, provide buildable area outside of the Floodway Zone and the Special Flood Hazard Area to greatest extent possible.

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

N. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

O. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

P. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

Q. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

R. No artificial obstruction may be located within any Floodway zone.

S. Any stream culverted on or before September 23, 1986, shall have a floodway of twenty feet (20') from the center of the culvert or to the limit of the mapped floodway as shown on the most recent FIRM, whichever is greater.

30.03.02 Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 30.01.02, or Section 30.03.03, the following provisions, in addition to the provisions of Section, are required:

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

B. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation. Structures located in ZONE A, or AE Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

C. A registered professional engineer or architect shall certify that the floodproofing standards of these Subsections are satisfied. Such certifications shall be provided to the Floodplain Administrator as set forth in Subsection 30.02.02(C), along with the operational plan and the inspection and maintenance plan.

D. Manufactured Homes.

1. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation.

2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified, engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six inches (36") or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six inches (36") in height, an engineering certification is required.

3. All enclosures or skirting below the lowest floor shall meet the requirements of Subsection 30.03.02(E).

4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

E. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas; and

2. Shall be constructed entirely of flood resistant materials; and

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

F. Additions/Improvements.

1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
   a. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
   b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
   a. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
   b. A substantial improvement, the existing structure and the addition and/or improvements must comply with the standards for new construction.

G. Recreational Vehicles.

1. A recreational vehicle may only be located within a Special Flood Hazard Area if the recreation vehicle is stored only for fewer than 180 consecutive days and is fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions);

2. Permanently attached recreational vehicles are prohibited.

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

1. The specified time period for which the temporary use will be used or required. Time specified may not exceed three (3) months, renewable up to one (1) year; and

2. The name, address, and phone number of the individual responsible for the removal of the temporary structure; and

3. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification); and

4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

I. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas); and

2. Accessory structures shall not be temperature-controlled; and

3. Accessory structures shall be designed to have low flood damage potential; and

4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and

5. Accessory structures shall be firmly anchored in accordance with the provisions of Subsection 30.03.01(A); and

6. All service facilities such as electrical shall be installed in accordance with the provisions of Subsection 30.03.01(D); and

7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Subsection 30.03.02(E)(3).

8. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Subsection 30.02.02(B).

J. Subdivisions

1. All subdivision proposals shall be designed to minimize flood damage.

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

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

4. All subdivision proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

5. An applicant for a special use permit authorizing a major subdivision and an applicant for minor subdivision final plat approval shall be informed by the Administrator of the use and construction restrictions contained in this Article if any portion of the land to be subdivided lies within the Floodplain.

6. Final plat approval for any subdivision containing land that lies within a Special Flood Hazard area may not be given unless the plat shows all Special Flood Hazard Area boundaries and contains in clearly discernible print the following statement:

“Use of land within the Special Flood Hazard Area is substantially restricted by the Flood Damage Prevention Ordinance of the Town of Boone.”
7. A Special Use Permit for a major subdivision and final plat approval for any subdivision may not be given if:
   a. It reasonably appears that the subdivision is designed to create residential building lots; and
   b. It reasonable appears that one more lots as described could not practicably be used as a residential building site because of the restrictions set forth in this Article.

K. Permissible Uses Within the Special Flood Hazard Area

The following uses shall be permitted within the Special Flood Hazard Area provided the use is a permissible use within the zoning district and documentation is submitted to show the use shall comply with the provisions of this Section:

1. General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.

2. Lawns, gardens, play areas, and other similar uses.

3. Golf courses, driving ranges, archery ranges, picnic grounds, parks, hiking, bicycle or horseback riding trails, open space and other similar private and public recreational uses.

30.03.03 Standards for Floodplains Without Established Base Flood Elevations: Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Subsection 30.01.02, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 30.03.01, shall apply:

A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty feet (20’) each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

1. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Article and shall be elevated or floodproofed in accordance with standards in Subsections 30.03.01 and 30.03.02.

2. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Subsections 30.03.02 and 30.03.05.
3. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Subsection 30.01.02 and utilized in implementing this Article.

4. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation. All other applicable provisions of Subsection 30.03.02 shall also apply.

30.03.04 Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas: Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

A. Standards of Subsections 30.03.01 and 30.03.02; and

B. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

30.03.05 Floodways and Non-Encroachment Areas: Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Subsection 30.01.02. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Subsections 30.03.01 and 30.03.02, shall apply to all development within such areas:

A. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

1. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of Floodplain Development Permit, or
2. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

B. If Subsection 30.03.05(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Article.

C. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

1. The anchoring and the elevation standards of Subsection 30.03.02(D).

(Ord. PL05688-050322, 06-08-2022)
ARTICLE 31  LANDSCAPE STANDARDS

31.01  Applicability

The table and information set forth in Section 31.05, concerning the types of screening, establishes suggested screening requirements that, presumably, satisfy the general standards established in Section 31.02. However, this table is only intended to establish a presumption and should be flexibly administered in accordance with Section 31.11.

31.01.02  The provisions of this Article and the Landscape Standards in Appendix C, Town of Boone Details and Specifications Manual of this Ordinance shall apply to all commercially developed land and all land within the following zoning districts: R3, MH, OI, B1, B2, B3, E1, E2, E3 and M1, except for forestry activities subject to regulations pursuant to N.C. Gen. Stat. §160D-921(b).

(Ord. PL04727-050721, 07-01-2021)

31.02  General Screening Standard

31.02.01  Every development shall provide sufficient landscape material so that:

A. Neighboring properties are shielded from adverse external effects of that development; and

B. The development is shielded from the negative impacts of adjacent uses such as parking lots.

31.02.02  To ensure that landscape materials do not constitute a traffic hazard, a sight triangle ten feet (10') by seventy feet (70') will be observed at all intersections of driveways/streets with adjacent streets (see diagram below).
A. Required street trees shall be planted outside of the sight triangle area.

B. Shrubs planted within sight triangles shall be of a type with a maximum mature height of twenty-four inches (24”).

### 31.03 Compliance with Screening Standard

#### 31.03.01 To determine the required screening, the following steps shall be taken:

A. Identify the classification of the proposed land use and all adjacent uses listed in Section 31.04 Screening Land Use Classification.

B. Use the Table of Screening Requirements in Section 31.05 to determine the appropriate letter designation for each abutting area. If the abutting area is undeveloped, the required screening shall be that which would be required for a use necessitating the greatest visual obstruction.

C. Match the letter designation obtained from Section 31.05 Table of Screening Requirements with Section 31.06 Buffer and Screen Requirements to determine the required screening.

D. The screening requirements established in this Article apply to all land uses except where specific requirements are established for uses elsewhere in this Ordinance.

### 31.04 Screening Land Use Classification

#### 31.04.01 Listed below are the classifications of land uses that will determine the required screening established in Section 31.05, Table of Screening Requirements. The land uses are keyed to the Table of Principal Uses contained in Article 15.

A. **Classification I**: 1.01 Single-Family Dwelling, 1.02-1.04 Manufactured Homes, 1.05 Manufactured Home Park, 2.01 Family Care Home, 3.01 Home for Survivors of Domestic Violence, 13.01-13.02 Garden

B. **Classification II**: 1.06-1.07 Duplex, 1.08-110 Townhouse, 1.11-13 Multi-Family Dwelling, 1.14-1.16 Multi-Family Dwelling in Mixed-Use, 1.17 Adult Living Community, 2.02 Family Care Institution, 2.03-2.04 Halfway House, 2.05 Residential Care Facility, 2.06 Fraternity or Sorority Dwelling, 2.07 Boarding House, 3.02-3.03 Shelter for Homeless, 3.04-3.05 Bed and Breakfast, 3.06 Vacation Rental, 4.04 Cemetery, 5.01-5.03
C. Classification III: 3.08 Motel, 3.09-3.11 Hotel, 4.01 Airport/Landing Strip, 4.02 Heliport, 4.03 Funeral Home Establishment, 4.05-4.06 Post Office, 5.06 Government Recreation Facility Category 3, 5.08-5.09 Government Event Venue, 8.04-8.05 Club/Lodge, 10.0 Daycare, 11.0 General Sales and Service,; 12.01 Indoor Shooting Range, 12.03 Indoor Theater, 12.06-12.07 Event Venue; 12.08 Campground and Recreational Vehicle Park, 12.12 Recreation Facility, 13.03-13.04 Agricultural Operation, 13.07 Custom Slaughterhouse, 14.01 Microbrewery, 14.02 Brewpub, 14.03 Brewery/Distillery, 14.05 Winery Associated with a Vineyard, 14.06 Winery, 14.09 Machine/Welding Shop, 15.0 Parking, 16.01 Mini-Storage, 16.02 Outdoor Storage, 16.03 Warehouse, 17.0 Transportation, 18.01 Recycling Drop-off Station, 19.0 Particular Activities which pose Particular Concerns about Public Health

D. Classification IV: 4.07 Animal Sanctuary, 5.10 Landfill, 5.11 Solid Waste Processing, 7.0 Telecommunications (excluding 7.01, 7.03, and 7.10), 12.09 Coliseum, 14.08 Extraction of Earth Materials, 14.10 Manufacturing Other, 16.04 Fuel Storage Facility, 18.04 Recycling and Salvage

(Ord. PL03076-090919, 11-19-2019)

31.05 Table of Screening Requirements

31.05.01 The Table of Screening Requirements shall be used to determine screening requirements between adjacent land uses.

<table>
<thead>
<tr>
<th>Proposed Land Use Classification</th>
<th>Adjacent Permitted Land Use Classification</th>
<th>Adjacent Zone with Nonconforming Use</th>
<th>Adjacent Public or Private Street</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>I</td>
<td>II</td>
<td>III</td>
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<td>II</td>
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<td>III</td>
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<td>B</td>
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<tr>
<td>IV</td>
<td></td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

31.05.02 Three basic types of screening are hereby established and are used as the basis for the table. Compliance of planted vegetation screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field
observation of existing vegetation. All types may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Suggested plant material is included in Appendix C, Town of Boone Details and Specifications Manual.

A. Standard Screen, Type “A” is a screen composed of intermittent visual obstructions from the ground to a height of at least twenty feet (20’). The standard screen is intended to create a separation of spaces without necessarily eliminating visual contact between the spaces.

B. Semi-Opaque Screen, Type “B” is intended to partially block the view between uses and to create a strong distinction of separation of spaces. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet (10’) wide.

C. Opaque Screen, Type “C” is a screen that is opaque from the ground to a height of at least six feet (6’), with intermittent visual obstructions from the opaque portion to a height of at least twenty feet (20’). An opaque screen is intended to exclude completely all visual contact between uses and to create a strong spatial separation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstruction should not contain any completely unobstructed openings more than ten feet (10’) wide.

<table>
<thead>
<tr>
<th>Screening Type</th>
<th>Required Width of Bufferyard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type “A” Standard</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Type “B” Semi-Opaque</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Type “C” Opaque</td>
<td>25 ft.</td>
</tr>
</tbody>
</table>

(Ord. 20140384, 08-18-2014)

31.06 Buffer and Screen Requirements

31.06.01 Existing Vegetation

Buffers require provision of both physical separation and landscape elements to meet the intent of this Ordinance. Existing vegetation shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscurity as the planted buffer required below. Vegetation to be saved shall be identified on site plans along with protection measures to be used during grading and construction. See Section 31.13 for protection measures required and calculation of credits for existing trees.

31.06.02 Planted Vegetation

A. Required plantings include for a mix of large shade trees, small trees, large shrubs, and smaller shrubs to provide variable height screening, and a variety of plantings and seasonal color. Evergreen trees are used to provide a more opaque screen, as well as more natural appearance to the buffer. The mix is designed to create a buffer which will give a satisfactory screen within three (3) to five (5) years of planting, under normal
maintenance, while allowing room for the various plants to grow. Planting requirements for buffers include both trees and shrubs as described below.

<table>
<thead>
<tr>
<th>Buffer Type</th>
<th>“A” Buffer</th>
<th>“B” Buffer</th>
<th>“C” Buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Bufferyard Width</td>
<td>10 feet</td>
<td>15 feet</td>
<td>25 feet</td>
</tr>
<tr>
<td>Total Number of Plants per 100 Linear Feet</td>
<td>20</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>Number of Evergreen Trees</td>
<td>3</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Number of Large Deciduous Trees</td>
<td>1</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Number of Small Deciduous Trees</td>
<td>2</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Number of Shrubs (at least 75% must be evergreen)</td>
<td>14</td>
<td>15</td>
<td>15</td>
</tr>
</tbody>
</table>

B. The plant list must only describe plant sizes on the landscape plan by: height for shrubs (gallon sizes for shrubs will not be approved), height for evergreen trees and either or both caliper and height for deciduous trees.

1. Minimum plant sizes for buffer requirements:
   a. Evergreen tree: Minimum height of eight feet (8’) at planting.
   b. Large deciduous tree: Minimum caliper of two and one-half inches (2 ½”) with a height of twelve to fourteen feet (12’ – 14’) at planting.
   c. Small deciduous tree: Minimum caliper of one inch (1”) with a height of eight feet (8’) at planting.
   d. Shrubs: Minimum height of eighteen inches (18”) at planting.

C. **Plant Standards.** All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock. Plants must be healthy, well branched, and free of disease and insect infestation.

### 31.06.03 Use of Bufferyards

Required bufferyards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated greenways, utilities, drainage ways, bio-retention areas, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Approval from the Administrator is required prior to initiating any disturbance of the buffer. Utility easements may be included in the width of the buffer with the following conditions:

A. Utility lines should be located cross perpendicular to a buffer, if possible, to minimize the impact.

B. If utility lines must run within bufferyard, they must be located along the edge of the bufferyard.

C. The applicant should minimize the amount of plantings for the bufferyard in the utility easement area so they will not have to be removed if the utility line needs
maintenance. If an applicant plans to plant in the utility easements, approval must be obtained from the affected utility companies to ensure that plantings will not conflict with the installation, operation, or maintenance of utility lines. Trees and shrubs planted within the utility easement will not count towards the buffer planting requirement unless they are approved by the utility companies. This may necessitate adding more land to the buffer to accommodate the required number of plantings.

31.06.04 Bufferyard Reductions

The width of the buffer may be reduced with the use of a fence or wall. If an applicant plans to build a fence or wall, a “C” buffer classification reduces to a “B” buffer classification and a “B” buffer classification reduces to an “A” buffer classification. Fences and walls must meet the following standards:

A. Fences or walls shall be constructed of wood, brick, stone, or other masonry, and be architecturally compatible with the proposed structure. A detailed drawing of the screen must be shown on the landscape plan and approved by the Administrator.

B. Walls and fences shall be solid construction and opaque.

C. Walls and fences shall be a minimum height of six feet (6’).

D. The wall or fence shall be located in the center of the buffer with vegetation planted on either side.

31.06.05 Loading Docks, Screening of Solid Waste and Recycling Container Areas, Outdoor Storage Areas, Utility Structures and Rainwater Harvesting Systems

A. Loading docks, solid waste and recycling containers, outdoor storage, mechanical and HVAC equipment, rainwater harvesting systems, and similar facilities on the roof, on the ground, or on buildings shall be incorporated into the overall design theme. These areas shall be located and screened so that the visual impacts of these facilities are fully contained and out of view from adjacent properties and public streets.

1. Accessory solar energy systems are exempt from this screening requirement.

B. Solid waste and recycling containers (when required) shall be screened in accordance with the Solid Waste and Recycling Enclosure Detail (Subsection 22.13.03). The design and materials of the enclosure, fence or wall must be presented as part of the site plan or subdivision approval process. The screening material shall be architecturally compatible with the principal building(s) on site. Landscape plantings compatible with the overall landscape plan may be required outside of enclosures where they are in public view from a street and it is necessary to soften the enclosures appearance.

C. Outdoor storage areas shall be located along the side or the rear of the principle structure and screened so that the visual impacts are fully contained and out of view from adjacent properties and public streets. Screening material may include fence, wall or landscaping so long as materials are architecturally compatible with the principle
building(s) on site and will provide an opaque screen. All areas utilized for outdoor storage must be located in areas specifically designed for outdoor storage and is prohibited in or on designated exterior walkways, parking areas, driveways, and landscape areas.

(Ord. 20140384, 08-18-2014; Ord. PL05272-110121, 12-08-21)

31.07 Combination Uses

31.07.01 The screening requirement between a combination use and an adjacent use shall be that required for the use necessitating the greatest visual obstruction.

31.07.02 Unless otherwise required for a structure, including a vehicle accommodation area or street, internal screening shall not be required between composite uses.

31.08 Subdivisions

31.08.01 When undeveloped land is subdivided and undeveloped lots only are sold, the applicant shall not be required to install any screening. Screening shall be required, if at all, only when the lots are developed, and the responsibility for installing such screening shall be determined in accordance with the requirements of this Article.

31.08.02 It shall be the responsibility of all new subdivision applicants to submit a tree survey in areas of land disturbance associated with construction of streets, drainage, utilities, and stormwater management areas. The tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight inches (8”) in diameter and greater.

A. Every subdivision shall retain all existing healthy Historic trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and stormwater management areas. An applicant may be required to modify their design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of the development on the site or increasing the area of land disturbance.

B. Every subdivision shall retain all existing healthy Significant trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and stormwater management areas.

31.09 Screening Along Streets

31.09.01 The required minimum street yard shall be ten feet (10’) and a maximum of twenty-five feet (25’), measured perpendicular from the street right-of-way. An average of one (1) large tree two and one-half inch (2 ½”) minimum caliper (unless subject to overhead power lines) per thirty feet (30’) of street frontage is required. Innovative design in tree arrangement is encouraged. Trees planted to satisfy this Section shall not be placed uniformly but in an irregular pattern. However, the minimum spacing between street trees shall be twenty feet (20’) and the maximum shall be forty feet (40’). The applicant shall
either plant or retain sufficient trees so that, there is for every thirty feet (30’) of street frontage at least an average of one (1) deciduous tree that has or will have when fully mature a trunk at least twelve inches (12”) in diameter at maturity.

31.09.02 The Administrator shall have the authority to vary on a case-by-case basis the amount and size of required street trees where an alternative requirement would address unique site conditions and allow design flexibility while still serving the objectives for street tree standards. At least 250 square feet of contiguous, un-encroached growing area shall be provided for each tree. Planting location shall take into consideration any roadway widening identified on approved thoroughfare plans but not provided by the development.

31.09.03 Evergreen shrubs at the rate of one eighteen inch (18”) minimum height shrub per three linear feet (3 lf) of property line abutting public streets less driveways, of a species expected to reach a minimum height of thirty inches (30”) and a minimum spread of thirty inches (30”) within three (3) to five (5) years of planting.

31.09.04 Except in the B1 Central Business District, when a surface parking lot is a principal land use or a component of a combination use, the following provisions shall apply:

A. The minimum street yard shall be twenty-five feet (25’) measured perpendicular from the street right-of-way but the minimum street yard may be reduced by one foot (1’) for every two feet (2’) below adjacent street grade when the Administrator concludes the parking area shall have less of a visual impact than at street level.

B. An average of one (1) large deciduous tree, two and one-half inch (2½”) minimum caliper, per twenty-five feet (25’) of street frontage shall be provided.

C. An average of one (1) large evergreen tree, eight feet (8’) minimum height, per fifty feet (50’) of street frontage shall be provided.

D. Shrubs at the rate of one (1) eighteen inch (18”) minimum height per two linear feet (2’) of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30”) and a minimum spread of thirty inches (30”) within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.

1. When a proposed parking area will be substantially below grade and shrubbery will not be visible from the street, the Administrator may reduce this requirement.

E. A minimum three foot (3’) opaque decorative brick/rock wall not to exceed six feet (6’) in height with landscape plantings along the street side or an earthen berm at least three feet (3’) in height with landscape plantings incorporated into the design of the berm or a combination of both must be provided along any street frontage.

F. The height of any berm shall be undulating and the base shall be curving in nature.

G. A parking area that is located above or below the adjacent street level must design the plant material in the street yard in such a way as to maximize screening from the street.
31.09.05 In the B1 Central Business District, when a surface parking lot is a principal land use or a component of a combination use the following provisions shall apply:

A. The minimum street yard shall be ten feet (10’) measured perpendicular from the street right-of-way.

B. An average of one (1) large tree, two and one-half inch (2 ½”) minimum caliper, per twenty-five feet (25’) of street frontage shall be provided.

C. An average of one (1) large evergreen tree, eight feet (8’) minimum height, per fifty feet (50’) of street frontage shall be provided.

D. Shrubs at the rate of one (1) eighteen inch (18”) minimum height per three linear feet (3 lf) of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30”) and a minimum spread of thirty inches (30”) within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.

   1. When a proposed parking area will be substantially below grade and shrubbery will not be visible from the street, the Administrator may reduce this requirement.

E. A minimum three foot (3’) opaque decorative red brick/native rock wall not to exceed six feet (6’) in height with landscape plantings along the street side shall be provided.

F. A parking area that is located above or below the adjacent street level must design the plant material in the street yard in such a way as to maximize screening from the street.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05688-050322, 06-08-2022)

31.10 Vehicular Surface Area

31.10.01 The purpose of this Section is to provide visual relief from large expanses of pavement with the introduction of landscape plantings. Trees and shrubs are required in and around parking lots with more than six (6) spaces to provide attractive views from roads and adjacent properties, provide shade to reduce heat generated by impervious surfaces, reduce glare from parking lots, and to help filter exhaust from vehicles.

31.10.02 Plant beds shall be evenly distributed throughout the vehicular surface areas for maximum shade. No portion of the vehicular surface area shall be further than sixty feet (60’) from the trunk of a large deciduous tree, except for areas that cannot reasonably be landscaped in the interior as determined by the Administrator, including, but not limited to, truck loading and unloading spaces and vehicle storage areas.

31.10.03 Plantings which shall be used to meet these requirements shall be located within the vehicular surface area or in plant beds directly adjacent to the surface areas. Trees along the adjacent street or yard areas and a maximum of ten feet (10’) from the vehicular surface area may be used to meet this requirement.

   A. Plant bed islands within the vehicular surface area shall be a minimum ten feet (10’) in width to allow for adequate root aeration and expansion.
B. Plant bed islands shall provide a minimum 250 square feet of contiguous growing area for each tree.

C. Planting areas and islands shall be protected by barriers including but not limited to curbs, bollards, wheel stops, walls or fences.

D. Plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, or pedestrian circulation.

31.10.04 Shrub shall be planted at the rate of one (1) eighteen inch (18”) minimum height evergreen or deciduous shrub per every 250 square feet of vehicular surface area. Shrubs to meet this requirement must be located within fifteen feet (15’) of the paved area. Additionally, shrubs shall be located to facilitate safe sight distances within parking areas, and to protect them from overhangs of motor vehicles.

A. Minimum curb radii of three feet (3’) are required on the corners of all planting islands and medians to allow for free movement of motor vehicles around planting materials. All islands shall have raised edging around them to further protect plant material from being run over by motor vehicles.

B. Shrub shall not be planted within six feet (6’) of a trunk of a new tree, nor within the drip line of a protected, existing tree.

31.10.05 Parking areas shall be separated from the exterior wall of a structure by landscaped planting areas at least four feet (4’) in width. Planting areas may be omitted where necessary to accommodate pedestrian entrance ways. Alternative planting areas meeting the purpose and intent of this Section may be approved by the Administrator.

31.11 Flexibility in Administration Required

31.11.01 The requirements of this Article are established by the Council as standards that presumptively result in a better overall appearance of the built environment and protect the natural resources of the community. The Council recognizes that due to the particular nature of a tract, the nature of the proposal, or other factors, that the objectives of this Article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Administrator is authorized to permit deviations from these standards when both of the following conditions are met:

A. The objectives underlying these standards can be met without strict adherence to them.

B. Because peculiarities in the applicant’s tract of land or the facilities proposed would make it unreasonable to require strict adherence to these standards.

31.11.02 Whenever the permit-issuing authority authorizes any deviation from the standards, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.
31.12 Compliance and Maintenance

31.12.01 Certificate of Occupancy, Completion, or Zoning Compliance

A. Landscaping must be installed according to the approved site plan and inspected prior to receiving final certification.

B. All plant material shall meet or exceed size and shape relationships specified in the latest edition of the American Standard for Nursery Stock published by the American Association of Nurserymen.

1. All sizes specified refer to size at time of planting. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant material.

2. Caliper of the trunk of all new planted trees shall be taken six inches (6”) above ground up to and including four-inch (4”) caliper, and twelve inches (12”) above the ground for larger sizes. Seldom are tree trunks perfectly round. Caliper measurements may be taken with “pincer” type caliper, or diameter tape.

C. Plant material must be installed by a landscape contractor licensed to practice in the State of North Carolina, except that this provision does not apply with respect to:

1. Landscaping work where the price of all contracts for labor, material, and other items for a given job site during any consecutive 12-month period is less than $30,000.00;

2. A federal, State, or local governmental agency performing landscaping on public property;

3. A landowner performing landscape work on their own property;

4. A general contractor licensed under Article 1 of Chapter 87 of the General Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor;

5. Any other circumstance where the installation qualifies for an exemption under §13 of Chapter 89D of the General Statutes (as such may be amended from time to time).

31.12.02 Request for Extension of Compliance

A. It is recognized that land development occurs continuously and that if the season or weather conditions prohibit planting the materials, the applicant may file a written request for extension of compliance with landscaping requirements with the Administrator, which states the reasons why the request is being made. If the Administrator finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed. Along with the letter the applicant must provide a performance guarantee in compliance with UDO Section 4.13.
31.12.03 Compliance of Maintenance

A. The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features required under this Article. The disturbance of any landscaped area or vegetation installed pursuant to the Article shall constitute a violation of the site plan or subdivision plan. Any vegetation that is dead, substandard, unhealthy, of poor structural quality, or missing, shall be removed and replaced in conformance with the standards of this Ordinance and to the approved site plan or subdivision plan.

1. Should significant amounts of landscaping or physical elements used to meet requirements be lost due to an unusual weather occurrence or natural catastrophe, the landowner shall submit a plan detailing their intent in replacing lost material. Replacement planting may occur within a phased basis as approved by the Administrator. The owner shall have one (1) year or one (1) growing season, whichever is sooner, to replace or replant.

31.12.04 Prohibited Pruning

A. All plant materials required by this Article shall be allowed to reach their mature size and shall be maintained at their mature size. Any trimming or pruning must be conducted in strict accordance with the current edition of “Tree, Shrub, and other Woody Plant Maintenance – Standard Practices” of the American National Standard for Tree Care Operations (ANSI 300). Required plantings shall not be cut or excessively pruned or otherwise damaged so that their natural form is impaired. Improper pruning includes the removal of the central leader, removal of more than twenty-five percent (25%) of the foliage within an annual growing season, removal of twenty-five percent (25%) of the foliage of a branch or limb when it is cut back to a lateral branch, and cutting a branch back to a lateral not large enough to assume apical dominance.

1. A violation of this Subsection shall subject the violator to a civil penalty as set forth in Section 12.07 for any improperly pruned, damaged, or excessively trimmed tree. In addition to this civil penalty, if more than fifty percent (50%) of the crown of a tree is removed within a continuous five-year period, the owner of the property, where a violation has occurred, shall replace each improperly pruned, damaged, or excessively trimmed tree with the appropriate replacement rate in accordance with Subsection 31.13.02.

2. Any replacement tree shall be planted in a planting area of at least 250 square feet of contiguous growing area for each and shall have a minimum dimension of seven feet (7’). If the property whereon the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees cannot be planted on adjoining public street rights-of-way, then in lieu of such replacement trees, a fee equal to $100 per caliper inch of 2 ½” replacement trees shall be paid to the Town. The Town’s Administrator may require crown restoration.
and/or crown reduction in accordance with the current edition of “Tree, Shrub, and other Woody Plant Maintenance – Standard Practices” of the American National Standard for Tree Care Operations (ANSI 300) for any improperly pruned, damaged, or excessively trimmed tree. All such corrective pruning shall be done under the supervision of a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or North Carolina Certified Plant Professional and approved by the Administrator.

(Ord. 20160226, 06-16-2016; Ord. PL04727-050721, 07-01-2021)

**31.13 Preservation of Existing Trees and Vegetation**

**31.13.01** Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved, as well as individual trees.

**31.13.02** Existing healthy preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees according to the following:

A. Preserved trees may be credited at the rate of:
   1. 2”- 6” caliper tree = 1 tree
   2. 7” – 12” caliper tree = 2 trees
   3. 13” – 18” caliper tree = 3 trees
   4. 19” – 24” caliper tree = 4 trees
   5. 25” + caliper tree = 5 trees

   Note: All replacement trees are required to be a minimum two and one-half inch (2 ½”) caliper with a height of twelve to fourteen feet (12’- 14’).

**31.13.03** In order to receive credit, preserved vegetation must be certified in good health and condition by a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or N. C. Certified Plant Professional. Trees designated to be preserved must be indicated on the Landscape and Grading Plans. Protective barriers must be shown on the Landscape and Grading Plans in accordance with the requirements of Subsection 31.13.10. If a preserved tree dies after completion of the project, it must be replaced with the total number of trees which were credited to the existing tree.

**31.13.04** Every development shall retain all existing healthy Historic trees with drip lines outside the building footprint except new subdivisions. New subdivisions shall refer to Section 31.08. An applicant will be required to modify their design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of development on the site.

**31.13.05** It shall be the responsibility of all applicants that submit site plans for new construction to submit a tree survey of the site proposed for development except for new subdivisions. New subdivisions shall submit a tree survey in accordance with Subsection 31.08.02. The
tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight inches (8”) in diameter or greater on the site, and all trees proposed for credit as provided in Subsection 31.13.02.

31.13.06 If a landowner contends a tree is or is not healthy and the Administrator is in disagreement with such claim, the landowner shall submit an evaluation of the tree’s health, performed by an individual who meets the requirements established in Subsection 31.13.03. If such evaluation determines the tree is not in good health or will not remain healthy under new conditions proposed for the site, the Administrator shall permit the removal of the tree(s).

31.13.07 Every development shall retain all existing healthy significant trees with drip lines outside the building and paving area footprint to the greatest extent possible. An applicant may be required to modify their design in order to preserve healthy Significant trees, provided the redesign can be accommodated without reducing the intensity of development on the site.

31.13.08 The permit-issuing authority may approve reductions in the requirements for the number of parking spaces or loading area requirements in order to facilitate preservation of Historic and Significant trees.

31.13.09 The standard measurement for existing trees to be preserved shall be the Diameter-at-breast-height (Dbh) measured in inches at a height of four and one-half feet (4 ½’) above ground. If a tree splits into multiple trunks below four and one-half feet (4 ½’), then each trunk is measured as a separate tree. A tree which splits into multiple trunks above four and one-half feet (4 ½’) is measured as a single tree at four and one-half feet (4 ½’).

31.13.10 Protection of Existing Vegetation

A. No grading or other land disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet the landscaping requirements until protective barriers are installed by the applicant and approved by the Administrator.

B. For purposes of this Article, the Tree Protection Area is defined as that area within a circle drawn with the tree’s trunk as the center and a radius defined by the tree’s drip line (which is the perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground). No storage of materials, dumping of waste materials, fill or parking of equipment shall be allowed within this protected area, either during construction or after completion. No structures shall be permitted within the protected area unless approved by the Administrator.

C. A protection fence constructed of a high visible material resistant to degradation by sun, wind and moisture for the duration of the construction, shall be used.

D. If a violation of Section 31.13 occurs and as a result protected trees or shrubs die after a certificate of occupancy is issued for the development, then the owner of the property and their agents, heirs, or assigns shall be required to replace the tree using the credits in Subsection 31.13.03. Such replacement must take place within thirty (30)
days after death and this condition shall be a continuing condition of the validity of the permit.

E. Where tree-protection areas are damaged during the development of the site and trees or shrubs which are designated to be preserved are killed or removed, the permit recipient shall be penalized as follows:

1. A fine of one hundred ($100.00) dollars per each inch in diameter of the damaged tree and fifty ($50.00) dollars per each shrub (For example, the penalty for damaging a six-inch (6”) caliper tree shall be $600.00), and

2. Replacement vegetation shall be provided in accordance with Subsection 31.13.02.

(Ord. PL04727-050721, 07-01-2021)
ARTICLE 32 RESERVED
ARTICLE 34  DEFINITIONS

34.01 Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Article shall have the meaning indicated when used in this Ordinance.

ABC Store
A retail store licensed by the North Carolina Alcoholic Beverage Commission.

Accelerated Erosion
Any increase over the rate of natural erosion as a result of land-disturbing activities.

Accent Color
A single paint color which is used on a building, in the least proportion of all colors used, not to exceed 5% of the façade area.

Accessory Building
A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

Accessory Dwelling Unit
A subordinate dwelling unit associated and located on the same lot as a single-family dwelling.

a. An accessory dwelling unit in the R3 Multiple Family, B3 General Business, or M1 Manufacturing zoning districts shall be classified as a boarding house if occupied by more than four (4) unrelated persons.

b. An accessory dwelling unit in any other zoning district shall be classified as a boarding house if occupied by more than two (2) unrelated persons.

Accessory Equipment
Equipment serving a wireless facility. This includes but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other similar structures.

Accessory Structure (Appurtenant Structure) (as applied in Article 30 Flood Damage Prevention)
A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
Accessory Use
A use or structure that does not exceed 1,600 square feet that exists on the same lot and constitutes only an incidental or insubstantial part of the principal use.

Addition (to an existing building) (as applied in Article 30 Flood Damage Prevention)
An extension or increase in the floor area or height of a building or structure.

Adequate Erosion Control Measure, Structure or Device
Control of the soil material within the land area under responsible control of the persons conducting the land-disturbing activity.

Adult
Unless otherwise defined or implied from context, “adult” means an individual 18 years of age or older and not the legal ward of another person.

Adult Living Community
An age-restricted planned residential development, consisting of a building or group of buildings for independent living for persons who are fifty-five years of age or older (55+). Residents may be offered a variety of housing choices with shared common areas, from detached single-homes on a single lot to multi-family dwellings. Services may be provided and may include food service, social service and referral consultation, housekeeping assistance and central laundry. No licensed professional medical care or related service are directly provided by on-site staff.

Administrator
Person with the primary responsibility, as assigned by the Town Manager, for administering and enforcing this Ordinance or that person’s designee.

Administrative Decision
Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in the Unified Development Ordinance.

Adult Arcade
Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to person in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas.

Adult Bookstore or Adult Video Store
A bookstore or video store:
  A. Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other
photographic, electronic, magnetic, digital or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; or

B. Having a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other photographic, electronic, magnetic, digital or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**Adult Establishment**
Includes adult arcades, adult bookstores or adult video stores, adult cabarets, adult massage parlors, adult motels, adult motion picture theaters, adult theaters, nude model studios, adult live entertainment or any combination of these uses or any use defined in N.C. G.S. Article 26A Adult Establishments.

**Adult Daycare, Small**
A program or arrangement where up to two adolescents, or disabled or older adults, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. This type of Adult Daycare shall be operated by the owner of the home.

**Adult Daycare, Large**
A program or arrangement where up to four adolescents, or disabled or older adults, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. This type of Adult Daycare shall be operated by the owner of the home.

**Adult Daycare Center**
A program or arrangement where five or more adolescents, disabled or older adults, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

**Adult Live Entertainment**
An establishment or business where any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas.

**Adult Massage Parlor**
A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment or manipulation of the human body is administered unless such
treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not apply to any bona fide therapeutic massage service provided by a licensed medical professional or other person certified by a state or nationally recognized organization, nor shall this definition apply to any private or public fitness center or nonprofit community recreational fitness and service organization, either of which provides massage therapy as a service incidental to the operation of a fitness center.

**Adult Motel or Adult Hotel**
A hotel, motel, or similar commercial establishment that:

A. Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one of its principal business purposes; or

B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

**Adult Motion Picture Theater**
A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or related to specified sexual activities or specified anatomical areas for observation by patron therein.

**Adult Theater**
A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nudity, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.

**Advisory Interpretation**
Any interpretation or opinion issued by the Planning Director other than as part of the final written approval or denial of a written permit application.

**Advisory Opinion**
See “Advisory Interpretation”

**Affordable Owner-Occupied Dwelling Unit**
An affordable owner-occupied dwelling unit is a dwelling unit, as that term is defined herein, which has been sold or will be offered for sale for a gross price at which the monthly gross principal and interest payment, in a mortgage financing 90% of the purchase price, amortized over a period of thirty years and calculated with interest at the legal rate, is no greater than twenty-five percent (25%) of the monthly Area Median Income for a family of four, as established annually by the United States Department of
Housing and Urban Development, and, if sold, the purchaser of which is a family in need of housing protection.

**Affordable Owner-Occupied Housing Development**
An affordable owner-occupied housing development is one in which fifty percent (50%) or more of the included dwelling units are, or upon completion of the development, will be, affordable owner-occupied dwelling units, as that phrase is defined herein.

**Affordable Rental Dwelling Unit**
An affordable rental dwelling unit is a dwelling unit, as that term is defined herein, for which the monthly gross rental payment is not greater than twenty-five percent (25%) of the monthly Area Median Income for a family of four, as established annually by the United States Department of Housing and Urban Development, and which is occupied by a family in need of housing protection.

**Affordable Rental Housing Project**
An affordable rental housing project is one in which fifty percent (50%) or more of the included dwelling units are, or upon completion of the project, will be, affordable rental dwelling units, as that phrase is defined herein.

**A-Frame Sign**
A temporary sign ordinarily in the shape of the letter “A” or some variation thereof, which is displayed on the ground, not permanently attached to the ground, and usually two-sided, generally connected at the top and separated at the bottom.

**Agriculture Operation Including Livestock**
The use of land for the keeping, grazing, feeding, or breeding of livestock, poultry, or bees.

**Agriculture Operation Excluding Livestock**
The use of land for the production of cash grains, field crops, vegetables, fruit and nuts, and for horticulture and floriculture.

**Airport/Landing Strip**
Any development for the landing or take-off of aircraft, or any supporting operations, such as maintenance, loading and unloading, storage, fueling or terminal facilities.

**Alley**
A publicly dedicated and maintained right-of-way twenty feet (20’) or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

**Alternative ADA Standards**
Standards for handicap accessibility that may be met when an historic structure is renovated. These alternative standards can only be implemented if the structure meets the historic structure definition.

**Amusement or Water Parks and Fairgrounds**
A commercially operated enterprise that offers rides, games, exhibitions and other forms of entertainment.

**Animal Sanctuary**
An establishment where animals are brought to live and be protected for the rest of their lives.

**Animated Sign.**
A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene.

**Annuals**
Flowering plants, used to provide seasonal color and interest. Root stock dies in winter, therefore annuals need replanting each season. Often referred to as bedding plants.

**Antenna**
Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

**Architecturally Compatible**
A method or style of building in which two or more structures exist together harmoniously.

**Architecturally Integrated Subdivision**
A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, height, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in Section 5.10.

**Area of Special Flood Hazard**
See “Special Flood Hazard Area (SFHA)” definition.

**Arterial Street**
A major street in the Town's street system that serves as an avenue for the circulation of traffic onto, out, or around the Town and carries high volumes of traffic.

**Artificial Obstruction**
Any obstruction, other than a natural obstruction, that is capable of reducing the flood carrying capacity of a stream or may accumulate debris and thereby reduce the flood carrying capacity of a stream.

**Attched Sign**
Any sign attached to, applied on, or supported by any part of a building, including, but not limited to, a wall, window, or projecting sign, or a sign on a canopy, awning or marquee.

**Attic Story**
Any story situated wholly or partly in the roof to be used for living space accessed by an interior fixed stairway.

**Automated Teller Machine (ATM)**
A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

**Automated Teller Machine (ATM), Freestanding**
An automated teller machine which may not be on the same lot as the financial institution with which such machine is associated. The purpose of this definition is to distinguish between teller machines operated as accessory uses to banks located in principal buildings where customers can choose to do their banking either inside the building or at the teller machine, and teller machines that are totally separate from bank buildings and therefore generate additional traffic.

**Awning**
A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

**Awning/Canopy Sign**
Sign that is part of, or attached to, an awning, canopy or other fabric, plastic or structural protective cover over a door, window, entrance or outdoor service area.

**Banner**
A temporary sign made of fabric or any non-rigid material with or without no enclosing framework.

**Bar**
An establishment which primarily prepares and serves alcoholic beverages for immediate consumption. These establishments may also provide limited food and entertainment (primarily music) services. Excluded from this definition are microbreweries, brewpubs, breweries/distilleries, and all wineries.

**Base Flood**
The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
Base Flood Elevation (BFE)
A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

Base Station
A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics. The term does not include a wireless support structure or any equipment associated with a tower.

Basement
That portion of a building that is partially or completely below grade.

Basement (as applied in Article 30 Flood Damage Prevention)
Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast, Category 1
A single-family dwelling with one to three guest rooms (enclosed within one structure) where overnight accommodations and a morning meal are provided daily or weekly for compensation.

Bed and Breakfast, Category 2
A dwelling with more than three guest rooms within one or more structures where overnight accommodations and meals are provided daily or weekly for compensation.

Bees
Insects of the superfamily Apoidea; in particular, the honeybees, Apis mellifera (L). It includes all life stages of such insects, their genetic material, and dead remains.

Bench Sign
A sign located on the surface of a bench.

Bicycle
A pedal-driven, human-powered vehicle with two wheels attached to a frame, one behind the other.

Billboard
A sign identifying advertising and/or directing the public to an establishment, merchandise, service, entertainment or product that is located at a place other than the property on which such sign is located. These signs are also known as off-premise outdoor advertising signs.

Boarding House
A dwelling unit where three (3) or more rooms (not to exceed nine (9)) are provided for lodging for definite periods exceeding seven days. Meals may or may not be provided, but there is only one common kitchen facility and no meals are provided to outside guests.

a. Single-family Detached Dwelling:
   1. A single-family detached dwelling in the R3 Multiple Family, B3 General Business, or M1 Manufacturing zoning districts shall be classified as a boarding house if occupied by more than four (4) unrelated persons.
   2. A single-family detached dwelling in any other zoning district shall be classified as a boarding house if occupied by more than two (2) unrelated persons.

b. Duplex:
   1. A duplex in the R3 Multiple Family, B3 General Business, or M1 Manufacturing zoning districts shall be classified as a boarding house if occupied by more than four (4) unrelated persons.
   2. A duplex in any other zoning district shall be classified as a boarding house if occupied by more than two (2) unrelated persons.

c. Accessory Dwelling Unit:
   1. An accessory dwelling unit in the R3 Multiple Family, B3 General Business, or M1 Manufacturing zoning districts shall be classified as a boarding house if occupied by more than four (4) unrelated persons.
   2. An accessory dwelling unit in any other zoning district shall be classified as a boarding house if occupied by more than two (2) unrelated persons.

**Boarding School**
A school at which some or all of the pupils receive board and lodging during the school term.

**Boat or Marine Craft Sales or Service**
The storage, display, sale, lease, rental or repair of new or used boats, personal watercraft or new or used outboard motors, and boat trailer.

**Borrow**
Fill material which is required for onsite construction and is obtained from other locations.

**Brewery/Distillery**
A manufacturing operation engaged in the production of malt and distilled beverages, which has all operations contained within a fully enclosed building, and is not classified in these definitions as a microbrewery or a brewpub.

**Brewery/Distillery, Other**
A manufacturing operation engaged in the production of malt and distilled beverages, and is not classified in these definitions as a brewery/distillery, microbrewery or a brewpub.

**Brewpub**
A restaurant which includes a manufacturing operation engaged in the production of malt, distilled beverages, and wine, with an annual production less than 15,000 US beer barrels (1,800,000 L); which has all operations contained within a fully enclosed building and sells 50% or more of their production on site. Microbreweries with restaurants in the M1 Manufacturing District shall be excluded from being classified as a “brewpub”. Instead the microbrewery and restaurant uses should be classified as a combination use as regulated in UDO Section 14.02.04.

**Buffer Zone**
The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the water to the nearest edge of the disturbed area, with the twenty-five percent (25%) of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone twenty-five feet (25') wide. Buffer zones within designated Water Supply Watersheds shall have an undisturbed buffer zone thirty feet (30') wide.

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

**Building Footprint**
The exterior dimensions of the largest floor of a building(s) excluding porches which are fully open on three (3) sides.

**Building Frontage**
The maximum linear width of a building measured in a single straight-line that is parallel, or essentially parallel, to the abutting public street or parking lot.

**Built-Upon Area**
Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities, etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious).

**Business or Professional Office**
An establishment where business is conducted that does not primarily involve the sale or transfer of goods by the business to the customer at the location. This includes, but is not limited to, general business offices, insurance offices, law offices and real estate sales or management offices.

**Caliper**
Standard trunk diameter measurement for nursery grown stock taken six inches (6”) above the ground up to and including four-inch (4”) caliper size, and twelve inches (12”) above the ground for larger sizes.

**Campground**
Any site or tract of land upon which campsites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, travel, or vacation purposes.

**Car Wash**
A commercial establishment that washes, cleans, and/or waxes automobiles or other motor vehicles, whether or not in conjunction with other goods or services provided to customers.

**Caregiver**
An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.

**Caretaker’s Residence**
A dwelling unit on the site of a non-residential use and occupied by a guard or the person who oversees the operation of the non-residential use.

**Central Leader**
Primary or terminal shoot, i.e. the trunk of a tree.

**Cemetery**
A place used or to be used and dedicated or designated for one or more of the following purposes: a burial park, for earth interment, a mausoleum or a columbarium for human remains.

**Certificate of Completion**
A document issued by the Administrator, following issuance of certificates of compliance if necessary, certifying compliance of a structure other than a building with all applicable requirements of the UDO and other relevant State and local laws, which authorizes use of the structure.

**Certificate of Compliance**
A document issued by the Building Inspector certifying compliance with applicable building, mechanical, plumbing, electrical, fire protection or gas codes.

**Certificate of Occupancy**
A document issued by the Administrator, following issuance of certificates of compliance if necessary, certifying compliance of a building with all applicable requirements of the UDO and other relevant State and local laws, the sole document which authorizes occupancy.

**Certificate of Zoning Compliance**
A document issued by the Administrator, where neither a Certificate of Completion or Certificate of Occupancy is needed, certifying compliance with all applicable requirements of the UDO and other relevant State and local laws, which authorizes a use.

**Changeable/Digital Copy**
The portion of a sign that allows for changes through mechanical, electronic, digital or manual means.

**Chemical Storage Facility**
A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**Child/Children**
Unless otherwise defined or implied from context, “child” or “children” means an individual under 18 years of age.

**Child Daycare, Small**
A program or arrangement where no more than two (2) children, who are no more than sixteen (16), and who do not reside where the care is provided, receive care on a regular basis of at least once per week for no more than twelve (12) hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. This type of Child Daycare shall be operated by the owner of the home.

**Child Daycare, Large**
A program or arrangement where at least three and up to eight (8) children, who are no more than sixteen (16), and who do not reside where the care is provided, receive care on a regular basis of at least once per week for no more than twelve (12) hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. This type of Child Daycare shall be operated by the owner of the home.

**Child Daycare Center**
A program or arrangement where over eight children, whom are no more than sixteen (16) years old, and who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four (4) hours but less than twenty-four (24) hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

**Circulation Area**
That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas comprise the circulation area.

**Club/Lodge, Category 1**
A building used for recurring non-profit social, literary, political, educational, fraternal, or charitable purposes with seating capacity for 100 or less, with all regular activities conducted within fully enclosed building(s). May include other associated uses such as occasional outdoor activities and which does not serve or consume alcoholic beverages on its premises.

**Club/Lodge, Category 2**
A building used for recurring non-profit social, literary, political, educational, fraternal, or charitable purposes with seating capacity between 100 and 500 with the majority of its regular activities conducted within fully enclosed building(s). May include other associated uses such as occasional outdoor activities and may serve or consume alcoholic beverages on its premises.

**Club/Lodge, Category 3**
A building used for recurring non-profit social, literary, political, educational, fraternal, or charitable purposes with seating capacity greater than 500 or activities and uses not permitted for Club/Lodge, Categories 1 or 2.

**Coliseum**
An arena or stadium with a seating capacity exceeding 5,000.

**Collector Street**
A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designated to serve, directly or indirectly, more than one hundred (100) dwelling units and is designed to be used or is used to carry more than eight hundred (800) trips per day.

**College or University**
A degree-granting institution, other than a trade school, which provides education beyond the high-school level, and typically has programs resulting in an Associate's, Bachelor's, or Master's degree. In addition to classroom buildings, it may include offices, laboratories, lecture halls, dormitories, residence halls, athletic facilities, and similar buildings and other facilities as applicable to the university.

**Collocation**
The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, city utility poles, or wireless support structures.

**Colonnade**
A range of columns that supports a string of continuous arches or a horizontal entablature.

**Column**
A supporting pillar consisting of a base, a cylindrical shaft, and a capital on top of the shaft. Columns may be plain or ornamental.

**Combination Use**
Two or more principal uses in or proposed on a single property.

**Community College**
An educational institution dedicated primarily to the educational needs of the area which it serves, and may offer freshmen and sophomore courses for transfer credit to a senior college or university, organized credit curricula for the training of technicians, and courses in general adult education.

**Community Enterprise**
An enterprise dedicated to meeting the civic, cultural, or informational needs of the community as a whole.

**Conditional Zoning**
A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**Confined Animal Feed Operation (CAFO)**
An establishment primarily engaged in the breeding, and/or raising of livestock in confinement at a high stocking density. The main products of which may include meat, milk and eggs.

**Construction Sign**
A sign limited to (i) identification of architects, engineers, contractors, and/or other persons involved with a construction project and/or (ii) the name of the building being constructed, the intended purpose of the building and/or the expected completion date.

**Cooperative Winery**
A manufacturing operation engaged in the production of wine and wine-like beverages, which has all operations contained within a fully enclosed building and is independent of a vineyard.

**Cornice**
A cornice is the finished edge of the roof where it meets the exterior wall, of varying sizes, sometime plain, but often decorative and marked by brackets, dentils, medallions or some other decorative feature.

**Council**
The governing body of the Town of Boone, consisting of a mayor and five (5) Council members, as established in the Charter of the Town of Boone.

**Critical Area**
The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first) except within the Winkler's Creek Watershed where the limits of the Town of Boone Jurisdiction are the Critical Area; or one mile upstream from the intake located directly in the stream or river (run-of-the-river) or the ridge line of the watershed (whichever comes first). Local governments may extend the critical areas as needed. Major landmarks such as highways and property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

**Cul-de-sac**
A street that terminates in a vehicular turnaround.

**Cultural Facility**
A building owned or operated by a government entity in which objects of interest or performances in the fine arts, humanities, or sciences are displayed, preserved or presented for exhibition or education.

**Custom Slaughterhouse**
These facilities slaughter and/or process Custom Exempt products: meat, poultry and wild game (deer and other animals hunted for food) for private individuals only. All products are marked "NOT FOR SALE" and identified by the owner's name. These facilities are inspected for sanitation and proper labeling of product. The meat and poultry products are not inspected for disease or quality and cannot enter commerce. All products must be returned to the original owner for their personal use and cannot be sold.

**Cut**
The exposed wood area that remains after a branch has been removed.

**Diameter-at-breast-height (Dbh)**
Diameter-at-breast-height is a standard measurement of existing tree size, and is a tree trunk measured in inches at a height of four and one-half feet (4 ½') above the ground.

**Deciduous Plant**
Those plants that annually lose their leaves.

**Deciduous Tree**
Small to large tree, from a height of twenty feet (20’) to over forty feet (40’) at maturity, planted for aesthetic purposes such as canopy of shade, interesting bark, or fall foliage.

**Determination**
A written, final, and binding order, requirement, or determination regarding an administrative decision.
Development
Unless the context clearly indicates otherwise, and without altering the scope of any regulatory authority granted by statute or local act, the term means any of the following:
  a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
  b. The excavation, grading, filling, clearing, or alteration of land.
  c. The subdivision of land as defined in G.S. 160D-802.
  d. The initiation of or substantial change in the use of land or the intensity of use of land.

Development Approval
An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include but are not limited to zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat, permit, development agreement, and building permit approvals. Except where context indicates otherwise, the term is synonymous with “development permit.”

Development Regulation
A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to Chapter 160D of the General Statutes or a local act or charter that regulates land use or development.

Developer
A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Directional Sign
A sign giving directions, instructions, or facility information. Examples include “parking”, “exit”, “enter” or “parking-control warning” signs.

Disposal
As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
Double-Faced Sign
A sign with two copy faces.

Dormant
A condition of non-active plant growth. Deciduous trees and shrubs are considered to be dormant from the time their leaves fall until new foliage begins to reappear.

Drip Line
A vertical line, extending from the outermost edge of the tree canopy or shrub branches, to the ground.

Drive-Through
The portion of a business (such as a bank or restaurant) that is designed so that customers can be served while remaining in their vehicles.

Driveway
That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Duplex
A building, not including a manufactured home, that is developed with space on all sides, containing, intended or used solely for two (2) single-family dwelling units that share a common wall or ceiling/floor and where each dwelling unit has separate access from the outside; not attached to any non-accessory building or dwelling unit; and not on the same lot as any other dwelling unit; unless another dwelling unit is explicitly authorized by this Ordinance.

a. A duplex in the R3 Multiple Family, B3 General Business, or M1 Manufacturing zoning districts shall be classified as a boarding house if occupied by more than four (4) unrelated persons.

b. A duplex in any other zoning district shall be classified as a boarding house if occupied by more than two (2) unrelated persons.

Dwelling
Any building, structure, manufactured home, or mobile home, or part thereof, used, intended or designed to be used, rented, leased, let or hired out to be occupied for human habitation, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Dwelling Unit
A single unit providing living space for one or more persons, including facilities for sleeping, cooking and sanitation.

Electronic and Internet Gaming Use
A use, whether principal or accessory, where person(s) utilize electronic machines, including but not limited to computers or gaming terminals, to conduct or participate in games of chance, including sweepstakes and gambling activities not prohibited under N.C. Gen. Stat. Chapter 14, Article 37, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, including but not limited to Internet cafes, Internet sweepstakes, electronic gaming machines/operations or cybercafés, and excluding a business solely participating in a lottery approved by the State of North Carolina.

**Electric Vehicle Charging Station**
A structure that connects an electric vehicle (EV) to a source of electricity to recharge electric vehicles, and plug-in hybrids.

**Element of a building**
An exterior wall, roof, or site wall which is manmade and constructed.

**Elementary School**
A school that includes first through eighth grades and may have a kindergarten or early childhood program.

**Elevated Building (as applied in Article 30 Flood Damage Prevention)**
A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Emergency Response Communication Antenna**
An interoperable communication system as identified by the North Carolina Department of Public Safety (such as VIPER).

**Energy Dissipater**
A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

**Equipment Compound**
An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

**Equipment Sales and Service**
The storage, display, sale, lease, rental or repair of vehicles or other apparatus commonly used in commercial, farming, industrial or construction enterprises, including but not limited to trucks, tractors, trailers, bulldozers, cranes, backhoes, rollers, lifts and loaders.

**Erosion Control**
The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

**Event Venue, Category 1**
A facility for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies take place within fully enclosed buildings.

**Event Venue, Category 2**
A facility providing outdoor space for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies which take place between 6 a.m. and 10 p.m.

**Event Venue, Category 3**
A facility providing outdoor space for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies, in which any portion takes place between 10 p.m. and 6 a.m.

**Evergreen Plant**
Those plants that retain foliage throughout the year.

**Evergreen Tree**
Some medium to large evergreen tree, which, because used to screen views, must keep branches to the ground. Examples are White Pine and Carolina Hemlock.

**Existing Lot (Lot of Record)**
A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

**Existing Manufactured Home Park or Manufactured Home Subdivision**
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

**Exterior Walls**
The vertical or nearly-vertical planes which form the exterior envelope of a building.

**Extraction of Earth Products**
The process of removal of natural deposits of mineral ores, soils, or other solid matter from their original location, not including processing of such material beyond incidental mechanical consolidation or sorting to facilitate transportation from the site.

**Façade**
The entire building side, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures, viewed as one complete elevation.

**Fall Zone**
The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**Family**
Individuals related by blood, marriage, domestic partnership, or adoption, occupying a premises and living as a single, non-profit housekeeping unit, which may include live-in help. A “single, non-profit housekeeping unit” means individuals who live and cook together, as with or similar to a traditional family, on a single lease if renting the premises. The following individuals may constitute a family: a single person or a couple that is married or are domestic partners; that person’s or persons’ children, parents, siblings, grandparents, great-grandparents, grandchildren, or great-grandchildren; and the spouses of any of the foregoing persons. “Domestic partners” means two persons who are both at least 18 years of age, are each other’s sole domestic partner, have a common residence, and intend to maintain a common residence together indefinitely. “Child” and “children” shall for these purposes include a biological, foster, step- or adopted child, legal ward or other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family. The term “family” shall not be construed to include a fraternity or sorority, club, rooming house, group of students rooming together, institutional group or the like.

**Family Care Home**
A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.

**Family Care Institution**
A building with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for more than six resident persons with disabilities.

**Family in Need of Affordable Housing**
A family in need of housing protection is a family, as that term is defined herein, including persons living with each other in a “common law” or spousal relationship without the benefit of marriage, or as “domestic partners” with an aggregate current income and aggregate income for the previous twelve months equal to or less than the Area Median income, as established annually by the United States Department of Housing and Urban Development, and for which the head of the household is not claimed as a dependent on the federal tax return of any other person currently or in the most recently completed federal tax year, and for which any other adult occupant(s) is not and cannot be currently claimed as a dependent(s) for federal tax purposes by any person(s) not residing in the dwelling unit.

**Fenestration**
The arrangement of windows and doors on the façade of a building.
Field Color
A single paint color which is used most extensively in a building’s visible façade.

Financial Institution
Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This specific use includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities. Financial institutions may or may not have drive-through service depending on the zoning district in which they are located.

Final Plat
The final map of all or a portion of a subdivision, showing the boundaries and location of lots, streets, easements, and any other information required in Sec. 30-4-1.3 and Sec. 30-4-15.7, presented for local government approval and subsequent recordation in the Watauga County Register of Deeds.

Finish
The visual characteristics including color, texture, and reflectivity of exterior materials.

Flat Roof
The external covering of a building having a 2(v):12(h) slope or less.

Flood or Flooding
A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance
The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM)
An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Flood Insurance Study (FIS)
An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Zone
A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
Floodplain
Any land area susceptible to being inundated by water from any source.

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

Floodplain Development Permit
Any type of permit that is required in conformance with the provisions of Article 30 Flood Damage Prevention, prior to the commencement of any development activity.

Floodplain Encroachment
The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Floodplain Management
The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodproofing
Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodway
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor Area
The sum of the enclosed areas on all floors of a building measured from the outside faces of the exterior walls. It includes halls, lobbies, stairways, elevator shafts, enclosed porches and balconies and any below grade floor areas used for habitation or storage. It does not include open terraces, patios, atriums, balconies, carports, garages or any floor space in an accessory building.

Forestry
The professional practice embracing the science, business, and the art of creating, conserving, and managing forests and forestlands for the sustained use and enjoyment of their resources, material, or other forest products.
Fraternity or Sorority Dwelling
A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college, university, or professional school students who are affiliated with a social, honorary, or professional organization.

Freeboard
The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

Freestanding Sign
A sign supported by a sign structure placed in the ground and wholly independent of any building, fence, vehicle, or object other than the sign structure for support. Freestanding signs include both monument and pole/pylon signs.

Full Cutoff Fixture
A light fixture designed so that no light is projected at or above a ninety degree (90°) plane running through the lowest point on the fixture where the light is emitted and less than ten percent (10%) of the rated lumens are projected between ninety degrees (90°) and eighty degrees (80°).

Functionally Dependent Facility
A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Funeral Establishment
Every place or premises devoted to or used in the care, arrangement and preparation for the funeral and final disposition of dead human bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the practice of funeral service.

Garden, Community
Areas of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food ornamental crops, such as flowers, for personal or group use, consumption or donation.

Garden, Residential
A planned outdoor space set aside to grow and harvest food crops and/or non-food ornamental crops, such as flowers, for personal use.
**Gas Station**
A facility which sells fuel and lubricants for motor vehicles, often with a retail component.

**Gasoline Pump Sign**
Signs normally associated with the sale of gasoline including the price, self-service, etc. information contained on the pump.

**Geological Hazard Indicator**
A condition or series of conditions which suggest or from which a reasonable inference may be drawn that a particular tract of land may have qualities of instability or danger which require further investigation and possible remediation. Such indicators may include, but are not limited to one or more of the following: fault zone cataclastic (broken) rocks; pre-existing landslide deposits; daylighting fracture sets; daylighting sedimentary layers (bedding), foliations (metamorphic layering), or other planar structures; thick soils (greater than ten feet (10’) thick), zones of likely debris flow deposition.

**Geotechnical Engineer**
A North Carolina licensed engineer that has documented experience of at least five years in the full-time practice of geotechnical engineering including design and construction overview of site preparation and foundation installation of projects.

**Government Cultural Facility**
A building owned or operated by a government entity in which objects of interest or performances in the fine arts, humanities, or sciences are displayed, preserved or presented for exhibition or education of the general public.

**Government Neighborhood Cultural Facility**
A government cultural facility which does not exceed 5,000 square feet.

**Governmental Entity**
The Town and its departments, the Watauga County Board of Education, Watauga County, the State of North Carolina and its departments, and the United States of America and its departments.

**Government Facility**
A building, structure, or use of land, excluding the other uses specifically listed in Government Uses 5.0, operated by a governmental entity that is used to provide government services such as administration of a political subdivision of the State, or centralized operations of cultural resources, fire protection, law enforcement, planning and zoning, public utilities, or public works.

**Government Sign**
Any temporary or permanent sign erected and maintained by a governmental entity.

**Greenway**
A corridor of protected open space, usually located adjacent to natural features that is managed for conservation and/or recreation purposes.

**Gross Floor Area**
The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

**Gross Land Area**
All the area within the boundaries of a lot as described in a fee simple deed.

**Ground Cover**
Any natural vegetation growth or other material, usually evergreen, which renders the soil surface stable against accelerated erosion and can also be used to control pedestrian traffic.

**Guest Room**
A room designed for and outfitted to be used for sleeping and/or lodging of guests. A shared space outfitted to be used for any purpose other than sleeping or lodging of guests shall not be counted as a guest room (e.g. living rooms, parlors, offices, game room, or utility room).

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

**Half Street**
A street of less than the full required right-of-way and pavement width.

**Halfway House, Category 1**
A facility in which not more than six (6) persons at one time temporarily reside, where each of the residents is in transition from in-patient treatment for alcoholism or drug abuse or from incarceration back into the community.

**Halfway House, Category 2**
A facility in which more than six (6) persons temporarily reside, where each of the residents is in transition from in-patient treatment for alcoholism or drug abuse or from incarceration back into the community.

**Hazardous Material**
Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Hazardous Waste Management Facility**
As defined in N.C. Gen. Stat. § 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**Height (of a sign)**
The vertical distance measured from the highest point of the sign to the lowest point of surface grade beneath the sign.

**Height (of a structure or part thereof)**
The vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof.

**Height Measurement (landscape)**
Shrubs height in inches, deciduous trees caliper and height in feet, evergreen trees height in feet.

**Heliport**
An area designed, used, or intended for use for the landing and take-off of helicopters, and any supporting operations, such as maintenance, loading and unloading, storage, fueling or terminal facilities.

**Helistop**
A public or private land are or roof structure designated for the pick-up or discharge of passengers and cargo, which does not provide helicopter maintenance and repair facilities or fueling services.

**High School**
A school that includes grades nine (9) through twelve (12) and that offers at least the minimum high school course of study prescribed by the State Board of Education.

**Highest Adjacent Grade (HAG) (as applied in Article 30 Flood Damage Prevention)**
The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**Historic District**
An area which is deemed to be of special significance in terms of its history, prehistory, architecture, and/or culture, and which is deemed to possess integrity of design, setting, materials, feeling, and association.

**Historic Landmark**
A building, structure, site, area, or object deemed to be of special significance in terms of its history, prehistory, architecture, or culture and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

**Historic Structures**
Buildings or structures which are listed individually on the National Register of Historic Places, are located within a National Register Historic District and are certified as contributing to the district, are located in or contributing to a local historic district that has been certified by the National Park Service, or are listed individually by the Town of Boone’s Historic Preservation Commission and certified by the Commission as meeting the criteria established for a local historic property designation.

**Historic Tree**
Any healthy tree with a diameter of twenty-five inches (25”) or more measured Diameter-at-breast-height (Dbh).

**Hive**
Any receptacle or container, or part of receptacle or container, which is made or prepared for the use of bees, or which is in habited by bees.

**Home for Survivors of Domestic Violence**
A home that provides room and board, personal care and habilitation services in a family environment for persons and their children who have been aggrieved by acts of domestic violence and/or sexual assault.

**Home Occupation**
An accessory use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

**Home Occupation Sign**
A sign permitted in association with a legitimate home occupation conducted on the premises of the dwelling unit occupied by the operator of the establishment.

**Homestay rental**
A homestay rental is defined as a resident-occupied dwelling or dwelling unit with up to two guest rooms that are used, offered, and/or advertised (through an online platform or any other media) for transient overnight lodging accommodations for compensation for any period of less than one month and where the use is subordinate and incidental to the main residential use of the property. A homestay rental is considered a "Lodging" use under this UDO. Any use that comes within the purview of another use under this ordinance (e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a homestay rental.

**Hospital**
A licensed private or public institution that provides inpatient primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, or other physical or mental conditions, and including related facilities such as laboratories, outpatient or training facilities.
Hotel, Extended Stay
A commercial lodging establishment containing guest rooms offered to the general public for transient overnight accommodations that quotes rates on a weekly and/or monthly basis and regularly rents guest rooms for stays of one week or more. The establishment also may contain ancillary facilities or services such as restaurants, bars, coffee shops, exercise rooms, swimming pools, spas and meeting rooms.

Hotel, Large
A commercial lodging establishment containing twenty-one (21) or more guest rooms offered to the general public for transient overnight accommodations. The establishment also may contain ancillary facilities or services such as restaurants, bars, coffee shops, exercise rooms, swimming pools, spas and meeting rooms. This definition shall not include extended stay hotels.

Hotel, Small
A commercial lodging establishment containing up to twenty (20) guest rooms offered to the general public for transient overnight accommodations. The establishment also may contain ancillary facilities or services such as restaurants, bars, coffee shops, exercise rooms, swimming pools, spas and meeting rooms. This definition shall not include extended stay hotels.

Illegal Sign
A sign that does not meet the requirements of this Ordinance.

Illuminated Sign
A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Impervious Surface
The surface area of land covered by buildings, parking areas, driveways or other development that prevents or impedes surface water absorption. For purposes of stormwater controls in Article 21, pursuant to NC G.S. 143-214.7(b1), this definition does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.

Impound Lot/Towing Service
A lot used for storing vehicles which have been towed.

Improper Pruning
For deciduous trees: the removal of the central leader or the shortening of branch ends. For deciduous shrubs: removal of more than a third of healthy growth. For evergreen trees and shrubs: removal of more than a third of growth. For all trees and shrubs: use of tools leaving uneven or broken cuts or wounds.

**Income-producing Structures**  
Structures put into service as places of business, such as commercial, retail or rental use.

**Indoor Theater**  
A completely enclosed building used for showing motion pictures or live performances.

**Industrial Park**  
An approved development zoned M1 Manufacturing District, which typically contains manufacturing or transportation uses within one or more buildings on individual sites, which are interrelated by the utilization of a combination of common facilities, such as driveway entrances, public or private street networks, and parking areas.

**Inflatable Sign**  
A sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or structure and equipped with a portable blower motor that provides a constant flow of air into the device.

**Incidental Sign**  
A small sign that informs the public of details relating to the goods, facilities or services available on the premises, for example: credit card acceptance signs, signs indicating hours of operation, and signs providing information pertinent to the immediate safety or legal responsibilities of passersby or the public (e.g., signs warning of hazards such as high voltage; signs warning that a property is protected by a security system; and “no trespassing” signs).

**Interior Setback**  
The land area between the interior lot line and the closest wall of a building located on the property.

**Itinerant Merchant**  
A person who transports an inventory of goods to a building, vacant lot, or other location in the town, other than the persons’ permanent place of business, and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

**Junkyard**  
Any establishment or land used, in whole or in part, for commercial or industrial storage, dismantling, and/or sale of waste paper, rags, scrap metal, motor vehicles, machinery, tires, or other junk outside of an enclosed building. This shall not include a landfill, other public utility facility, or a recycling and salvage operation.
**Kennel**
Any premises wherein any person, firm or organization boards, lets for hire, trains for fee, breeds, buys or sells animals.

**Lake or Natural Watercourse**
Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

**Land Disturbing Activity**
Any disturbance of land, including but not limited to clearing, grading, filling, excavation, or other alteration of land that includes the removal of brush, grass, ground cover or other vegetative matter from a site that results in a change in the natural cover or topography; provided, that this definition does not include (i) selective cutting of trees or undergrowth consistent with the requirements of Article 31 or (ii) additions or modifications of landscaping or gardens, so long as the same does not cause or contribute to erosion and sedimentation.

**Land Use Intensity Ratios**
A technique for regulating density in the form of a fraction, expressed in decimal form, with the minimum square footage as the numerator and the gross land area of the lot as the denominator.

**Landfill**
A government facility for the disposal of solid waste in or on land authorized by N.C. Gen. Stat. Chapter 130A Article 9 of the North Carolina General Statutes.

**Landowner or owner**
The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as their agent or representative for the purpose of making applications for development approvals.

**Landscaped Greenspace**
A pedestrian oriented urban open space which includes manicured landscaping and other pedestrian oriented amenities (such as benches) which is at or near the same grade as the sidewalk or the street and is easily accessible to pedestrians.

**Large Craft Brewery/Distillery**
A manufacturing operation engaged in the production of malt and distilled beverages, which has all operations contained within a fully enclosed building, and is greater than 3,000 square feet but does not exceed 10,000 square feet.

**Licensed Engineer**
A person who is licensed as an engineer under the provisions of the North Carolina Engineering and Land Surveying Act.

**Licensed Geologist**
A person who is licensed as a geologist under the provisions of the Geologist Licensing Act of the State of North Carolina.

**Lifting or Limbing Up**
The removal of lower branches for under clearance.

**Livability Space**
Natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas and the pervious, landscaped portion of street rights-of-way. Livability space does not include paved pedestrian sidewalks or vehicular areas.

**Livestock, Large**
Cattle, swine, sheep, goats, mules, llamas, horses and similar animal breeds for which the mature animal exceeds 150 pounds in weight.

**Livestock, Small**
Cattle, swine, sheep, goats, mules, llamas, horses and similar animal breeds for which the mature animal does not exceed 150 pounds in weight.

**Living Sign**
A non-illuminated sign constructed of living materials such as shrubs, trees, and/or flowers.

**Living Space**
Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing, and sanitation purposes.

**Local Street**
A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten (10) but not more than twenty-five (25) dwelling units and is expected to or does handle between seventy-five (75) and two hundred (200) trips per day.

**Lot**
A parcel of land whose boundaries have been established by a legal instrument for purposes of transfer of title.

**Lot of Record**
A lot, parcel, or tract which has been recorded in the Watauga County Register of Deeds’ Office and which was in conformance with land development ordinances in effect at the time it was created.
Lot Area
The total area circumscribed by the boundaries of a lot, except that: [i] when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty feet (30’) from the traveled portion of the street, and [ii] in a residential district, when a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

Lot Line
A line that marks the boundary of a lot.

Lot Front
The lot line and yard area where the primary access is located. In the case of additional equally significant access points located on other lot lines, the lot line and yard area for that access shall also be deemed a front.

Lot Line, Interior
Any lot line that is not a street lot line; a lot line separating a lot from another lot.

Lot Width
The horizontal distance between the side lot lines at the front building line measured parallel with the front lot line; or in the case of a lot fronting on a curved street, the straight-line distance between the side lot lines measured from the building line.

Lowest Adjacent Grade (LAG)
The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor
The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building’s lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Article 30 Flood Damage Prevention.

Machine/Welding Shop
A workshop where metals are cut, shaped, welded and worked, using machine tools, for purposes of fabrication or repair.

Major Traffic Corridor
U.S. Routes 221, 321, 421 and North Carolina Routes 105, including 105 Extension and 105 By-Pass, and 194.

**Major Variance (From Statewide Watershed Protection Rules)**
A variance that results in the complete waiver of a watershed management requirement and/or the relaxation, by a factor of ten percent (10%) or more, of any watershed management requirement that takes the form of a numerical standard.

**Major Mountain Ridge**
A ridge with an elevation higher than 3000 feet above mean sea level and an elevation 500 feet or more above the elevation of an adjacent valley floor.

**Major Subdivision**
A subdivision that involves:
- **A.** The creation of eleven or more lots, regardless of whether the lots are created at one time or over an extended period of time; or
- **B.** The creation of any new streets (either public or private); or
- **C.** The creation or extension of a public water or sewer system, or
- **D.** The installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.

**Managing Agent**
An adult individual designated by the owner of a rental property for service of process and receiving notices and demands and to perform the obligation of the owner under this Ordinance.

**Manufactured Home “Class A”**
A structure that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, transportable in one or more sections, which in the traveling mode is eight feet (8’) or more in width, or forty feet (40’) or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with a continuous permanent masonry foundation (not pierced except for required ventilation and access) and connected to the required utilities for systems contained therein and satisfies the following criteria:
- **A.** The pitch of the home's roof is a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- **B.** The exterior siding consists of wood, hardboard, aluminum, or vinyl covering, with reflectivity in no case exceeding the reflectivity of gloss white paint, comparable in composition, appearance, and durability to the exterior siding compatible with standard residential construction; and
C. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Manufactured Home “Class B”
A structure that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, transportable in one or more sections, which in the traveling mode is eight feet (8’) or more in width, or forty feet (40’) or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a continuous permanent masonry foundation (not pierced except for required ventilation and access) and connected to the required utilities for systems contained therein, but that does not satisfy the criteria necessary to qualify as “Class A”. Skirting is required for “Class B” manufactured homes.

Manufactured Home “Class C”
Any mobile or manufactured home that does not meet the criteria of a Class A or Class B manufactured home.

Manufactured Home Park
A residential use in which more than one (1) manufactured home is located on a single lot.

Manufacturing
The assembly, fabrication, finishing or packaging of goods and materials, including the storage and processing of raw materials into other products.

Marginal Access Street
A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

Marquee
A sign of a theater, auditorium, fairground or museum which advertises present and/or scheduled events with the use of changeable text.

Mean Sea Level (as applied in Article 30 Flood Damage Prevention)
The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

Medical Emergency Response
Establishments providing transportation equipped with sirens, such as ambulances, for emergency medical relief.

**Medical Office, Category 1**
A medical office, other than a hospital, which regularly receives or discharges patients by ambulances using sirens.

**Medical Office, Category 2**
A medical office including physician offices, dentists, chiropractors, psychiatric, optometrists, and other healthcare providers, and which is open to the public during 10 p.m. to 6 a.m. other than Medical Office Category 1.

**Medical Office, Category 3**
A medical office that provides inpatient psychiatric, or principally provides inpatient or outpatient alcohol or drug addiction care, drug treatment or other similar services other than Medical Office Categories 1, 2, and 4.

**Medical Office, Category 4**
A medical office to the public including physician offices, dentists, chiropractors, psychiatric, optometrists, and other healthcare providers other than Medical Office Categories 1, 2, and 3.

**Menu Board Sign**
An attached or freestanding sign listing choices and prices.

**Microbrewery**
A manufacturing operation engaged in the production of malt and distilled beverages, with an annual production less than 15,000 US beer barrels (1,800,000 L); which has all operations contained within a fully enclosed building.

**Micro Wireless Facility**
A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

**Mini-Storage**
A building or group of buildings, divided into separate spaces or compartments leased to individuals, organizations, or businesses on an individual basis for self-service storage of personal property.

**Minor Street**
A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine (9) dwelling units and is expected to or does handle up to seventy-five (75) trips per day.
**Minor Subdivision**
Any subdivision other than a major subdivision.

**Modular Home**
A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two (2) sections transported to the site in a manner similar to a mobile home (except that the modular home meets the North Carolina State Building Code applicable to site built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

**Monopole**
A single, self-supporting, freestanding pole-type structure built for the sole purpose of supporting one or more antennae. A utility pole is not a monopole.

**Monument Sign**
A freestanding sign supported permanently upon the ground by a continuous base flush to the ground or two (2) or more support posts at the outside edge.

**Moped Sales**
The storage, display, sale, lease, rental or repair of mopeds as defined by G.S. 105-164.3.

**Motel**
A building or a group of buildings with guest rooms having direct access to an outdoor parking area, primarily containing guest rooms for lodging and sometimes meals and other services for travelers and other paying guests. Common accessory uses are dining areas, meeting rooms, and recreational facilities. Occupancy is by transients rather than residents.

**Motorcycle**
A motor vehicle with two wheels and a strong frame including mopeds, scooters, and powered pedal cycles.

**Multi-Family Dwelling**
A building or combination of buildings on a single lot which includes three or more dwelling units.

**Mural**
Any mosaic, painting, or graphic art or combination thereof which is applied to a building wall (either directly or to one or more panels mounted to a building wall) and not interpreted to be advertising by the Administrator. Murals that include any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession, or business, or any logo, trademark, trade name, or other commercial message are considered advertising signs provided, a mural may have
up to 5% of its total space dedicated to a logo, trademark, or tradename (but no other copy) and will not be considered an advertising sign. A mural that is sponsored by the Town of Boone shall not be considered an advertising sign, but rather government speech, and is subject only to such conditions as the Town Council shall impose; provided, that the foregoing provision shall not be construed as exempting a Town-sponsored mural to be located in a historic district from any applicable requirements of the historic district standards.

**Natural Erosion**
The wearing away of the earth’s surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

**Natural Obstruction**
Includes any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the Floodway Zone by a non-human cause.

**New Construction (as applied in Article 30 Flood Damage Prevention)**
Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

**Noncommercial Message**
Messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

**Nonconforming Lot**
A lawfully established lot of record that does not conform to the current dimensional requirements of the zoning district in which it is located.

**Nonconforming Sign**
A sign that was lawfully constructed but does not conform to current size, height, location, design, construction, or other requirements of this Ordinance.

**Nonconformity**
An existing lot or structure or use of an existing lot or structure that does not conform to one or more of the regulations applicable to the zoning district in which the lot or structure is located or any other requirements of this Ordinance.

**Nonconforming Situation**
All nonconformities other than a nonconforming use, nonconforming lot or a nonconforming sign, including a lawfully established structure that does not conform to dimensional, elevation, location, or other requirements of this Ordinance.
Nonconforming Use
A lawfully established use that is not allowed in the zoning district in which it is currently located.

Non-Encroachment Area
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

Non-Fixed Site Event Venue
A special event, such as a carnival or circus, on a lot which does not have a dedicated facility for hosting such events.

Non-income Producing Structures
Structures, such as private homes, which do not generate income.

Nude Model Studio
Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. Nude Model Studio shall not include an educational institution for which nude modeling is a legitimate part of the curriculum of the institution; and should not be held in a structure that has any sign visible from the exterior of the structure and any other advertising that indicates a nude or semi-nude person is available for viewing.

Occupant, Residential
Any person who, on a regular and recurrent basis, is present at a dwelling unit a substantial period of time.

Occupy, occupies, occupied
The relationship of a person classified as a “residential occupant,” to a dwelling unit, whether or not the person is in present possession of the dwelling unit.

Off-Premise Advertising/Sign
A sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.

Off-Street Loading
Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Off-Street Parking
Space located outside of any street right-of-way or easement that is designed to accommodate the parking of motor vehicles.

**On-Premise Advertising /Sign**
A sign directing attention to or promoting a business, product, service, event, or activity that is sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.

**Open Air Market**
Any display of goods for sale by itinerate merchants or peddlers in a fixed outdoor setting.

**Ordinary Maintenance (as applied to Use 7.0 Telecommunication)**
Ordinary maintenance ensures that wireless facilities are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity.

**Ornamental Grasses**
Used to provide landscape interest, perhaps for screening views, or for pedestrian control. Are typically low water users.

**Outdoor Dining**
A portion of a restaurant which is not completely enclosed and in which food or beverages are consumed.

**Outdoor Display**
The display for sale of products outside of a fully enclosed structure.

**Outdoor Shooting Range**
An outdoor specialized facility designed for the discharge or shooting of fire arms, air rifles, air pistols, B-B guns or similar weapons.

**Outdoor Storage**
The storage of products outside of a fully enclosed structure.

**Outdoor Theater:**
An outdoor area which may be partially enclosed used for showing motion pictures or live performances.

**Overall Height (Wireless Communications Facility)**
Height from grade, inclusive of all antennas, lightning rods and any other associated equipment, but exclusive of lights required by the FAA that do not provide support for any antennas or other equipment.

**Overlay District**
A zoning district is an additional zoning requirement that is placed on a geographic area but does not change the underlying zoning.

**Painted Wall Sign**
A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.

**Parapet**
A wall extending above the top of the roof surface at the top of the facade of a building. The height of a parapet is measured from the top roof surface to the top of the parapet wall.

**Park and Ride Lot**
A parking lot or structure established for the purpose of allowing commuters or other people to leave their vehicles and transfer to public transit or carpool for the remainder of the journey.

**Parking Area Aisles**
That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**Parking-Control**
Towing or the use of any mechanical device, such as a “boot” or other instrument intended to disable a vehicle or prevent a vehicle from being removed from a private parking lot or space, or the imposition of a private charge for the removal of a vehicle from a private parking lot or space, or any other non-consensual means by which a vehicle is prevented from being removed from a parking lot or space.

**Parking-Control Warning Sign**
A sign that informs the public that the parking lot or parking structure is subject to parking-control.

**Parking Lot**
An off-street, surfaced, ground level area where motor vehicles or bicycles are stored for temporary, daily, or overnight parking.

**Parking Structure**
A structure used for motor vehicle or bicycle parking which is partially or wholly enclosed and includes any above or below-grade decks for temporary, daily or overnight parking.

**Parking Space**
A portion of the vehicle accommodation area set aside for the parking of one vehicle.

**Passenger Terminal**
Operating passenger transportation systems using a bus or other motor vehicle, including scenic and sightseeing transportation using buses or other motor vehicles.

**Peddler**
A person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods.

**Perennial Stream**
A well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Ground water is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continual conveyance of water.

**Perennials**
Flowering plants whose root stock survives the winter. Used to provide color/textural interest, and control pedestrian traffic, seldom used for screening.

**Performance Guarantee**
A financial commitment to ensure successful completion of a development’s required improvements. Acceptable forms include a surety bond, irrevocable letter of credit, cash (escrowed funds) or other form of guarantee that provides equivalent security to a surety bond or irrevocable letter of credit.

**Permanent Sign**
Any sign that, when installed, is intended for permanent use. Any sign with an intended use in excess of twelve (12) months from the date of installation, unless otherwise stated, shall be deemed a permanent sign.

**Person**
An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

**Person Liable**
The owner, tenant, or occupant of any land or structure, or part thereof, or other person who possesses a cognizable interest in the real or personal property in question, who participates in, assists, directs, causes, allows, maintains, or is otherwise responsible for any situation that is contrary to the requirements of this Ordinance.

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

**Personal Service Establishment**
A business that provides individual services related to personal needs directly to customers at the site of the business, or that receives goods from or returns goods to the customer that have been treated or processed at that location or another location. This includes travel agencies, dry-cleaners, laundries, tailors, hair stylists, cosmeticians, toning or tanning salons, photocopy centers, shoe repair shops, appliance repair shops, interior design studios, and dance and martial arts studios and other similar uses. This does not include gas stations.

Phase of Grading
Defined portions (area or implementation) of grading or soil erosion and sediment control measures that are required to be done in a specific sequence as part of the Plan(s).

Pilaster
A shallow, non-structural rectangular column, attached to, and projecting only slightly from, a wall surface.

Pillar
A structural support, similar to a column, but larger and more massive, and often without ornamentation. Pillars can be round or square in section, and are most often made of brick, stone, cement, or other masonry, although substantial wooden timbers can be formed into pillars.

Pitched Roof
The external covering of a building having a slope greater than 2(v):12(h).

Planting Plan
A landscape plan showing types, numbers, sizes, and locations of plants to be planted or preserved.

Plat
A map or plan of a parcel of land which is to be, or has been subdivided.

Plaza Space
A pedestrian oriented urban open space which is predominately hardscaped. Plaza spaces should include manicured landscaping and pedestrian oriented amenities, such as benches, and should connect the building to the public sidewalk. Plaza spaces should be at or near the same grade as the sidewalk or the street.

Pole/Pylon Sign
A sign that is permanently affixed to the ground by a pole or similar structure and that is not part of the building.

Police Substation
A building, not greater than 2,000 square feet from which a governmental law enforcement agency operates.
Political Sign
A temporary sign used in connection with a local, state, national election or referendum.

Portable Sign
A sign mounted on a frame or chassis, designed to be easily relocated, and not meant to be permanently affixed to buildings, poles, or the ground.

Post Office
A government department or agency handling the transmission of mail and includes a retail operation open to the public.

Post Office, Distribution
A government department or agency handling the transmission of mail and does not include a retail operation open to the public.

Post-FIRM Development
Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

Poultry
Domesticated fowl kept for eggs or meat.

Pre-FIRM Development
Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

Preliminary Plat
A map, prepared by a registered land surveyor, indicating the proposed layout of a subdivision showing lots, streets, water, sewer, storm drainage, and any other information required in Appendix A.

Primary Façade
The face of the building that is its primary orientation to the street or other public thoroughfare; normally the front of the building that faces the street and contains the building’s primary pedestrian entrance.

Primary Height Limitation
The maximum height allowed for any structure located at the minimum setback required for such structure.

Primary Public Way
The street that adjoins the property that carries the highest volume of traffic.
**Principal Building**
The primary building on a lot or a building that houses a principal use.

**Principal Use**
The primary use and chief purpose of a lot or structure.

**Private Landfill**
A facility or use of land for the disposal of solid waste.

**Private Street**
A street consisting of a private easement and a privately maintained roadway.

**Principally Above Ground**
At a structure in which at least 51% of the actual cash value of the structure is above ground.

**Produce Stand**
A business establishment selling raw, unprocessed fruits, vegetables, nuts, other produce in its raw or natural state, and other items which are accessory to an on-site agricultural operation.

**Project Manager**
A person who oversees the entire development project from start to completion and acts as the main point of contact with the Town during the project.

**Projecting Sign**
A sign attached to a building wall with the face of the sign perpendicular to the building wall.

**Projecting Theater Marquee**
A structure projecting from and supported by the building with independent roof and drainage provisions and which is erected over doorways as protection against weather and which also advertises present and/or scheduled events with the use of changeable text.

**Property**
All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

**Pruning**
The removal of dead or diseased, live but interfering, and/or weak branches.

**Public Right-of-way**
The land or interest therein acquired for or devoted to transportation purposes by the Town of Boone or State of North Carolina.
Publicly Visible
An element of a building which is visible from any adjacent street or residentially zoned property.

Public Water Supply System
Any water supply system furnishing potable water to ten (10) or more dwelling units or businesses or any combination thereof.

Qualifying Small Wireless
A new small wireless facility that does not extend more than ten (10) feet above the utility pole, town utility pole, or wireless support structure on which it is collocated and is located either (i) in the Town right-of-way or (ii) outside of Town right-of-way on property that is neither used as single family residential property nor vacant but zoned for single family residential.

Qualifying Town Utility Pole
A modified or replacement town utility pole that does not exceed fifty (50) feet above ground level and that is associated with a new small wireless facility that does not extend more than ten (10) feet above such utility pole.

Qualifying Utility Pole
A new utility pole or a modified or replacement utility pole that does not exceed fifty (50) feet above ground level and that is associated with a new small wireless facility that does not extend more than ten (10) feet above such utility pole.

Real Estate/for Sale/Open House/or Lease Sign
A sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale.

Recreation Facility, Category 1
A facility in which regularly scheduled recreation activities take place within completely enclosed buildings.

Recreation Facility, Category 2
A facility providing outdoor space in which regularly scheduled recreation activities take place, and which does not utilize outdoor event lighting.

Recreation Facility, Category 3
A facility providing outdoor space in which regularly scheduled recreation activities take place, and which utilizes outdoor event lighting.

Recreational Vehicle (RV)
A vehicle, which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Recreation Vehicle Park**
Any site or tract of land upon which two (2) or more recreational vehicle spaces are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation, travel, or vacation purposes.

**Recyclable Materials**
The term recyclable materials includes, but is not limited to, clear, green and brown container glass, aluminum cans, steel food cans, No. 1 and No. 2 plastic containers, newsprint with inserts, magazines, catalogs, phone books, junk mail, office ledger, and pasteboard.

**Recycling and Salvage**
A facility, other than, a recycling drop-off station, for the collection, handling, sorting, storage, processing, compaction, purchase, and/or resale of scrap or discarded material like paper, metal, rubber, plastic, glass, or cloth. The term includes facilities for separating trash and debris from recoverable materials such as paper products, glass, and metal cans which can be returned to a condition in which they may be again be used for production.

**Recycling Container**
A receptacle which is equipped with a close-fitting lid used for the temporary storage of recyclable materials between scheduled pickups and approved by the Department of Public Works.

**Recycling Container Area**
An area designed pursuant to Section 91 of the Town Code to accommodate recycling containers.

**Recycling Drop-off Station**
A center or collection point with containers or facilities designed and intended for the depositing of clean, separated, and recyclable materials, and the collection of such materials for processing at another location, but itself having no mechanical facilities, for the processing of such materials.

**Reference Level**
The top of the lowest floor for structures within Special Flood Hazard Areas designated as any Zone beginning with “A”.

**Regulatory Flood Protection Elevation**
The “Base Flood Elevation” plus the “Freeboard” of two feet (2’). In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two feet (2’) above the highest adjacent grade.
Religious Assembly, Category 1
A building used for recurring religious services, including worship services, religious study and similar activities, with seating capacity for 100 or less, with all regular activities within fully enclosed buildings. May include other associated uses such as a parsonage, secondary outdoor activities such as occasional outdoor worship, social gatherings, and other customary religious activities.

Religious Assembly, Category 2
A building used for recurring religious services, including worship services, religious study and similar activities, with seating capacity between 100 and 500. May include other associated uses such as a parsonage, and secondary outdoor activities including occasional outdoor worship, social gatherings, daycare, playgrounds and other customary religious activities.

Religious Assembly, Category 3
A building or land used for recurring religious services, including worship services, religious study and similar activities, with seating capacity greater than 500 or activities and uses not permitted for Religious Assembly, Categories 1 or 2.

Repeat Violator
A person liable who has been determined to have violated any provision of this Ordinance within the previous thirty-six (36) months.

Residence Hall, Category 1
A building used principally to provide rooms for sleeping accommodations for no more than ten (10) persons at an educational, public, or religious institution and located on the same lot as the institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

Residence Hall, Category 2
A building used principally to provide rooms for sleeping accommodations for more than ten (10) persons at an educational, public, or religious institution and located on the same lot as the institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

Residence Hall, Category 3
A building used principally to provide rooms for sleeping accommodations associated with an educational, public, or religious institution, other than ASU, CCC&TI, and other institutions of higher learning, and not located on the same lot as the institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

Residential Care Facility
A residential facility for the elderly, chronically ill, infirm or incurable persons that provides rooms, meals and personal care assistance, and that may provide on-site health care, medical supervision and therapies at a lower level than that available in a hospital. The term includes assisted living residences as defined at G.S. 131D-2.1 of the North Carolina General Statues, nursing homes, and skilled nursing facilities.

**Restaurant**
An establishment which provides prepared food to patrons.

**Retail Store**
A commercial establishment that provides goods, products, or materials directly to the consumer. This includes clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, bookstores, florists, furniture stores, hardware stores, pet stores, toy stores, and variety stores. It does not include restaurants, personal service establishments, or gas stations.

**Ridgeline**
The crest or series of crests at the top or uppermost point of intersection between two opposite slopes or sides of a mountain.

**Riparian Zone**
A margin on each side of a perennial stream which extends from the edge of the stream in a direction generally perpendicular to the flow of the stream.

**Riverine**
Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Road**
All public or private ways used to provide motor vehicle access to three (3) or more lots.

**Roof Area**
A single, unbroken, contiguous plane, measured perpendicular to slope.

**Roof Sign**
Any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

**Roomer**
A person who rents and inhabits a room in another person’s dwelling unit.

**Rotating Sign**
A sign which turns around on an axis.

**Sailor Course**
A sailor course is similar to the soldier course but with the wide edge facing out. It is used for decorative effects (vertical, long, wide).

**Satellite Receiving Antenna**
A dish antenna used to receive and transmit signals relayed by satellite.

**Seasonal Retail Activities and Amusements**
Sales, services and associated attractions such as Christmas tree lots, pumpkin patches, corn mazes and similar holiday-specific commercial activities.

**Secondary Façade**
The façade which faces a public street and which may contain additional pedestrian entrances.

**Secondary Height Limitation**
The absolute maximum height allowed for any structure.

**Secondary Suite**
An additional separate independent living area associated with a single-family dwelling typically containing its own entrance, kitchen, bathroom and living area used by family members of the occupants of the single-family dwelling.

**Secretary of the Interior’s Standards for Historic Preservation**
Ten basic principles or standards that define how an historic property or structure shall be preserved that can be applied to most exteriors and interiors of historic properties.

**Sediment**
The solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

**Sedimentation**
The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural water course.

**Setback**
The land area located between a property line or the established edge of a right-of-way, whichever is closer, and the closest wall of a building located on the property.

**Setback, Street**
The land area between the established street right-of-way and the closest wall of a building located on the property.

**Shed Roof**
A roof in which one wall is higher than the opposite wall creating a single sloped roof.

Shelter for Homeless, Category 1
A short- or long-term shelter for persons who lack a fixed, regular and adequate nighttime residence. Occupancy (not including non-occupant managers) is limited to 10.

Shelter for Homeless, Category 2
A short- or long-term shelter for persons who lack a fixed, regular and adequate nighttime residence. Occupancy (not including non-occupant managers) is greater than 10.

Shopping Center/Mall
A development containing more than one commercial use with shared parking and/or interconnecting walkways enabling patrons to walk from unit to unit.

Shroud
A box or other container that contains, and is designed to camouflage or conceal the presence of, a wireless facility, antenna, or accessory equipment.

Shrubs
May be evergreen or deciduous and have branches to the ground. Used as accent, focus, or if evergreen, as screening material.

Sidewalk Sign
A temporary sign placed on the sidewalk during regular business hours.

Sign
Any object, device, display, structure, or part thereof, which is used to advertise, identify, display, direct, or visually attract attention to an object, person, establishment, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, figures, designs, symbols, fixtures, streamers, balloons, pennants, air driven devices, colors, illuminated or projected images. Without limiting the generality of the foregoing, a device that might otherwise be categorized as a sign that is located at least fifteen feet to the interior side of any exterior wall shall not be regarded as a sign so long as it is not internally illuminated, illuminated with spotlights, or otherwise illuminated to draw special attention to it. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

Sign Copy
The wording and/or symbols on a sign surface in either permanent or changeable form.

Sign Face
The area of a sign on which copy is placed.
Sign Structure
Any structure that supports, has supported or is capable of supporting a sign, including any decorative cover for said sign structure.

Significant Tree
Any healthy tree with a diameter of eight inches (8”) or more measured Diameter-at-breast-height (Dbh).

Sill
The flat horizontal bottom piece of a window or door, often of wood, but sometimes of stone.

Siltation
The sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Single-Family Detached Dwelling
A building, not including a manufactured home, that is developed with space on all sides, containing, intended or used solely for one dwelling unit; not attached to any non-accessory building or dwelling unit.

a. A single-family detached dwelling in the R3 Multiple Family, B3 General Business, or M1 Manufacturing zoning districts shall be classified as a boarding house if occupied by more than four (4) unrelated persons.

b. A single-family detached dwelling in any other zoning district shall be classified as a boarding house if occupied by more than two (2) unrelated persons.

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. A reference to a “site plan” in this ordinance may also include the “site-specific vesting plan” where appropriate.

Site-Specific Vesting Plan
A plan submitted to a local government in which the applicant requests vesting in accordance with Section 4.13, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan. The plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

**Site Walls**
Retaining walls, screen walls or other vertical or nearly-vertical planes which occur on a property, but are not part of the exterior envelope of a building.

**Sketch Plan**
A rough sketch map of a proposed subdivision or site, showing streets, lots, and any other information of sufficient accuracy to be used for discussion of the proposed subdivision or site.

**Slaughterhouse**
A facility under N.C.D.A. inspection which is inspected daily by a trained Meat & Poultry Inspector. Animals scheduled for slaughter and carcasses of slaughtered animals are inspected for disease and condemned by a veterinarian if necessary. Products from these establishments are labeled "Inspected and Passed by N.C.D.A" and bear a rhomboid shaped inspection legend. These products can be sold anywhere within the state of North Carolina.

Or

A facility which is USDA inspected and is staffed by inspectors who are state employees. They are inspected daily by a trained Meat & Poultry Inspector. Animals scheduled for slaughter and carcasses of slaughtered animals are checked for disease and condemned by a veterinarian if necessary. Meat products produced in these plants are "Inspected and Passed by USDA." Poultry Products produced in these establishments are "Inspected for Wholesomeness by USDA." They bear a round USDA inspection legend and may be shipped anywhere in the United States or exported to foreign countries.

**Small Wireless Facility**
A wireless facility that meets both of the following qualifications:

i. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.

ii. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment
elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Snipe Sign
A temporary sign or poster affixed to a tree, public utility pole, fence, etc.

Solar Energy System
The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems that are accessory to a principal use. Such systems include, but are not limited to ground-mounted, roof-mounted, and building-integrated solar energy systems. Solar energy systems may generate energy in excess of the energy requirements of the property if it is to be sold back to a public utility in accordance with applicable laws.

Solar Energy System, Accessory
An accessory solar energy system is designed to meet or off-set energy demands of the principal use rather than for the purpose of supplying or distributing electrical energy to users, a customer or customers.

Soldier Course
A soldier course is one in which bricks are laid standing on end with the narrow edge facing out. This type of course is sometimes used for decorative effects over door and window openings (vertical, long, narrow).

Solid Waste Container
A water-tight receptacle which is equipped with a close-fitting lid used for the temporary storage of solid wastes between scheduled pick-ups and approved by the Department of Public Works.

Solid Waste Container Area
An area designed pursuant to Section 91 of the Town Code to accommodate solid waste containers.

Solid Waste Processing
A solid waste management facility permitted by the North Carolina Department of Environment and Natural Resources that receives municipal solid waste for processing or treatment.

Special Flood Hazard Area (SFHA)
The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined by Article 30 Flood Damage Prevention.

Special Use Permit
A development approval issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Board of Adjustment.

**Start of Construction (as applied in Article 30 Flood Damage Prevention)**
Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**Stealth (Concealed) Wireless Facility, Wireless Support Structure, or Antenna**
Any wireless facility, wireless support structure or antenna that is integrated as an architectural feature of a structure or that is designed to camouflage or conceal the presence of the wireless facility, wireless support structure, or antenna so that the purpose of the wireless facility, wireless support structure, or antenna is not readily apparent to a casual observer.

**Steep Slope**
A slope of 30% or greater.

**Stormwater Drainage Facilities**
The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

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

**Stormwater Runoff**
The direct runoff of water resulting from precipitation in any form.

**Street**
A public street or a street with respect to which an offer of dedication has been made.

**Street Frontage Width**
The horizontal distance measured along a straight line connecting the points at which the street lot line abuts such street with interior lot lines and or street lot lines.

**Stretcher Course**
Brick laid flat with the long face parallel to the wall are called stretchers. When all the brick in the course are laid in this manner, it is called a stretcher course. (horizontal, long, narrow).

**Structural Alteration**
Any change, except for repair or replacement, in the supporting members of a building such as, but not limited to, bearing walls, columns, beams, or girders.

**Structure**
Anything constructed or erected which requires location on the ground or attached to something having a fixed location on the ground.

**Subcollector Street**
A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six (26) but not more than one hundred (100) dwelling units and is expected to or does handle between two hundred (200) and eight hundred (800) trips per day.

**Subdivision**
The division of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition:

- **A.** The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this Ordinance.
- **B.** The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- **C.** The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.
- **D.** The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards set forth in this Ordinance.
- **E.** The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NC General Statutes.
**Substantial Damage**
Damage of any origin sustained by a structure during any ten (10) year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial Improvement**
Any combination of repairs, reconstruction, rehabilitation, additions, or other improvements of a structure, taking place during any ten (10) year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

A. Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

**Surface Parking Area**
Off-street automobile parking area which is not enclosed within a building.

**Suspended Sign**
A sign suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and which is supported by such surface.

**Swimming Pool**
Any receptacle or artificial basin of water, either above or below grade level, intended for swimming or recreational bathing have a depth of eighteen inches (18”) or greater at the deepest point. This includes hot tubs and spas.

**Swine Farm**
A use involving more than five swine.

**Temporary Family 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).

**Temporary Construction or Repair Dwelling**
A temporary dwelling exclusively used for a place of living and sleeping during construction or repair.
Temporary Construction Trailer
A temporary structure for office usage, storage of materials and tools, or security purposes incident to construction or development of the premises upon which the temporary construction trailer is located.

Temporary Decoration
Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday/celebration.

Temporary Mobile Medical Unit
An apparatus capable of moving or being moved readily from place to place for the purposes of performing specific medical care functions related to the diagnosis or treatment of illness through laboratory or testing services.

Temporary Portable Storage Container
A temporary portable storage container (such as: semi-trailers or other similar portable containers) is any container designed for the storage of goods and materials and is usually transported by a commercial vehicle and is for temporary use only.

Temporary Sign
A sign or advertising display constructed of cloth, canvas, fabric, plastic, paper, plywood or other light material that is used only temporarily and is not permanently mounted.

Ten Year Storm
The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

Tenant
A person, whether or not the legal owner of record, legally occupying or entitled to legally occupy a dwelling unit or portion thereof.

Tenant Directory Sign
A sign listing the names of more than one establishment, activity or professional office conducted within a building, group of buildings or commercial center.

Total Land Disturbance
The total of land surface areas of the development site disturbed by any means (tree and vegetation cutting or removal, grading or any other soil disturbance including stream modification or septic field installation). Where trees are removed or cut in an area not contiguous to the main construction site by grading or other land disturbance, or by a connected cutting or removal of trees, the area disturbed will be considered the outermost drip line of the trees prior to their removal or cutting. The actual amount
of land which must be disturbed in order to install an appropriate septic system, when a septic system must be installed, shall not be included in the calculation of the total land disturbance, to the extent the area disturbed is actually used for the installation and location of a septic system.

Tower
A lattice-type structure, guyed or freestanding, that supports one or more antennas.

Tower Height
The vertical distance measured from the ground to the upper most point of the tower.

Town
The Town of Boone.

Townhouse
A building containing, intended or used solely for one dwelling unit on its own lot, with an individual private entrance and where three or more buildings are joined side-by-side (“a row”), with no dwelling unit located above or below another dwelling unit, and each building having exposed front and rear walls for access, light and ventilation. A Townhouse development may contain multiple rows.

Toxic Substance
Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

Trade School
An institution which offers vocational and technical training in a variety of technical subjects and trades, typically resulting in a certification.

Transom
A narrow window, sometimes hinged at the top, positioned over a doorway or larger window.

Tree Protection Area (TPA) - A circular region measured outward from a tree trunk representing the area where roots must be maintained for the tree’s survival. This TPA is measured from the tree trunk to the outermost edge of the drip line of the canopy.

Trim Color
A single paint color which is used on a building’s trim, lesser in proportion to the Field Color.

Trucking Terminal
A processing facility where freight is usually loaded onto and off of transport.

**Twenty-Five Year Storm**
The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in twenty-five (25) years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

**Two-Family Detached Dwelling**
See Duplex.

**Uncovered**
The removal of ground cover from, on or above the soil surface.

**Use**
The activity or function that actually takes place or is intended to take place on a lot.

**Utility Facility**
Any above-ground structures or facilities other than buildings, unless such buildings are incidental to the operation of such structures or facilities operated by a public utility as authorized by North Carolina law and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas oil, or electronic signals (other than use category 7.0 Telecommunication Uses). Excepted from this definition are utility lines and supporting structures such as electric power, telephone, telegraph, cable television, gas, water and sewer lines, and wires or pipes located within public right-of-way authorized by the appropriate government entity pursuant to Section 14.02.03(A)(2).

**Utility Facility, Government**
A utility facility owned or operated by a government entity other than the Town.

**Utility Facility, Neighborhood**
Utility facilities that are designed to serve the immediately surrounding neighborhood and for reasons associated with the purpose of the utility in question must be located in or near the neighborhood where such facilities are proposed to be located.

**Utility Facility, Regional**
All utility facilities other than neighborhood facilities.

**Utility Facility, Town**
Any above-ground structure, or use of land owned or operated by the Town and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, stormwater or electronic signals.

**Utility Pole**
A structure that is designed for and used to carry lines, cables, or wires for power, lighting, telephone, or cable television.

**Vacation Rental (or “Short term vacation rental” or “Short term rental” (STR))**
A vacation rental is defined as a single-family detached dwelling, a two-family detached dwelling or a multi-family dwelling unit with up to six guest rooms that is used, offered, and/or advertised (through an online platform or any other media) for transient overnight accommodations for any period of less than one month. A vacation rental is considered a “Lodging” use under this UDO. Vacation rentals do not include homestay rentals (as defined herein). A vacation rental includes any residential dwelling or dwelling unit, or portion thereof, provided to renters for any period of less than one month that does not qualify as a homestay rental under this ordinance; provided, that any use that comes within the purview of another use under this ordinance (e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a vacation rental.

**Variance**
An authorization that a development may vary from strict compliance with one or more of the provisions of this Ordinance; provided, no change in permitted uses may be authorized by variance.

**Vegetative Canopy**
Trees which create a roof like layer of spreading branches.

**Vehicle Accommodation Area**
That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading.

**Vehicle Sales and Service**
The storage, display, sale, lease, rental or repair of passenger vehicles, including but not limited to automobiles, vans, light trucks, motorcycles, mopeds and all-terrain vehicles types.

**Vehicle Washing Station**
An accessory car wash to a private development that is not open to the public.

**Vehicular Gate**
A gate or similar structure across a driveway, street or alley that may be used to block the entrance or passage of motor vehicles. This term includes all forms of gates, including automatic and manual gates and gates manned by attendants.

**Velocity**
The average velocity of flow through the cross-section of the main channel at the peak flow of the storm of interest. The cross-section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overbank flows are not to be included for the purpose of computing velocity of flow.
**Very Steep Slope**
A slope of 50% or greater.

**Vested Right**
The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

**Veterinary Office/Hospital**
An establishment used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals.

**Viewshed**
Land areas which are more than 100 feet above the nearest major traffic corridor, measured at right angles to the average contour from the center line of the traffic corridor, and upon which development as proposed can be seen during any season of the year from one of the major traffic corridors, as that term is defined, either during construction or at the time construction is completed. In making the determination whether the development as proposed can be seen and is therefore in the viewshed, planned landscape buffering shall not be considered. Land which is equidistant at its nearest borders from two major traffic corridors shall be considered in the viewshed if it is more than 100 feet above either major traffic corridor.

**Viewshed (As applied for Use 7.0 Telecommunication)**
Those lands seen from a known location forming a visual composition, with foreground, middle ground, and background areas. Foreground is the area within one (1) mile of the known location close enough to a viewer so that individual plant types, smells, colors, and forms are extremely vivid.

**Vineyard**
An area under cultivation with grape-bearing vines, grown mainly for winemaking, but also raisins, table grapes and non-alcoholic grape juice.

**Violator**
A person liable who has been determined to have violated any provision of this Ordinance.

**Volume (as applied in Article 25 Community Appearance Standards)**
A portion of a building which is offset by a minimum of ten feet (10') in plan or in elevation.

**Wall Sign**
A sign mounted flush to a building wall.

**Warehouse**
Storage of goods and materials within fully enclosed structures intended for distribution.
**Waste**
The surplus materials resulting from onsite construction and which is disposed of at other locations.

**Water Dependent Structure**
Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

**Water Surface Elevation (WSE)**
The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**Watercourse**
A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Watershed**
The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

**Window Sign**
A sign painted on, attached to or designed to be visible through a window, excluding displays of merchandise.

**Window to Wall Ratio**
A fraction of the total above grade façade area covered by fenestration.

\[
\text{WINDOW TO WALL RATIO} = \frac{\text{SQ. FT. OF WINDOW/DOOR OPENINGS}}{\text{TOTAL FAÇADE AREA}}
\]

**Winery Associated with a Vineyard**
A manufacturing operation engaged in the production of wine and wine-like beverages, which has all operations contained within a fully enclosed building and is located on or adjacent to a vineyard.

**Winery**
A manufacturing operation engaged in the production of wine and wine-like beverages, which has all operations contained within a fully enclosed building.

**Winery, Other**
A winery not classified in these definitions as a “winery associated with a vineyard” or “winery”.
Wireless Communications
Any personal wireless service, including but not limited to: cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing Part 15 devices (i.e. wireless internet services) and paging.

Wireless Communications Facility
Any manned or unmanned location for the transmission and/or reception of wireless communications, usually consisting of one or more of the following components: a wireless facility, base station, equipment compound, and/or wireless support structure.

Wireless Facility
Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include (i) the structure or improvements on, under, within, or adjacent to which the equipment is collocated; (ii) wireline backhaul facilities; or (iii) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider
Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider
A wireless infrastructure provider or a wireless services provider.

Wireless Services Provider
A person who provides wireless services.

Wireless Support Structure
A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

Yard Sale
A yard sale, also known as a garage sale, rummage sale, tag sale, lawn sale, attic sale or moving sale is an informal irregularly scheduled event for the sale of used goods by private individuals on a lot containing a dwelling or dwelling unit.

Yard Sale Sign
A sign directing the public to the occasional non-business sale of secondhand household and other goods incidental to household uses.

**Zoning Permit**
A permit issued by the land use Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.

**Zoning Map**
Zoning district boundaries adopted pursuant to this Ordinance shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the Town of Boone.

A1  General Requirements

A1.01 The presumption established by this Ordinance is that all of the information listed in this Appendix must be submitted with all applications to enable the permit-issuing authority to determine whether the development, once completed as proposed, will comply with all requirements of this Ordinance.

A. However, the permit-issuing authority may require more information or accept less information according to the circumstances of the particular case.

B. An applicant who believes information presumptively required by this Appendix is unnecessary shall contact the Administrator for an interpretation.

A1.02 With respect to all plans and other documents required by this Ordinance, the applicant shall submit the number of copies that the Administrator deems necessary to expedite the review process.

A2  Written Application

A2.01 Every applicant shall complete a written application containing at least the following information:

A. The name, address, and phone number of the landowner; and

B. If the applicant is not the landowner in question, the name, address and phone number of the applicant.

1. Pursuant to Subsection 4.03.01(B), when a person other than the owner of the property applies for a permit or approval including a lessee or a person who has contracted to purchase the property, the application must be accompanied by the written approval of the landowner or other proof of authority; and

C. The date of the application; and

D. A succinct statement of the nature of the development proposed under the development approval or the nature of the variance; and

E. Identification of the lot in question by street address and Watauga County Parcel Identification Number; and

F. The zoning district in which the lot is located; and

G. The cost of the development project; and

H. The number of square feet or acres of the lot in question; and

I. The number of square feet or acres of land disturbing activity; and

J. The gross floor area of all existing or proposed buildings located on the lot where the development is to take place; and
K. Existing land uses; and  
L. Proposed land uses, including their locations, within the development; and  
M. Whether the applicant or landowner(s) has obtained, applied for or is intending to seek a Brownfields Agreement with the NC Brownfields Program administered by the North Carolina Department of Environmental Quality and if so, the anticipated date for the first year of partial exclusion of property taxes.

(Ord. 20160178, 06-16-2016; Ord. PL01806-082218, 10-16-2018; Ord. PL04727-050721, 07-01-2021)

A3 Site Plans

A3.01 All plans should use a method of portrayal that is well thought out, systematized, and clearly presented graphically. All features required to be shown on the plans as set forth in this Section may be included on one set of plans, so long as the features are distinctly discernible.

A3.02 Basic Plan Requirements

A3.02.01 First Page: The first page of all site plans shall contain:

A. Name of landowner (s); and  
B. Name of applicants(s); and  
C. Name of all responsible design professionals and/or project manager  
D. Name of development (if any); and  
E. North Arrow; and  
F. Legend; and  

A3.02.02 Location Map: The location map shall show the location of the development in the broad context of the Town or planning jurisdiction.

A. This location map may be drawn on the site plan or it may be furnished separately using reduced copies of maps of the Town’s planning jurisdiction available at the Planning and Inspections Department.

A3.02.03 Scale: Plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Large developments may require that plans show the development in sections. The objective may be accomplished by using plans drawn to different scales to illustrate features.

A3.02.04 Plans must be drawn or printed in permanent blue or black ink.

A3.02.05 Plans must demonstrate all existing Natural, Man-Made, and Legal Features including:

A. Tree line of wooded areas; and  
B. Orchards or other agricultural groves by common or scientific name; and
C. Streams, ponds, drainage ditches, swamps; and

D. Vehicle accommodation areas designated by surface material and showing the layout of existing parking spaces, and direction of travel; and

E. Streets, private roads, sidewalks, and other walkways, all designated by surface material; and

F. Curbs and gutters, curb inlets, and curb cuts, and drainage grates; and

G. Other storm water or drainage facilities, including manholes, pipes, and drainage ditches; and

H. Underground utility lines, including water, sewer, electric, telephone, gas and cable television; and

I. Aboveground utility lines and other utility facilities; and

J. Fire hydrants; and

K. Location and dimension of all buildings, structures and signs; and

L. Location of all exterior light fixtures; and

M. Location of solid waste and recycling enclosures; and

N. Zoning of the property; and

O. All property lines (with dimension identified); and

P. All street right-of-way lines; and

Q. All utility or other easements.

A3.02.06 Plans must demonstrate all proposed changes in existing natural, man-made, and legal features, including:

A. The number of square feet in every lot created by a new subdivision; and

B. Lot dimension, including lot widths measured in accordance with Section 14.03.03; and

C. All intensities as set forth in B1.04 Complete Intensity Table.

D. Location and dimension of all buildings, structures and signs; and

E. All applicable street and interior setbacks;

F. Location and dimensions of all required recreational areas, with each area designated as to type of use; and

G. Vehicle accommodation areas designated by surface material and showing the layout of existing parking spaces, and direction of travel; and

H. Areas intend to remain as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned; and
I. Streets, labeled by classification and street name showing whether curb and gutter or shoulder and swales are to be provided along with street pavement widths. Streets shall be labeled as public or private; and

J. Curbs, gutters, curb inlets and curb cuts, drainage grates; and

K. Other stormwater or drainage facilities; and

L. Sidewalks and walkways showing widths and details of construction; and

M. Bridges; and

N. Underground utility lines, including water, sewer, electric, telephone, gas and cable television; and

O. Aboveground utility lines and other utility facilities; and

P. Fire hydrants; and

Q. Location of solid waste and recycling enclosures; and

(Ord. PL04727-050721, 07-01-2021)

A3.03 Grading Plan

A3.03.01 When required, an applicant shall submit a grading plan.

A3.03.02 The grading plan shall be prepared by and shall bear the seal and signature of a North Carolina licensed professional engineer, landscape architect, surveyor, or architect competent to perform all aspects of design.

A3.03.03 The grading plan shall contain:

A. Site-specific soils investigation (if performed); and

B. Detail drawings and cross-section of earthwork,

C. Construction details for retaining structures; and

D. Other narrative statements necessary to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this Ordinance.

E. More specialized documentation may include such items as:

1. Design calculations for temporary excavation support; and

2. Calculations for temporary surface water diversion; and

3. Dewatering methods with provisions for handling extracted water; and

4. Importation of fill material (quantity and type); and

5. Description of rock excavation techniques (blasting) with protection or monitoring of neighboring properties and structures, etc.

F. The construction sequence describing major work activities shall be listed on the plan.
G. Grading that can be conducted in phases should be clearly indicated on the plan. Multiple plans may be necessary to adequately portray tracts with complex phasing or discontinuous areas of land-disturbing activity.

H. Topographic survey:
   1. The grading plan shall be based upon a topographic survey prepared by a registered land surveyor of the tract that includes detailed information of both natural and cultural physical features prior to development.
   2. In addition to showing physical features such as existing buildings, overhead and/or underground utilities, roadways, walks, water or drainage features, the plan should also indicate the location of existing vegetation, particularly historic and significant trees being retained and protected and limits of vegetation if the tract is partially wooded.
   3. Contour lines shall be used to present the topography of the entire tract, including sufficient distance into adjoining properties to indicate continuity. The contour line interval should be selected to appropriately convey the topographic information for planning and controlling construction. Generally, a two (2) foot contour interval is sufficient. However, smaller intervals (0.5 – 1.0 ft.) may be used for flatter areas and larger intervals (5 – 10 ft.) for steeper terrain. Contour intervals may be no greater than ten feet (10’).

I. Basic Survey Data Required:
   1. Boundary information (metes and bounds, legal description of the site if available), including all existing and proposed street rights-of-way.
   2. Location of existing curbing, walks, grass, utility or planting strips, edge of pavement, roadway medians, if any, and their respective grades, widths, and alignments.
   3. Location, size, and depths of all underground utilities when available, including; gas, electric, water, sanitary sewer, stormwater drainage features, telephone, television cable, etc.
   4. Location and approximate height above existing grade of overhead utility lines and poles for lighting, electric, telephone, cable television, etc.
   5. Location and description of all recorded public or private utility easements, building setbacks, and drainage easements encumbering the tract.
   6. Location of all-natural features such as rock outcroppings, watersheds, streams, ponds, etc. on the lot or within 100 feet of the graded area. This information conveys the impact of the proposed development on the lot.
   7. Location of any wells or septic fields within 100 feet of the graded area.
   8. Location of existing structures such as buildings, retaining walls, fences, building foundations, underground storage tanks, etc. Reference of the setbacks of other buildings on adjacent properties and adjacent property lines.
9. Location of sufficient spot elevations on existing land surface to generate a topographic map of the entire tract.

J. Grading Plan Format: The following information shall also be included on the grading plan:

1. Contour lines shall be used to present the existing and proposed topography of the entire tract, including sufficient distance into adjoining properties to indicate continuity. The contour line interval should be selected to accurately and appropriately convey the topographic information for planning and controlling construction. Generally, a two-foot (2’) contour interval is sufficient. However, smaller intervals (0.5 -1.0 ft.) may be used for flatter areas and larger intervals (5 -10 ft.) for steeper terrain. Contour intervals may be no greater than ten feet (10’).

2. Grades at corners of buildings, step landings, and first floor elevations.

3. Finished grades at the edges of surfaced areas and at such interior points as necessary to show the shaping of the area. A combination of proposed contours and spot evaluations may be used to convey this information.

4. Proposed roadway elevations by indicating proposed contours and spot elevations where necessary. Profiles, cross-sections, and spot elevations are to be used to establish grading of paved areas such as roadways.

5. Top-of-curb grades at all connecting walks, curb returns, and all catch basin locations.

6. Spot elevations along swale lines, by using arrows to show direction of flow. Slope gradients should also be shown.

7. Top elevation of all storm and sanitary sewer manholes and other appurtenances.

8. Lawn and earth grades can be shown by proposed contours and by spot elevations where necessary.

9. The proposed location of stockpiled topsoil for future use in landscaped areas. To avoid root compaction, the stockpile should be located outside root zones of the significant vegetation to be preserved.

10. The storage locations of construction materials outside the root zones of significant vegetation to be preserved to avoid root compaction.

11. The location of existing significant vegetation such as specimen trees or the canopy limits of wooded areas intended for preservation.

12. The elevations of any flood plains located on, or directly affecting a tract (i.e. drainage, sediment and erosion control considerations and/or watershed protection).

(Ord. PL04727-050721, 07-01-2021)
A3.04 Soil Erosion and Sediment Control Plan

A3.04.01 When required, an applicant shall submit a soil erosion and sediment control plan.

A3.04.02 The soil erosion and sediment control plan shall be prepared by and shall bear the seal and signature of a North Carolina licensed professional engineer, landscape architect, surveyor, or architect competent to perform all aspects of design.

A3.04.03 The soil erosion and sediment control plan shall contain the following information:

A. The soil erosion and sediment control plan shall define the existing site topography and the proposed site conditions in sufficient detail to accurately plan and implement the planned erosion, sedimentation, and velocity control measures.

B. The soil erosion and sediment control plan shall be prepared to meet the basic objectives, design standards, and performance standards for erosion control in this Ordinance.

C. The soil erosion and sediment control plan shall be presented at a scale not smaller than 1 inch = 50 feet.

D. Soil erosion and sediment control measures that will be active, dormant, or removed during various phases of the land-disturbing activity shall be clearly indicated on the soil erosion and sediment control plan. Multiple erosion and sediment control plans may be necessary to adequately portray the tracts with complex phasing or discontinuous areas of land-disturbing activity.

E. The soil erosion and sediment control plan should follow the same format for grading plans in accordance with A3.03.03-J.

A3.05 Drainage Plan

A3.05.01 When required, an applicant shall submit a drainage plan.

A3.05.02 The drainage plan shall be prepared by and shall bear the seal and signature of a North Carolina licensed professional engineer or landscape architect, competent to perform all aspects of design.

A3.05.03 The drainage plan shall refer to the drawings and technical documentation for planned site improvements necessary to fulfill both the drainage and stormwater requirements of this Ordinance and shall include:

A. Location and topographic maps with the total drainage area delineated including both on-site and off-site areas and sufficient information to define all ridges, existing streams, drainage ways, wetland areas, existing springs, and water elevation of any proposed discharge point, and any additional information required to evaluate the existing and proposed drainage system.

B. Architectural and engineering drawings showing plan, profile and details of; piping, drainage structures, swales, and channels tying into a network of pre-existing man made or natural channels.
C. Written project specifications governing work performance and materials.

D. Computations and assumptions sufficient to support the design of; piping, drainage structures, retention/detention ponds, and permanent erosion control measures.

E. Whatever other narrative statements necessary to adequately describe the proposed site improvements and the measures planned to comply with the requirements of this Appendix.

F. The Drainage Plan shall be prepared to meet the basic objectives and design standards for drainage and stormwater management as described in Article 21.

G. The Drainage Plan shall show the existing site topography and proposed site drainage improvements in sufficient detail to facilitate plan review and construction. The Drainage Plan drawings shall be presented at a scale not smaller than 1 inch = 50 feet.

A3.06 Special Flood Hazard Area Plan

A3.06.01 When required, an applicant shall submit a special flood hazard area site plan.

A3.06.02 The special flood hazard area site plan shall be prepared by a registered land surveyor or professional engineer.

A3.06.03 The special flood hazard area site plan shall contain the following information:

A. A site plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development; and

2. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Subsection 30.01.02 or a statement that the entire lot is within the Special Flood Hazard Area; and

3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Subsection 30.01.02; and

4. The boundary of the floodway(s) or non-encroachment area(s) as determined in Subsection 30.01.02; and

5. The Base Flood Elevation (BFE) where provided as set forth in Subsection 30.01.02; Section 30.02.03; or Subsection 30.02.04; and

6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

7. The certification of the site plan by a registered land surveyor or professional engineer.
B. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
2. Elevation in relation to mean sea level to which any non-residential structure in Zone AE, or A will be floodproofed; and
3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

C. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

D. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of Article 30 Flood Damage Prevention are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter walls, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Subsection 30.03.02(E)(3) when solid foundation perimeter walls are used in Zones A, AE.

E. Usage details of any enclosed areas below the lowest floor.

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

G. Certification that all other Local, State and Federal permits required prior to Floodplain Development Permit issuance have been received.

H. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Subsection 30.03.02(G) and 30.03.02(H) of Article 30 Flood Damage Prevention are met.

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

**A3.07 Building Elevations**
A3.07.01 When required, an applicant shall submit building elevations in accordance with Article 25 Community Appearance Standards.

A3.07.02 An applicant shall submit building elevations of each side of the building, which shall graphically illustrate in site plan view and elevation view, those elements which are publicly visible. Elevation drawing shall:

A. Provide all materials and colors rendered in such a way that each is distinct; and

B. Be accompanied by the following information for each portion of the building, corresponding to the design requirements set forth in Article 25:

1. Largest distance in plan between required features and the elevation(s) on which this occurs; and

2. Largest distance in elevation between required features and the elevation(s) on which this occurs; and

3. Number of features required and number present in each elevation (presented in a table “Feature Schedule”); and

4. Name of each type of feature in elevation; and

5. Material samples shall be provided for all synthetic materials not specifically approved by Section 25.02.

A3.08 Lighting Plan

A3.08.01 When required, an applicant shall submit a lighting plan in accordance with Article 25 Community Appearance Standards.

A3.08.02 The plan shall contain the following information:

A. An area lighting plan, drawn to scale, indicating all structures, parking lots, building entrances, vehicular and pedestrian traffic areas, vegetation that may interfere with lighting, and adjacent land uses that may be adversely impacted by the lighting. The plan shall contain a layout of all proposed fixtures by location, orientation, aiming direction, mounting height and type.

B. The plan shall include existing (to remain) and proposed exterior lighting (site, architectural, building entrance, landscape, flagpole, etc.).

C. A 10’ x 10’ illuminance grid (point-by-point) of maintained footcandles overlaid on the site plan plotted out to 0.0 footcandles, which demonstrates compliance with Section 25.05.

A3.08.03 A detail of all proposed light fixtures demonstrating compliance with Section 25.05 shall be submitted with the lighting plan.

(Ord. PL04727-050721, 07-01-2021)

A3.09 Landscape Plan
A3.09.01 When required, an applicant shall submit a landscape plan.

A3.09.02 Landscape plans shall be prepared by a person who demonstrates knowledge and experience in the field of landscaping and/or site design such as a landscape architect, urban designer, nurserymen, or horticulturist.

A3.09.03 A detailed tree survey showing all existing trees eight-inch (8") caliper or greater shall be submitted with the landscape plans.

A3.09.04 The landscape plan shall include the following:

A. A plant list showing: quantity, scientific names, common names and sizes and a key that identifies the location of all plant material on the landscape plan.

B. Shrub sizes shall be shown by height only and tree sizes by caliper and height.

C. Proposed drives, paving areas, decks, walks, pools, and other man-made structures/elements which are to be constructed within the property.

D. All construction notes/details relating to construction, specific material and planning procedures.

E. A table which indicates detailed use of existing plant material.

F. Landscape plans shall comply with required driveway/intersection sight distance triangle requirements in Subsection 31.02.02.

G. All TPA’s shall be specified on the landscape plan and the grading/soil erosion and sediment control plan.

H. A tree protection fence detail provided on the landscape plan and the grading/soil erosion and sediment control plan.

A10 Plat Requirements

A10.01 Exempt Plats

A10.01.01 In accordance with Section 5.05 the following certifications must be included on a plat for an exempt division of land:

A. Certificate of Ownership for Exempt Divisions of Land

I (we) certify that I am (we are) the owner(s) of the property described hereon, which property is located within the jurisdiction of the Town of Boone.

_____________________________  ______________________________
Owner                                Date
B. Certificate of Survey and Accuracy

I, __________, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page_____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:____; that this plat was prepared in accordance with N. C. Gen. Stat. 47-30. Witness my original signature, registration number and seal this _____ day of _____, A.D., ______.

Seal or Stamp

________________________________________
Surveyor
Registration Number

C. Certificate of Approval of Exempt Division of Land

I certify that to the best of my ability I have determined that the plat shown hereon is exempt from the Town of Boone Subdivision Regulations because the plat represents:

(CHOSE ONE)

☐ The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this Ordinance.

☐ The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.

☐ The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.

☐ The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards set forth in this Ordinance.

_________________________ Planning Director or Designee

_________________________ Date

A10.02 Minor and Major Subdivisions

A10.02.01 All final plats shall be prepared in accordance with N.C. Gen. Stat. 47-30.

A10.02.02 Plat Content Required:

A. Dimensions of the plat shall be 18 inches’ x 24 inches. When more than one (1) sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision.

B. Title Block to contain:
1. Name of Development; and
2. Landowner’s name, address and daytime telephone number; and
3. Surveyor’s name, address and telephone number; and
4. Applicant’s name, address and telephone number (if different from the landowner’s); and
5. Location (including address, township, county, and state); and
6. Date(s) plat prepared or revised; and
7. Graphic and written scale; and

C. North arrow.

D. Total acreage of the property to be subdivided along with the total number of proposed lots/units and the approximate location, dimension and acreage of all proposed or existing lots.

E. Current zoning and zoning district lines.

F. Existing land use within the property and on adjacent properties.

G. Names of adjoining landowner(s).

H. Plat book or deed book reference for the property to be subdivided.

I. Vicinity map showing location of site relative to surrounding area.

J. Corporate limits, county lines, and other jurisdiction lines, if any, on the tract.

K. The exact boundary lines of the property to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining properties. If existing property lines are to be changed, label as “old property line(s)” and show as faded dashed lines.

L. The approximate location, dimensions (including rights-of-way, utility or other easements), and area of all land proposed to be set aside for park or playground use or other public use, or for the use of the landowner(s) in the proposed subdivision.

M. Statement of intended use of lots.

N. The right-of-way lines and easement of all streets and roads, and access right-of-way to state roads or town streets.

O. Lot lines showing bearings and distances. All dimensions should be to the nearest one hundredth (0.01) of a foot and angles to the nearest minute.

P. Building setbacks lines (in table format).

Q. Relationship with the Special Flood Hazard Area as delineated by the most recent Flood Insurance Rate Map.
R. A statement that individual lots have or have not been approved by the Appalachian District Health Department for well and septic tank use.

S. Reference to deed book and page number of recorded restrictive covenants.

T. Reference to the deed book and page number of the owner’s deed for the property to be subdivided.

U. The plans for utility layouts, including sanitary sewers, water distribution lines, stormwater systems, natural gas, telephone and electric service, illustrating connections to existing systems or plans for individual water supply systems and/or sewage disposal systems, line sizes and location of fire hydrants, and manholes.

V. Street names

W. A subdivision disclosure as required by G.S. 136-102.6, which fully discloses the status, whether public or private, of the road upon which the lots front.

X. No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:

“Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Town of Boone Unified Development Ordinance.”

Y. Final plat approval for any subdivision containing land that lies within a Special Flood Hazard Area may not be given unless the plat shows all Special Flood Hazard Area boundaries and contains in clearly discernible print the following statement:

“Use of land within the Special Flood Hazard Area is substantially restricted by the Flood Damage Prevention Ordinance of the Town of Boone.”

Z. Certifications

1. Minor Subdivisions

   a. Certificate of Ownership for Minor Subdivision

      I hereby certify that I am (we are) the owner(s) of the property described hereon, which property is within the subdivision regulation jurisdiction of the Town of Boone, and that I freely adopt this plan of subdivision.

      ___________________________________________  ___________________________________________
      Owner                                               Date
b. Certificate of Survey and Accuracy

I, __________, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page_____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:____; that this plat was prepared in accordance with N. C. Gen. Stat. 47-30. Witness my original signature, registration number and seal this _____ day of _____, A.D., ______.

Seal or Stamp

________________________________________________________
Surveyor
Registration Number

c. Certificate of Approval for Minor Subdivision

I hereby certify that the minor subdivision shown on this plat has been found to be in compliance with the Town of Boone Unified Development Ordinance and is approved for recording within sixty days of the date of this approval.

_____________________________________________________
Planning Director or Designee  Date

2. Major Subdivisions

a. Certificate of Ownership and Dedications for Major Subdivision

I hereby certify that I am the owner of the property described hereon, which property is located in the subdivision regulation jurisdiction of the Town of Boone, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Boone Town Council in the public interest.

_____________________________________________________
Planning Director or Designee  Date
b. Certificate of Survey and Accuracy

I, __________, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page_____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:____; that this plat was prepared in accordance with N. C. Gen. Stat. 47-30. Witness my original signature, registration number and seal this _____ day of _____, A.D., _____.

Seal or Stamp

______________________________
Surveyor

______________________________
Registration Number

c. Certificate of Approval for Major Subdivision

I hereby certify that all streets shown on this plat are within the Town of Boone’s planning jurisdiction, all streets, utilities and other required improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Town of Boone Unified Development Ordinance, and therefore this plat has been approved by the Town Council of Boone, subject to its being recorded in the Watauga County Registry within sixty (60) days of the date below.

______________________________ Planning Director or Designee

______________________________ Date

d. The certificate listed below shall appear on all major subdivision plats which are not connected, nor will be connected to publicly owned or operated water supply and sewage disposal systems.

Certificate of Approval of Water Supply and Sewage Disposal System

I hereby certify that the water supply and sewage disposal systems installed or proposed for installation in ________________ meet the necessary Watauga County public health requirements and are hereby approved.

______________________________ County Health Officer or Authorized Representative

______________________________ Date
e. The certificate listed below shall appear on all major subdivision plats which are located outside of the corporate limits of the Town but are within the planning jurisdiction and which contain public streets.

Division of Highways District Engineer Certificate

I certify that public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards of the State Department of Transportation for acceptance of subdivision streets on the state highway system for maintenance.

________________________________________  ________________________________
District Engineer  Date

(Ord. PL04727-050721, 07-01-2021)

A11  Owner's Associations

A11.01  Creation: When required, an owners' association must be established to fulfill requirements of the North Carolina Condominium Act and to accept conveyance and maintenance of all common elements and facilities within a subdivision or development containing common elements. The owners' association must be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

A11.02  Conveyance: Where subdivisions or developments have common elements serving more than one dwelling unit, these common elements must be conveyed to the owners' association, in which all owners of lots in the development must be members. All common elements other than public street rights-of-way, other areas dedicated to the city, and lots must be designated as common elements. In a condominium development the common element must be platted as common elements in accordance with the NC Condominium Act. In other subdivisions or developments, fee-simple title must be conveyed by the applicant to the owners' association when the plat is recorded.

A11.03  Subdivision or Conveyance of Common Elements: Common elements may not subsequently be subdivided or conveyed by the owners' association unless a revised preliminary plat and a revised final plat showing such subdivision or conveyance have been submitted and approved.

A11.04  Minimize Number of Associations: Subdivisions or developments, whether including different land uses, different types of housing, or simply different sections, must hold the number of owners' associations to a minimum. An association may establish different categories of membership, different budgets for the categories, and different rates of
assessment when different kinds of services are provided to different categories. Smaller associations under an umbrella (master) association are permitted.

**A11.05 Owners' Association Not Required:** A development involving only 2 units attached by a party wall (or 2 separate walls back-to-back) is not required to have common elements or an owners' association. Such developments without an owners' association must establish a maintenance agreement between owners to govern any party walls and to ensure reciprocal easement rights needed for maintenance.

**A11.06 Common Elements in Subdivision Phases:** Common elements required by this ordinance must be provided within each phase of the subdivision in an amount proportional to the size of the phase under review. Common elements can be counted cumulatively, including all sections recorded to date.

**A11.07 Submission of Owners' Association Declaration:** After preliminary plat approval, the applicant shall submit for review and approval a draft of the declaration of the owners' association containing covenants and restrictions governing the owners' association, lots or units, and common elements. Prior to or concurrently with the submission of the final plat for review and approval, the applicant must submit a copy of the final declaration for review and approval. The declaration must include provisions for the following:

A. **Membership:** Membership in the owners' association is mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions must be made for the addition of owners in subsequent sections of the development.

B. **Responsibilities of Association:** The declaration must state that the owners' association is responsible for:

1. payment of premiums for liability insurance and local taxes and fees;
2. maintenance of landscaping, recreational, engineered stormwater control and/or other facilities located on the common elements; and
3. payment of assessments for all public and all private improvements made to or for the benefit of the common elements.

C. **Exterior Maintenance of Units:** The owners' association must be made responsible for exterior maintenance of all attached units (whether they be dwelling units or nonresidential units); or each unit owner must be made responsible, with the owners' association granted authority to perform such exterior maintenance in the event the unit owner fails to do so in a prompt and satisfactory manner and to assess the cost of the maintenance against the unit.
D. **Powers of the Association:** The owners’ association is empowered to levy assessments against the owners of lots or units within the development. Such assessments must be for the payment of expenditures made by the owners’ association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made will constitute a lien on the lot of the owner.

E. **Easements:** Easements over the common elements for access, ingress, and egress from and to public streets and walkways, and easements for enjoyment of the common elements and for parking, must be granted to each lot owner.

F. **Maintenance and Restoration:** Provisions for maintenance and restoration in the event of destruction or damage must be established for common element improvements and party walls.

G. **Parking Allocation:** The declaration must contain the following provision: "Parking spaces must be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with this ordinance for the use intended to be located therein. The owners’ association must maintain a register listing the total number of parking spaces in the development and the number of spaces allocated to each lot or unit. A copy of this register must be available to the Town of Boone Planning and Inspections Department upon request. The owners' association may not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the subject owner, and in no case may the number of parking spaces allocated to an individual lot or unit be reduced to a number below that required by this ordinance."

H. **Owners Association with a Private Wastewater Treatment, Collection and Disposal System:** The Declaration for an owners' association, responsible for the maintenance of a private wastewater treatment, collection and disposal system, must contain the following provisions:

1. The wastewater collection system with pumps, wastewater treatment works, and/or disposal facilities, including all appurtenances (the “disposal system”) must be part of the common elements.

2. The disposal system must be properly maintained and operated by the owners' association in conformity with law and the provisions of the permit for construction, operation, repair and maintenance of the system and facilities, as required by Title 15A, Subchapter 2T of the North Carolina Administrative Code.
3. The disposal system must be maintained out of the common expenses of the owners' association, and must receive the highest priority for expenditures by the owners' association except for federal, state and local taxes and insurance.

4. In order to assure that there will be funds readily available to repair, maintain or construct the disposal system, beyond the routine operation and maintenance expenses, a separate fund must be created out of the common expenses. Such funds must be separate from the routine maintenance funds allocated for the disposal system and must be part of the yearly budget.

5. In the event the common expense allocation and separate fund are not adequate for the construction, repair and maintenance of the disposal system, the owners' association is authorized to levy special assessments to cover the necessary costs. There will be no limit on the amount of special assessments, and any such special assessments can be made as necessary at any time.

6. The owners' association may not enter into voluntary dissolution without first having transferred its disposal system to another person acceptable to and approved by the North Carolina Environmental Management Commission or appropriate delegated authority, by the issuance of a permit.

7. The owners' association may not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of its disposal system until a permit has been issued by the North Carolina Environmental Management Commission or appropriate delegated authority, to the owners' association successor.

(Ord. PL05688-050322, 06-08-2022)
# APPENDIX B COMPARATIVE TABLES

## B1.01 Complete Table of Principal Uses

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<th>Use #</th>
<th>Specific Use</th>
<th>Low Density Residential</th>
<th>Medium to High Density Residential</th>
<th>Commercial/Industrial</th>
<th>Education</th>
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## Town of Boone
## Unified Development Ordinance
## Appendix B Comparative Tables

### Appendix B

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<thead>
<tr>
<th>Use #</th>
<th>Specific Use</th>
<th>Zoning Districts</th>
<th>Reference</th>
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#### 2.0 Group Living

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#### 3.0 Transient Living

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## Town of Boone

### Unified Development Ordinance

#### Appendix B Comparative Tables

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- **RA, R1, R1A, RR, R1S, R2, R4, MH, R3, R5, O1, B1DC, B1DI, B2, B3, WD, M1, U1, E1, E2, E3, E4** are columns representing different zoning districts.

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15.16

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5.12

5.13

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## Appendix B Comparative Tables

### Low Density Residential

| Use #  | Specific Use                      | RA | R1 | R1A | RR | R1S | R2 | R4 | MH | R3 | R5 | OI | B1DC | B1DI | B2 | B3 | WD | M1 | U1 | E1 | E2 | E3 | E4 | Reference |
|--------|-----------------------------------|----|----|-----|----|-----|----|----|----|----|----|----|------|------|----|----|----|----|----|----|----|----|----|----|------|
| 10.03  | Adult Daycare, Large              | L  |    |     |    |     |    | L  |    |    |    | L  | L    | 15.19 |    |    |    |    |    |    |    |    |    |      |
| 10.04  | Adult Daycare Center             | L  |    |     |    |     |    | L  |    |    |    | L  | L    | 15.19 |    |    |    |    |    |    |    |    |    |      |
| 10.05  | All Other Daycare                | CD |    |     |    |     |    |    |    |    |    |    |      |       |    |    |    |    |    |    |    |    |    |      |

### 11.0 General Sales and Service

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B-7
<p>| Use #  | Specific Use                              | RA | R1 | R1A | RR | R1S | R2 | R4 | MH | R3 | R5 | OI | B1DC | B1DI | B2 | B3 | WD | M1 | U1 | E1 | E2 | E3 | E4 | Reference |
|--------|------------------------------------------|----|----|-----|----|-----|----|----|----|----|----|----|------|------|----|----|----|----|----|----|----|----|----|----|-----|
| 11.36  | Seasonal Retail Activities and Amusements | P  |    |     |    |     |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 11.37  | Electric-Vehicle Charging Station         |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
|        |                                          |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.0   | Recreation &amp; Entertainment Uses          |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.01  | Indoor Shooting Range                     | L175 |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.02  | Outdoor Shooting Range                    |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.03  | Indoor Theater                           | P  | P  |    |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.04  | Outdoor Theater                          | pt200 | P | P  |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.05  | Event Venue, Category 1                  | P  | P  |    |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.06  | Event Venue, Category 2                  | pt75 | pt75 | P | P  |    |     |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.07  | Event Venue, Category 3                  | pt7200 | pt7200 | pt7200 | P | P  |    |     |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.08  | Campground and Recreational Vehicle Park | L17200 | L17200 | L17200 |    |    |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.09  | Coliseum                                 |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.10  | Recreation Facility, Category 1          | pt125 | P | P  |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.11  | Recreation Facility, Category 2          | pt125 | pt125 | P | P  |    |     |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.12  | Recreation Facility, Category 3          | pt7200 | pt7200 | pt7200 |    |    |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 12.13  | Racetrack                                |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 13.0   | Agriculture                              |    |    |     |    |     |    |    |    |    |    |    |    |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 13.01  | Garden, Community                        | L  | L  | L  | L  | L  | L  | L  | L  | L  | L  | L  |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 13.02  | Garden, Residential                      | L  | L  | L  | L  | L  | L  | L  | L  | L  | L  | L  |      |      |    |    |    |    |    |    |    |    |    |    |     |
| 13.03  | Agricultural Operation Excluding Livestock | p | | | | | | | | | | | | | | | | | | | | | | | | | | |</p>
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## Appendix B Comparative Tables

### Use # | Specific Use | Low Density Residential | Medium to High Density Residential | Commercial/Industrial | Education | Reference
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#### 17.0 Transportation

| 17.01 | Passenger Terminals | RA | | | | PT200 | P |
| 17.02 | Trucking or freight terminal ≤ 10,000 ft² | RA | | | | PT125 | PT125 |
| 17.03 | Trucking or freight terminal > 10,000 ft² | RA | | | | PT300 | |

#### 18.0 Waste Related Uses

| 18.01 | Recycling Drop-off Station | RA | | | | LT300 | LT200 |
| 18.02 | Recycling and Salvage | RA | | | | LT300 | LT300 |
| 18.03 | Junkyard | RA | | | | |
| 18.04 | Private Landfill | RA | | | | |

#### 19.0 Particular Activities Which Pose Particular Concern About Public Health

| 19.01 | Electronic and Internet Gaming | RA | | | | | S |
| 19.02 | Adult Establishments | RA | | | | | S |

(Ord. PL04727-050721, 07-01-2021; Ord. PL05272-110121, 12-08-2021; Ord. PL05168-100621, 12-08-2021)
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</tr>
<tr>
<td>A-19</td>
<td>Helistop</td>
<td>S T300</td>
<td>S T300</td>
<td>S T300</td>
<td>S T300</td>
<td></td>
</tr>
<tr>
<td>Use #</td>
<td>Accessory Use</td>
<td>RA</td>
<td>R1</td>
<td>R1A</td>
<td>RR</td>
<td>R1S</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------</td>
<td>----</td>
<td>----</td>
<td>-----</td>
<td>----</td>
<td>-----</td>
</tr>
<tr>
<td>A-20</td>
<td>Swimming pools, spas, and hot tubs</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>A-21</td>
<td>Caretaker’s residence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-22</td>
<td>Vehicular gate</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>A-23</td>
<td>Vehicle washing station</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-24</td>
<td>Chemical storage facility</td>
<td></td>
<td>P</td>
<td>T125</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-25</td>
<td>Open air market, accessory</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>A-27</td>
<td>Limited structure to enable recreational use of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>open rooftops</td>
<td>L300</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-28</td>
<td>Solar Energy System</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>A-29</td>
<td>Electric-Vehicle Charging Station</td>
<td>L</td>
<td>L</td>
<td>L</td>
<td>L</td>
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</tr>
</tbody>
</table>

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-19-21; Ord. PL05272-110121, 12-08-2021)
## B1.03 Complete Table of Temporary Uses

<table>
<thead>
<tr>
<th>Use #</th>
<th>Temporary Use</th>
<th>Zoning Districts</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Low Density Residential</td>
<td>Medium to High Density Residential</td>
</tr>
<tr>
<td></td>
<td></td>
<td>RA</td>
<td>R1</td>
</tr>
<tr>
<td>T-1</td>
<td>Temporary family care structure</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-2</td>
<td>Temporary construction or repair dwelling</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-3</td>
<td>Temporary construction trailer</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-4</td>
<td>Temporary mobile medical unit</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-5</td>
<td>Temporary classroom</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-6</td>
<td>Temporary portable storage containers</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-7</td>
<td>Temporary staging</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-8</td>
<td>Temporary non-fixed site event venue</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-9</td>
<td>Carrier on wheels (cow)</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-10</td>
<td>Yard sales</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-11</td>
<td>Itinerant merchant/peddler</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-12</td>
<td>Open air market, temporary</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>T-13</td>
<td>Temporary Use 9.01 Public Colleges and Universities</td>
<td>L</td>
<td>L</td>
</tr>
</tbody>
</table>

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-21)
## B1.04 Complete Intensity Table

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Minimum Gross Land Area</th>
<th>Minimum Lot Width</th>
<th>Minimum Street Frontage</th>
<th>Minimum Livability Space Ratio* (LSR)</th>
<th>Minimum Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Zoning Districts</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R1</td>
<td>8,000 sq. ft.</td>
<td>70 ft.</td>
<td>56 ft.</td>
<td>.53</td>
<td>20 ft.</td>
</tr>
<tr>
<td>R1S</td>
<td>5,000 sq. ft.</td>
<td>35 ft.</td>
<td>28 ft.</td>
<td>NA, Refer to UDO Subsection 14.06.03(D)</td>
<td>20'</td>
</tr>
<tr>
<td>R1A</td>
<td>8,000 sq. ft.</td>
<td>70 ft.</td>
<td>56 ft.</td>
<td>.53</td>
<td>20 ft.</td>
</tr>
<tr>
<td>RR</td>
<td>6,000 sq. ft.</td>
<td>70 ft.</td>
<td>56 ft.</td>
<td>.48</td>
<td>20 ft.</td>
</tr>
<tr>
<td>R2</td>
<td>6,000 sq. ft.</td>
<td>70 ft.</td>
<td>56 ft.</td>
<td>.48</td>
<td>20 ft.</td>
</tr>
<tr>
<td>R3</td>
<td>20,000 sq. ft.</td>
<td>80 ft.</td>
<td>64 ft.</td>
<td>.40</td>
<td>20 ft.</td>
</tr>
<tr>
<td>R4</td>
<td>6,000 sq. ft.</td>
<td>70 ft.</td>
<td>56 ft.</td>
<td>.48</td>
<td>20 ft.</td>
</tr>
<tr>
<td>R5</td>
<td>10,000 sq. ft.</td>
<td>70 ft.</td>
<td>56 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
<tr>
<td>RA</td>
<td>No Public Water &amp; Sewer Available</td>
<td>20,000 sq. ft.</td>
<td>100 ft.</td>
<td>.65</td>
<td>20 ft.</td>
</tr>
<tr>
<td>RA</td>
<td>Public Water Available</td>
<td>15,000 sq. ft.</td>
<td>80 ft.</td>
<td>.65</td>
<td>20 ft.</td>
</tr>
<tr>
<td>RA</td>
<td>Public Water &amp; Sewer Available</td>
<td>10,000 sq. ft.</td>
<td>65 ft.</td>
<td>.65</td>
<td>20 ft.</td>
</tr>
<tr>
<td>MH</td>
<td>87,120 sq. ft.</td>
<td>None</td>
<td>56 ft.</td>
<td>.51</td>
<td>20 ft.</td>
</tr>
<tr>
<td><strong>Commercial/Industrial Zoning Districts</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1-DC</td>
<td>2,500 sq. ft.</td>
<td>25 ft.</td>
<td>20 ft.</td>
<td>NA, Refer to Subsection 14.19.04(D)</td>
<td>Refer to Subsection 14.19.04(E)(1)(a)</td>
</tr>
<tr>
<td>B1-DI</td>
<td>5,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>NA</td>
<td>Refer to Subsection 14.19.04(E)(2)</td>
</tr>
<tr>
<td>B2</td>
<td>5,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
</tbody>
</table>

*LSR: Livability Space Ratio*
<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Minimum Gross Land Area</th>
<th>Minimum Lot Width</th>
<th>Minimum Street Frontage</th>
<th>Minimum Livability Space Ratio* (LSR)</th>
<th>Minimum Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Street</td>
</tr>
<tr>
<td>B3</td>
<td>5,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
<tr>
<td>OI</td>
<td>10,000 sq. ft.</td>
<td>100 ft.</td>
<td>80 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
<tr>
<td>WD</td>
<td>10,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>NA, Refer to Section 14.23(D)</td>
<td>Refer to Section 14.23(E)</td>
</tr>
<tr>
<td>M1</td>
<td>17,000 sq. ft.</td>
<td>80 ft.</td>
<td>64 ft.</td>
<td>.3</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Educational Zoning Districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U1</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>.27</td>
<td>Refer to Subsection 14.29.03(B)(1)</td>
</tr>
<tr>
<td>E1</td>
<td>5,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
<tr>
<td>E2</td>
<td>5,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
<tr>
<td>E3</td>
<td>5,000 sq. ft.</td>
<td>50 ft.</td>
<td>40 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
<tr>
<td>E4</td>
<td>21,780 sq. ft.</td>
<td>80 ft.</td>
<td>64 ft.</td>
<td>.27</td>
<td>20 ft.</td>
</tr>
</tbody>
</table>

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-19)
## B1.05 Complete Building Height Table

<table>
<thead>
<tr>
<th>Zone</th>
<th>Height Limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1, R1A, RR, R2, R4, RA</td>
<td>3 stories</td>
</tr>
<tr>
<td>R1S</td>
<td>1 story with an attic story or a basement/25'; Refer to Subsection 14.06.03(F)</td>
</tr>
<tr>
<td>R3</td>
<td>3 stories</td>
</tr>
<tr>
<td>R5</td>
<td>4 stories/56'</td>
</tr>
<tr>
<td>MH</td>
<td>35'</td>
</tr>
<tr>
<td>B1-DC, B1-DI</td>
<td>Refer to Subsection 14.19.04(F)</td>
</tr>
<tr>
<td>B2</td>
<td>3 stories/40'</td>
</tr>
<tr>
<td>B3</td>
<td>3 stories/45' (primary)-4 stories/56' (secondary)</td>
</tr>
<tr>
<td>OI</td>
<td>4 stories/67'</td>
</tr>
<tr>
<td>WD</td>
<td>Refer to Section 14.23(F)</td>
</tr>
<tr>
<td>M1</td>
<td>67'</td>
</tr>
<tr>
<td>E1, E2, E3</td>
<td>3 stories/45' (primary)-5 stories/67' (secondary)</td>
</tr>
<tr>
<td>E4</td>
<td>2 stories</td>
</tr>
<tr>
<td>U1</td>
<td>Refer to Subsection 14.29.03(C)</td>
</tr>
</tbody>
</table>

(Ord. PL04727-050721, 07-01-2021; Ord. PL03370-112019, 10-21-2021)
### B1.06 Complete Occupancy Table

<table>
<thead>
<tr>
<th>Occupancy Regulation</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>One family or up to 2 unrelated</td>
<td>1. R1 Single-Family Residential</td>
</tr>
<tr>
<td></td>
<td>2. R1S Small Home Residential</td>
</tr>
<tr>
<td></td>
<td>3. R1A Single-Family Residential with Accessory Dwelling</td>
</tr>
<tr>
<td></td>
<td>4. RR Residential Rehabilitation</td>
</tr>
<tr>
<td></td>
<td>5. R2 Two-Family Residential</td>
</tr>
<tr>
<td></td>
<td>6. R4 Two-Family Residential/Manufactured Housing</td>
</tr>
<tr>
<td></td>
<td>7. R5 55+ Housing Residential</td>
</tr>
<tr>
<td></td>
<td>8. RA Residential Agriculture</td>
</tr>
<tr>
<td></td>
<td>9. MH Manufactured Housing</td>
</tr>
<tr>
<td></td>
<td>10. B1 Downtown Interface</td>
</tr>
<tr>
<td></td>
<td>11. B1 Downtown Core</td>
</tr>
<tr>
<td></td>
<td>13. O/I Office Institutional</td>
</tr>
<tr>
<td></td>
<td>14. E2 Educational</td>
</tr>
<tr>
<td>One family or up to 4 unrelated</td>
<td>1. R3 Multiple-Family</td>
</tr>
<tr>
<td></td>
<td>2. B3 General Business</td>
</tr>
<tr>
<td></td>
<td>3. M1 Manufacturing</td>
</tr>
<tr>
<td>No Occupancy Limitations</td>
<td>1. U1 University</td>
</tr>
<tr>
<td>No Residential Uses Allowed</td>
<td>1. WD Wellness District</td>
</tr>
<tr>
<td></td>
<td>2. E1 Educational District</td>
</tr>
<tr>
<td></td>
<td>3. E3 Educational District</td>
</tr>
<tr>
<td></td>
<td>4. E4 Educational Child Daycare District</td>
</tr>
</tbody>
</table>
APPENDIX C DETAILS AND SPECIFICATIONS MANUAL

See separate Town of Boone Details and Specifications Manual

(Ord. PL04727-050721, 07-01-2021)
Town of Boone

Appendix C Details and Specifications Manual

Landscaping Guide • SCMs for Certain Residential Development •
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C1 Landscape Guide

C1.01 Introduction

This guide is a compilation of the latest accepted horticultural practices. It is meant to be used by North Carolina Landscape Contractors and Staff to help assure that installed landscape thrives once planted. It contains definitions, text descriptions and plant list. Sections within this guide provide information on tree protection, planting and pruning guidelines and suggested species. This is the guide that Staff uses to assess landscape installation. The information is designed to be used interchangeable with Article 31 Landscape Standards. All those who install landscape material subject to Staff approval towards a Certificate of Occupancy or landscape compliance are expected to follow these guidelines.

C1.02 Tree Preservation and Care During Construction

C1.02.01 Tree Protection Area

A. Install tree protection fencing before doing any grading or land disturbing activity.

B. Install tree protection fencing around the “Tree Protection Area”:

C. The size of the “Tree Protection Area” is the area within the drip line of the tree or group of trees.

D. Do not disturb the “Tree Protection Area.” In other words do not clear, grub, trench, remove soil, backfill, drive or park vehicles, equipment or materials, dump trash, oil, paint or any material harmful to the health and growth of the tree within the area marked by the drip line of any tree.

E. If authorized to clear within the TPA, cut any trees or shrubs flush with the grade or grind the stumps to a minimum twelve inches (12”) below surrounding grade. Backfill any holes with clean, dry soil the same day. Moisten the soil. Seed or mulch the remaining area depending on which landscaping treatments are stipulated on the plans.

F. If installing tree protection fencing for trees along a wood’s edge, locate the fence at the drip line of the outermost trees.

G. Call the Planning and Inspections Department (828-268-6960) to request that the Administrator visit the site to give approval of the placement of fencing before doing any other site work.

H. The Administrator may allow a Temporary Access (for 30 days only) across the “Tree Protection Area.” Get permission in writing from the Administrator and keep a copy on the construction site at all times. Mulch the access across the “Tree Protection Area” with a minimum 6” layer of large wood chips. No material storage, however, is allowed in the access area even on a temporary basis.
I. Some trees being saved may require root pruning. See Section B2.02 below for specific guidelines on root pruning.

J. Those trees requiring more than a third of their roots pruned/removed are unlikely to survive. Remove those trees.

C1.02.02 Care During Construction

A. Root pruning may be done on existing trees located near proposed construction using the following guidelines:
   1. Cut roots no more than six inches (6”) back from new construction, cut to a depth of two feet (2’) only.
   2. Backfill with clean, dry soil within hours of root pruning. Moisten soil the same day.
   3. Keep all tools sharp to ensure roots are not broken or torn.

B. Any clearing done in the TPA may only be done if specified on the approved site plan or with written permission from the Administrator and cannot disturb the roots. Cut any trees or shrubs flush with grade or use a stump grinder.

C. Do not use climbing irons, spurs or spikes on trees when pruning them.

C1.03 Requirements for Successful Groundcover, Shrub and Tree Installations

C1.03.01 Plant Material

Protect all plants at all times. Protect plants from sun and/or drying winds. Plants cannot be planted immediately upon delivery to the site must be kept in the shade or covered with burlap to prevent sun scorch. These plants need to be well watered. Plants which remain unplanted for longer than one day must be heeled in, i.e. covered with wet compost, soil, or other acceptable material and their root ball kept moist by watering. No plant may remain unplanted on site longer than three (3) days.

To protect surrounding turf that may be damaged from being driven over and upon which soil may be temporarily piled, cover with a tarp or sheets of plywood. Provide tree protection fencing to protected any existing trees, shrubbery, and beds in this area.

Supply all plants as specified in the Plant List as shown on the approved Site Plan. Determine from the plan the quantities of each species required. If a discrepancy exists between the number of plants specified in the Plant List and the graphic representation on the plan, the installer is to use the number graphically represented on the plan. Plants must be typical of their species and variety, have normal growth habit, have well developed branching, be densely foliated, and have healthy roots. Size of plants, spread of roots, and size of root ball must be in accordance with the American Standard for Nursery Stock (most current edition). Plants of each particular variety must be uniform in size, density, and configuration.
Container plants must have a root system dense enough to hold the soil intact when removed from the container. The root system however must not be root bound, or so dense in mass that it is excessively intertwined or has a circular growth pattern.

Balled and burlap (B & B) plants must be nursery grown, and dug within three (3) days of transplanting. The burlap used to secure the ball must be untreated and biodegradable. There can be no more than one inch (1”) of fill over the original roots. B & B plants must have firm balls of earth in which the plant has been growing and of a diameter not less than specified in the American Standard for Nursery Stock.

All new trees must have straight trunks with an intact single central leader, unless a multi-stem tree is specified. Trees will not be accepted which have had their branches shortened, leaders cut, or have damaged leaders which require cutting. Unless otherwise specified, shade trees shall not have branches within six feet (6’) of the top of the root ball.

C1.03.02 Soil Preparation:

Create plant beds the size and location shown on the approved Site Plan. All groundcovers and container shrubs must be planted in a shrub bed, B & B material or large container material may be planted in individual planting holes. The planting area must be wide enough to accommodate all roots without crowding, and must contain nutrient rich soil.

In order to ready the planting areas, prepare the soil by taking the following steps:

A. Remove all vegetation and topsoil from the top three inches (3”) of the planting area for both planting beds and plant holes. Remove unwanted vegetation from the site, stockpile topsoil on site for future use or remove from site if specifically stated in the approved Site Plan.

B. Dig all shrub beds two (2) to three (3) times the width of the root mass and all tree planting holes 1.5 to 2 times the width of the root ball with a minimum nine inches (9”) on each side of the mass or ball.

C. Install a sufficient quantity of planting mix to replace the removed topsoil, and to achieve positive drainage at a minimum of 1.5% slope.

1. The replacement soil shall be the following planting mix: 10% - 30% sterile well pulverized red clay, 30% - 50% silt, 30% - 45% coarse sand, 1.0 mm to 0.5 mm in diameter, minimum 5% organic material such as completely decomposed compost/humus. The acidity range of the plant mix shall be ph 5.5 to ph 7.0. The planting mix shall have the following nutrients at the specified percent base saturation: calcium at 55% to 80%, magnesium at 10% to 30%, and potassium at 5% to 8%.

2. If the quality of planting mix seems questionable to the Administrator, Staff may require the results of a soil test for analysis.
D. If no replacement planting mix is used, there is an acceptable alternative soil preparation. Thoroughly pulverize the soil, minus the sod, removed from the planting hole or plant bed. Amend with lime and fertilizer at the rates specified on the package.

C1.03.03 Plant Installation

A. Soak with water all container plants before removing them from their containers to keep the plant moist and healthy during the planting process.

B. Remove groundcover and shrubbery from their containers. If their root balls are pot bound, scarify the ball before installation.

C. Set plants upright, plumb, and oriented to provide the best appearance and relationship to the viewer.

D. Set trees and shrubs two to three inches (2”-3”) above finished grade. Do not place backfill soil on top of the root ball, or up the stems or trunks of plant material.

E. Backfill around the root ball being careful not to pack tightly. Form a two inch (2”) high collar of soil around the drip zone of the individual shrub in all areas not irrigated.

F. Take extra care to adequately backfill B & B plants. Backfill and compact bottom third (1/3) of the root ball. Cut away the ball ties, the top two thirds (2/3) of the wire basket, and the exposed burlap. Do not remove the burlap from under the root ball. Backfill one half (1/2) the remaining hole with the specified planting mix, and water thoroughly. Backfill the rest of the hole with the specified planting mix, firm down to eliminate air pockets, but do not pack tightly. Build a collar of soil four inches (4”) in height around the edge of the root ball to form a basin for holding water. Form the bottom of the basin at surrounding finish grade.

G. Mulch with two to three inches (2”-3”) of hardwood mulch.

H. Water all plants immediately after planting. See Subsection B4.02.05 for more on watering.

C1.03.04 Fertilizing and Liming Shrubs and Trees:

A. Incorporate lime and fertilizer appropriately.

B. The fertilizer analysis for shrubs shall be either 12-6-6 or 14-7-7 and shall be applied at a rate of 2 pounds per 100 square feet.

C. For trees, apply fertilizer at a rate of 0.16 lb. to 0.20 lb. nitrogen per inch caliper of tree. Use a slow release fertilizer. Two possible fertilizer mixes are either 1 cup 31-7-7 or 2 cups 12-6-6 fertilizer per inch caliper.

D. In addition to nitrogen, apply phosphorous and potassium at a rate of 0.05 lb. per inch caliper.
E. Apply granulated fertilizer as a top dressing within the drip line of each individual plant. Immediately remove any fertilizer that comes in contact with the stem, trunk or foliage of a plant. Work the fertilizer into the top two inches (2") of the soil.

F. Apply fertilizer and work into the soil before installing mulch.

C1.03.05 Watering Shrubs and Trees

A. Be sure water is free from oil, acids, salts or any other substances that is toxic or harmful to vegetation.

B. Water container plants thoroughly before removing from their containers to keep the plant moist and healthy during the planting process.

C. Water all plants immediately after planting. To water thoroughly, saturate all backfill in beds during the same day of planting. Water only by open-end hose at very loose pressure to avoid erosion of soil, breaking the soil collars surrounding each plant, and/or injury to roots. Make sure plants are vertical and the top of the root ball is not below existing grade once they are watered and fully settled.

C1.03.06 Mulching Shrubs and Trees

A. Use shredded hardwood (triple or double cut) as a mulch. The mulch cannot contain any trash.

B. Apply mulch in a two to three inch (2”-3”) layer within two days of planting.

C. Do not spread mulch closer than six inches (6”) from the trunk of a tree.

C1.03.07 Staking Trees

A. Generally for large caliper two and one-half inch (2 ½”) caliper to six inch (6”) caliper B & B trees, staking for support is not recommended, if the tree is planted using the methods described in this Appendix. However, because the trunks are exposed, it may be necessary to place 3 stakes around the tree at the edge of the rootball for protection of the trunk of the tree. Use stakes that are tall enough to be seen easily. Finally, when using stakes for protection, do not attach wire or rope to the trees.

B. Trees less than two inch (2”) caliper and shrubs less than eight feet (8’) in height do not stake.

C. In unusual conditions, staking may be used with the Administrator’s approval. Stake trees using three (3) 1”x 2”x18” minimum size wood stakes per tree. Drive anchors into undisturbed soil. Use strapping or rope fed through a rubber hose at the trunk to prevent damage to the bark.

D. The stakes should offer support, but also not bind or bend the tree, because flexibility of the trunk is essential for its future growth and development. Generally, after the first growing season the tree will be able to support itself.

C1.03.08 Turf
A. Prepare the soil and apply lime and fertilizer.

B. Incorporate lime and fertilizer in the top six to eight inches (6”-8”) of the soil using a rototiller.

C. Use a rake to create a smooth and level bed free of hollows and depressions and with soil particles no larger than pea size.

D. Water to settle the soil, and rake again to break the crusty surface before seeding.

E. Sod installation:
   1. Spread four inches (4”) of topsoil and cultivate entire area to four to six inch (4 “-6”) depth.
   2. Spread lime and fertilizer over cultivated topsoil (as per specifications on package) and hand rake to smooth finish grade.
   3. Thoroughly water area to be sodded prior to installation.
   4. Lay sod, roll and water thoroughly.

C1.04 Plant List

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
<th>SHAD TOL</th>
<th>XERISCPNT DRGT TOL</th>
<th>SAL TOL</th>
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### LARGE DECIDUOUS TREES (40'+)

Trees <25’ mature height can be planted under power lines
Trees 25’-40’ mature height can be planted at least 20’ from power lines
Other species may be allowed with staff approval

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
<th>SHADE TOLERANT</th>
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### LARGE DECIDUOUS TREES (40'+)

Trees <25’ mature height can be planted under power lines
Trees 25’-40’ mature height can be planted at least 20’ from power lines
Other species may be allowed with staff approval

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
<th>SHADE TOLERANT</th>
<th>XERISCAPING COMPATIBLE (DROUGHT TOLERANT)</th>
<th>SALT TOLERANT</th>
<th>STREET TREE</th>
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### SMALL - MEDIUM DECIDUOUS TREES (up to 25’)

Trees <25’ mature height can be planted under power lines
Trees 25’-40’ mature height can be planted at least 20’ from power lines
Other species may be allowed with staff approval

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C-9
### SMALL - MEDIUM DECIDUOUS TREES (up to 25’)

- Trees <25’ mature height can be planted under power lines
- Trees 25’-40’ mature height can be planted at least 20’ from power lines
- Other species may be allowed with staff approval

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
<th>SHADE TOLERANT</th>
<th>XERISCAPING COMPATIBLE (DROUGHT TOLERANT)</th>
<th>SALT TOLERANT</th>
<th>STREET TREE</th>
<th>NATIVE</th>
<th>BLOOMING</th>
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<td>Ilex decidua</td>
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<td>Rhus copallina</td>
<td>Winged Sumac</td>
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<td>Sorbus americana</td>
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### EVERGREEN TREES

- Trees <25’ mature height can be planted under power lines
- Trees 25’-40’ mature height can be planted at least 20’ from power lines
- Other species may be allowed with staff approval

<table>
<thead>
<tr>
<th>Scientific Name</th>
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<th>SHADE TOLERANT</th>
<th>XERISCAPING COMPATIBLE (DROUGHT TOLERANT)</th>
<th>SALT TOLERANT</th>
<th>SCREENING</th>
<th>NATIVE</th>
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## EVERGREEN TREES

Trees <25’ mature height can be planted under power lines

Trees 25’-40’ mature height can be planted at least 20’ from power lines

Other species may be allowed with staff approval

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
<th>SHADE TOLERANT</th>
<th>XEROSCAPING COMPATIBLE</th>
<th>SALT TOLERANT</th>
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## DECIDUOUS SHRUBS

Other species may be allowed with staff approval

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# EVERGREEN SHRUBS

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<td>Juniperus davurica ‘Expansa’</td>
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# GROUND COVERS

Other species may be allowed with staff approval

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Other species may be allowed with staff approval

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C1.05.01 Introduction

Pruning consists of selectively removing branches (living and dead) from woody plants, ranging from pinching off a bud at the end of a twig to removing large limbs.

Proper pruning benefits trees, shrubs, and vines, and the associates of woody plants (including humans). Pruning branches can be one of the most beneficial or the most damaging practices arborists do to trees.

A basic principle of pruning is that the removal of any live stems, branches, twigs, and buds affects growth of the plant. Proper pruning prevents and corrects defective form that could result in branch or stem failure. Thus, knowledge of plant biology is essential for the correct methods of pruning.

Most tree species evolved in competitive forest communities. Consequently, trees developed efficient branching systems to capture the energy of available light for photosynthesis.

Woody plants also evolved the ability to get rid of inefficient energy resources by shedding shaded branches (cladaposis). A branch is naturally shed from its base. As natural shedding occurs, the wood tissue around the branch core within the stem protects against decay. Limb removal cuts imitate natural branch shedding (natural target pruning).

Many people equate woody plant pruning to amputation, but there should be no fear of wise and careful use of pruning equipment. A properly pruned tree, shrub, or vine is a combination of art, science, and skill.

In the arboriculture industry, the current standard approved by the ISA and the NAA is The American National Standards Institute (ANSI) A300 issued in 19

C1.05.02 Reasons for Pruning

The first rule in pruning is do not cut without a reason. Too often arborists tend to over prune to meet client expectations. Proper pruning is an effort to direct new growth rather than 'control' growth.

Most pruning cuts are of a preventive or a corrective nature to be beneficial to woody plant health.
Health
➢ Sanitation by removing dead, broken, decayed, diseased or insect-infested wood (crown cleaning).
➢ Thinning to improve penetration of light and air, and to reduce wind resistance and potential storm damage.
➢ Reduction of the number of poorly attached epicormic branches.
➢ Girdling root removal.
➢ Correct and/or redirect structural growth that may cause future problems (weak crotches, branches growing out of proportion, etc.).

Appearance
➢ Shape for aesthetic purpose, natural forms, growth habit (training).
➢ Influence flowering, fruiting, promotion of shoots, canes, bark color.
➢ Direct new growth and/or correct improper prior pruning (crown restoration).

Convenience or Safety of Property and People
➢ Correct or modify storm-damaged, neglected, or poorly pruned woody plants.
➢ Identify and remove potential hazard limbs, stems, and deadwood (hazard reduction pruning).
➢ Line clearance (directional pruning).
➢ Raise or lower obstructive canopies over or near roads, sidewalks, playgrounds, buildings, pools, satellite dishes, etc. by removing interfering limbs (crown reduction and/or crown raising).

➢ Provide access to more light for understory plants and turf (crown thinning).

➢ Vista pruning (alter crowns to allow views of something beyond tree screens).

C1.05.03 Pruning Methods and Techniques

Branch Attachment to Stems

New branch tissues generated by the vascular cambium usually start growth before trunk tissues. As current-year branch tissue develops from branch ends toward the trunk, it turns abruptly downward at the branch base to form a collar.

Trunk branch tissues grow later and form a trunk collar over the branch collar (trunk collars and branch collars are collectively called the branch collar).

The collar is where wood and bark of the branch and the trunk come together, like an overlapping tissue ‘switching zone’. All true branches on woody plants have branch collars.

The branch bark ridge (BBR) is raised bark developing in the branch crotch and shows the angle of the branch core in the tree.
If a branch dies or is removed, the trunk collar continues to grow over the thin belt of branch tissue below the collar junction. The wood core of the branch is walled off (compartmentalized) in the trunk.

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Proper Pruning Cuts (Natural Target Pruning)

Location of *branch bark ridges* and *branch collars* determines the location of a pruning cut. Cuts must be made *outside* of the branch bark ridge, angling away from the trunk outward as close as possible to the collar.

- There is no set or standard angle for a proper collar cut.
- The proper angle depends on the shape of the collar.
- Conifers often have flat collars where a straight cut close to the collar is correct.
- Sometimes the angle of the cut will necessitate an *upstroke* cut with a handsaw or chainsaw.

Do not cut into the collar to stimulate callus production and rapid closure. Although closure is desirable for appearance, such a cut promotes decay and future hazards. Never put a pruning tool behind the branch bark ridge.

Whether a branch collar is obvious or not, the position of the final or finish cut should:

- Minimize the branch stub that is an entryway for decay fungi.
- Retain the natural decay protection present in the branch core. The intact branch collar is the first line of defense in preventing decay within the trunk.
- Minimize the overall size of the pruning wound and direct damage to the stem.

Always **stub cut** the branch first. Limbs that cannot be controlled must be removed using at least **three** cuts. Roping of limbs may be necessary to prevent damage to other parts of the tree if they cannot be controlled by hand.
1. The first cut (Cut A) undercuts the limb one or two feet out from the parent branch or trunk. A properly made undercut will eliminate the chance of the branch ‘peeling’ or tearing bark as it is removed.

2. The second cut (Cut B) is the top cut which is usually made slightly further out on the limb than the undercut. This allows the limb to drop smoothly when the weight is released.

3. The third cut (Cut C) or finish cut is to remove the stub.

Each finish cut should be made carefully, outside of the branch bark ridge and the evident collar, leaving a smooth surface with no jagged edges or torn bark.

There are some situations where the cambium dies back beneath a branch collar after a correct cut:

➢ The trunk collar did not join the branch collar directly below the branch. Sunken spots under branches are a sign of this condition.

➢ Winter cuts may result in undercollar dieback.

➢ Problem tends to increase with size of branches removed.

**Callus and Woundwood**

*Callus* is undifferentiated meristematic tissue that forms at wound margins from the cambium.

Callus differentiates into *woundwood* over time. Woundwood is ‘new wood’ and has different cell components of periderm, cambium, phloem, and xylem.

A *complete* ring of callus and subsequent woundwood will develop around and eventually over proper cuts. Woundwood forms only to the sides of improper cuts (flush cuts), which means the collar and branch protection zone is damaged and the trunk is wounded.
A proper pruning cut results in a smaller wound area, and more rapid callus and woundwood movement over the wound. Cuts on dead limbs that have trunk collars moving up the dead branch wood must also be made just outside of the evident collar.

- Appropriate only for small woody plants or one- to two-year-old branches (twigs, branchlets) on trees.
- Cut back to a bud (lateral bud) or lateral branchlet, slanting at a 45° angle above the bud node on alternately arranged branches and stems.
- Two or more buds at a node (opposite, whorled) require a transverse cut just above the bud tips or a 45° angle cut, removing one of the buds and leaving the other(s) to elongate in a desired direction.
- Cut 1/8" higher above the bud tips when pruning in cold weather to prevent winter injury to the bud (tissue around a winter cut is more vulnerable to desiccation).

- Leaving a majority of inward facing buds produces growth towards center.
- Leaving a majority of outward facing buds results in more open growth.
C1.05.04 Pruning Tools

Use well-sharpened tools for both your safety and to help reduce tearing of wood and cambial tissues. Wear specified protective equipment.

**Pruning Shears**

Hand shears, secateurs, hand pruners, one-hand shears:

- Remove branches, stems up to 1/2" diameter.
- By-pass (hook and blade, scissors, drop-forging, curve blade): make closer cuts than anvil-type.

- Anvil (straight-blade): good for only soft-tissued wood; will crush harder wood (inappropriate per A300 standards).

**Lopping shears**

Two-hand shears:

- Remove branches, stems up to 1-3/4" diameter.
- Most useful in rejuvenation.
- By-pass, hook and blade, etc.
- Anvil, straight-blade.
- Ratcheting.
**Pole Pruners**

- Wood and insulated poles (round and squared).
- Cut like by-pass shears.
- Important to keep blade side in toward the cut.

Cut at the outer side of the branch bark ridge at a slightly outward angle so as not to injure or remove the branch collar. Hook the pruner head around the limb to be cut with the blade side against the lateral branch or stem to remain. The arborist must be in a safe working position and the pruner handle positioned so the blade will not jam in the wood. You should not cut off a limb directly above yourself if there is any chance that it could fall and hit you.

Change your working position before completing the cut; place the hook so you have a straight pull on the rope and the lever arm can move far enough to complete the cut. An experienced tree surgeon can give a limb a flip with the side of the pruner head, just as the cut is completed, so that the limb will fall in the desired direction.

**Saws**

Pole saws:

- Hook cast onto pole-head.
- Wood poles (round and squared).
- Insulated poles (foam core).
- Difficult to make clean, accurate cuts.
Fine-tooth saw blades (more points per inch):

- On folding, rigid, and grip handles.
- Needlepoint teeth.
- Razor-tooth, Japanese, or tri-edge-style teeth (*Fanno™* 1311, *Felco™*, *Corona™*); narrow, curved blades facilitate getting into tight spots.

Arborist saws cut on the *pull* stroke:

- Davey-issue speed saw.
- Raker and gullet saws.
- Needle-tooth saws *Fanno™* series.
- Scabbards, blade lengths.
- Pole saw blades now available with tri-edge teeth.

**Hedge Shears**

Clippers/trimmers:

- Manual (sometimes called 'pruning' shears)

- Provide time and labor savings at expense of overall plant health.
- Dull blades compound problems and make you work harder!
C.05.05  Crown Thinning and Cleaning

A proper thinning cut removes a branch at its point of attachment, or back to a lateral branch large enough to assume a terminal role.

Learn to foresee the need for removing live branches while they are small. Avoid large cuts. Direction can be influenced by removal of short portions of growth or even by removal of individual buds.

Thinning of lower branches can ‘raise’ a limb. If, after crown raising, the remaining leaf material is insufficient for limb size, consider complete removal. The client’s opinion is important.

Never perform excessive thinning, which is stressful, especially on thin-barked or young trees prone to sunscald.

Avoid removing more than 1/4 of the live branches on a tree. Older or over mature trees should have an absolute minimum of living branches removed.

Always avoid ‘skinning’ or ‘hollowing' out the center of a tree's canopy. The majority of thinning cuts should be made along the outer crown. Proper thinning requires a good deal of limb-walking and deft use of a pole-pruner when and where aerial lifts are not used.

When thinning laterals from a limb, maintain well-spaced inner branches to achieve more distribution of foliage along the branch.

Caution must be taken to avoid creating an effect known as lion-tailing:

➢ Caused by removing all of the inner laterals and foliage.
➢ Displaces foliar weight to the ends of the branches.
➢ May result in sunburned bark tissue, renewed and excessive epicormic branches, weakened branch structure and breakage.
➢ Wind whippage.
C1.05.06  Removal of Diseased or Insect-Infested Branches

Sanitation or 'eradicative' pruning (crown cleaning):

➢ Cut out diseased limbs back to collars, appropriate lateral branches, or a scaffold branch at least one foot below infected portion.

➢ Disinfect tools during or after pruning diseased branches with bleach solution (1 part bleach to 10 parts water) or Lysol.

➢ Do not use any form of alcohol to sterilize pruning tools during the work. Use alcohol to disinfect auger-bits, injection tees, or pruning tools after the job, especially plants with wetwood or fireblight bacterial infections.

C1.05.07  Removal of Weak, Rubbing, or Competing Stems

Remove, if possible, but avoid large holes in the canopy.

The life of large limbs, weakened by decay or cracks, can often be extended by "shortening" or weight removal using highly selective thinning cuts. Cabling and/or rigid bracing may be required to secure limbs or codominant stems if removal is not possible.

C1.05.08  Deadwood Removal

Sanitation and hazard reduction pruning:

➢ Dead branches and stubs are an energy source (cellulose, glucose).

➢ Decay fungi.

➢ Boring insects.

Again, do not remove the branch collar around dead branches. Cut as close as possible to the collar of good wood surrounding the branch base.
Locate Target Points
**Codominant Stem or Branch Removal**

Always *stub cut* the stem to be removed, and then make the *finish* cut with care. Some defect (discoloration) will develop in the remnant stem 'core' in the main stem:

- Usually not attached like a true branch with protective collar.
- Barrier zone should develop and confine defect if correct cut is performed.
- Never remove both stems!

When the bark plates on the stem bark ridge turn upward, the union of the stems is usually **strong**. When the bark between the stems turns inward, the union of the stems is **weak**.

It is the *union* of the stems or upright branches more than the *angle* that determines whether attachment is weak or strong.

The stems have *included bark* squeezed or embedded *between* them.

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**Remedies:**

To *remove*, stub cut the stem first and then cut where the dotted line is with care; avoid cutting into the remaining stem.

If the saw cannot complete this cut, tap a small wedge into the kerf and cut the remainder of the wood with a flat chisel and mallet.
To strengthen stem on older trees, a cable can be attached; place at a point approximately two-thirds of the distance from the crotch to the ends of the stems.

When a cable is used to strengthen stems, the cable and hardware must be checked regularly. When the risk of stem fracture becomes high, the weaker stem should be removed.

Davey Residential Operations employs four general classes of pruning. Classes 1, 2, and 3 are classified as maintenance pruning, which is recommended when the primary objective is to maintain or improve tree health and structure, including hazard reduction pruning:

- **Class #1 - Fine Pruning:** consists of the removal of dead, dying, diseased, interfering, objectionable, and weak branches (crown cleaning), as well as selective thinning to lessen wind resistance. Some deadwood up to \( \frac{1}{2} \) inch in diameter may remain within the main leaf area where it is not practical to remove such. Girdling roots will be monitored and removed where possible.

- **Class #2 - Medium Pruning:** consists of the removal of dead, dying, diseased, interfering, objectionable, and weak branches (crown cleaning). Some deadwood up to one inch in diameter may remain within the leaf canopy.

- **Class #3 - Hazard reduction:** pruning is recommended when the primary objective is to reduce the danger to a specific target, caused by visibly defined hazards in a tree, by removing dead, diseased, or obviously weak branches two inches in diameter or greater.

- **Class #4 - Crown Reduction Pruning:** consists of reducing canopy tops, sides, under branches, or individual limbs at appropriate lateral limbs and stems for purposes of clearance of storm damage repair. Some crown reduction pruning incorporates hazard reduction pruning.

### C1.05.09 Epicormic Branches

Epicormic branches may be needed to fill in the canopy where trees have been excessively thinned or storm damage has occurred (crown restoration). Epicormic branches (shoots, watersprouts, suckers) arise from two types of "buds":

- Adventitious buds.
- Latent (dormant) buds or meristematic points.

*Adventitious* epicormics come from meristematic tissue generated anew by the cambium. Most adventitious buds develop from callus tissues moving over a wound, or from root tissue.

*Latent* (dormant) buds or *meristematic points* are formed at an earlier time in the life of a woody plant but do not 'release' or grow. Latent buds are 'carried along' in rays in the cambial zone year after year, as the tree increases girth, and are usually released upon injury or stress. Epicormic sprouts from latent meristematic points are often found in the vicinity of pruning cuts, usually below the wound.

Epicormic branches are *stimulated* on a much larger scale by winter or early spring pruning rather than by late spring-summer pruning (desirable in shrub renewal or rejuvenation).
A *watersprout* is an epicormic branch growing from branch and stem parts, or *above* a graft union. A *sucker* is an epicormic branch growing from root tissue or *below* a graft union.

### C1.05.10  Apical Dominance and Control

Woody plant natural shapes, forms, or habits are governed by species' inherent (genetic) determination of:

- Leaf and flower bud locations.
- Bud-break patterns along stems.
- Branching angles.
- How buds and branches elongate.

Apical dominance = terminal bud(s) suppress lateral buds along an elongating shoot

*Excurrent* and *decurrent* branching patterns:

- Decurrent woody plants have overall weak apical control, but strong apical dominance while shoots are elongating.
- Random-branching excurrent plants have weak apical dominance and overall strong apical control.
- Whorl-branching excurrent trees have both strong apical dominance and control.
Plant growth regulators are substances that enhance or alter the growth and development process of a plant. In most cases, these chemicals either increase or decrease normal growth, flowering, and/or fruiting of plants.

Selective growth control and/or branch release by natural growth regulators:

- Auxins
- Abscisic acid (ABA)
- Cytokinins
- Gibberellins (gibberellic acid = GA)
- Ethylene

Branch terminals – auxin source Roots – cytokinin source

Low auxin = axillary bud release,

High cytokinin energy storage drain

High auxin = bud suppression,

Low cytokinin initiate new roots

Plant growth regulators are substances that enhance or alter the growth and development process of a plant. In most cases, these chemicals either increase or decrease normal growth, flowering, and/or fruiting of plants.

Utility arborists use synthetic growth regulators to control the growth of trees and other vegetation beneath utility lines. Growth inhibitors can be:

- Sprayed on the foliage.
- Painted on pruning wounds.
➢ Banded on the bark.
➢ Soil applied.
➢ Injected into trees.

*Antigibberellins* are growth regulators that counter the effects of naturally occurring *cell- elongation* hormones (gibberellin). Ideal formulations are being sought that would minimize phytotoxicity while reducing utilities’ pruning expenses.

➢ Another use of growth inhibitors is to suppress epicormic branch production on trees:
➢ Not yet widely used by arborists.
➢ Must be applied annually.
➢ Client concern over the use of chemicals.
➢ Applicator safety concerns.
➢ Epicormic branch growth can be minimized with proper cuts.
➢ Retarded woundwood development.

**C1.05.11 Painting of Cuts**

Proper cuts negate the "need" for wound dressings. Wound dressings will not *prevent* decay; wound dressings have been evaluated to often *promote* wood decay or cause cambium damage.

Cuts or wounds in certain species during the growing season may attract insects that carry diseases or allow fungus invasion. Native oaks or elms and European elms should be pruned during dormant periods in regions where wilt disease conditions are known to exist.

If pruned in summer, pruning wounds on wilt-susceptible oaks and elms should be treated with the current wound dressing recommended by The Davey Institute.

**C1.05.12 Pruning Phenology**

The ideal or optimal times to prune most woody plants are:
➢ Late in the dormant season.
➢ After leaves are fully formed and expanded.

Client concerns with excessive *sap flow* (birches, maples):
➢ Avoid pruning during height of sap flow (just before growing season) if possible.
➢ Sap flow may be unsightly but does not cause definite injury.
➢ Prune immediately after leaves are fully expanded if client cannot be convinced.

Avoid pruning birches after leaf expansion, as the wounds may be attractive to boring insects. Dead, broken, or weak limbs may be removed at any time with little effect, except in wilt-susceptible oaks and elms.
Pruning before the spring leaf bud-break period can enhance stimulated growth and rapid wound closure. Pruning during the period after leaf expansion will result in suppressed growth and maximum 'dwarfing'.

Avoid pruning those woody plants undergoing bud break and early leaf expansion, especially in the period where bark ‘slips’ (cambial development of un lignified wood).

Flowering can be reduced or enhanced by pruning at the appropriate time of the year. Woody plants that bloom on current season's growth ('summer-flowering' such as crapemyrtle or butterfly-bush) are best pruned to enhance flowering:
- During the dormant season.
- Just prior to or immediately after leaf expansion.
- In late summer (post-bloom).

Plants that bloom on last season's wood ('spring-flowering') should be pruned just after bloom.
- Fruit trees are often pruned during the dormant season to enhance structure and distribute fruiting wood, and after bloom to thin fruit-load.

C1.05.13 Pruning Selection

Ideal pruning technique begins with planting the right tree in the right place (PHC selection). Maintaining tree size or allowing for limited crown growth is possible with a regular pruning schedule begun early in the tree's life.
- Consider the extent of mature branches and crown.
- Select good stock with proper growth form.
- Imagine how form will continue to develop; there is no way to turn a large tree back into a small tree.
- Don't expect to improve form with future prunings.

Avoid obtaining saplings with included bark; the stem union becomes weaker rather than stronger as the plant grows. Failure of one or both stems of the fork frequently occurs when the tree is mature, especially during snow and ice storms (loading events).

C1.05.14 Structural Pruning

Structural pruning principles are used when training young woody plants or working with a tree that has not been pruned in many years. Properly trained shrubs and young trees will develop into structurally strong plants that should require little corrective pruning as they mature.

Trees that will be large at maturity should have a sturdy, tapered trunk, with well-spaced branches smaller in diameter than the trunk.
If two branches develop from apical buds at the tip of the same stem, they will form **codominant** branches or, eventually, codominant stems. Each codominant branch is a direct extension of the stem. It is best if one is removed when the tree is young.

Branches with narrow angles of attachment and codominant branches may tend to break if there is **included bark** that gets enclosed inside the crotch as the two branches develop girth and length.

The relative **size** of a branch in relation to the trunk is usually more important for strength of branch attachment than is the **angle** of attachment. **Scaffold branches' diameters** should not be more than 1/2 the stem or trunk diameter.

Select main branches to give **radial distribution**. Discourage branches growing directly over another unless spaced well apart.

![Diagram of tree branches](image)

On large-growing trees, except whorl-branching conifers, branches that are more than 1/3 the diameter of the trunk in size should be well spaced along the trunk (at least 18 inches apart).

Maintain one-half the foliage on branches arising in the lower 2/3 of younger trees.

- Increases trunk taper.
- More uniformly distributes weight and wind stress along the trunk.

This rule of thumb also holds true for an individual limb:

- Leave lower and inside branches along the limb.
- Limb can develop taper and strength.
- Stress and weight can be evenly distributed along the length.

The height of the lowest scaffold branch will depend on the intended function of the tree: screen an unsightly view, provide a windbreak, shade a patio, installed as a walkway or street tree.
C1.05.15  Pruning at Planting

For years, the conventional wisdom was that trees should be severely pruned at time of transplant to compensate for root loss and to "balance" the crown with the root system (especially bareroot trees). This practice has since been discovered to prolong transplant shock.

➢ Transplant pruning should be limited to removal of dead, broken, diseased, or interfering branches.
➢ Leave small shoots along the trunk for later removal.
➢ Protect the trunk from ‘sunburn’.
➢ Aid in development of proper trunk taper.
➢ Leave as many terminal buds as possible.
➢ Stimulate root growth triggered by hormones in these buds.

C1.05.16  Topping, Tipping, and Roundover
Topping: cutting vertical branches and stems back to inadequate nodes (heading) or to internodes (stubbing).

Tipping: heading side or horizontal branches to stubs or weak laterals.

Roundover: topping + tipping.

Many people have the misconception that cutting or heading the main branches of a tree back to stubs to ‘reduce the height’ is the proper way to prune.

Apparently, a short tree is thought to be safer and healthier than a tall tree regardless of how the result is attained. Heading back to stubs or inadequate laterals permanently disfigures and weakens a tree. Topping is one of the worst things humans do to trees.

The International Society of Arboriculture (ISA) and the National Arborist Association (NAA) consider heading-back to stubs an unacceptable arboricultural practice. Modern pruning standards do not include heading-back as any sort of a recommended technique.
➢ Topping removes a major portion of a tree's leaves that are necessary for the production of carbohydrates.

➢ Stimulation of epicormic branches at or just below an internodal stub cut causes a topped tree to grow back to its original height faster and denser than a properly pruned tree. The sprouts are weakly attached and easily broken off in storms.

➢ Bark within the canopy can become scalded by sudden exposure to direct sunlight.

➢ Stubs attract wood-boring insects and sustain wood decay organisms.

➢ Topping, tipping, and roundover cuts permanently disfigure a tree.

C1.05.17 Crown Reduction, Restoration, and Raising

If the height or width of a tree has to be reduced because of storm damage or interference with structures or utility lines, it is performed correctly by a method called crown reduction or drop-crotch pruning (NAA Class IV Crown Reduction). This procedure involves the removal of a main leader, scaffold, or branch at its point of attachment with a lateral branch large enough to assume a terminal or leader role.

The final cut should begin or end somewhat parallel to the remaining lateral branch and offset slightly above the branch bark ridge (without cutting into the bark ridge). The remaining lateral branch must be at least one-half to one-third the diameter of the branch or leader that is being removed.

If a tree has been topped previously and now has epicormic sprouts, crown restoration can improve its structure and appearance. Decay, rotting stubs and tipped branches are cut back to appropriate laterals or entirely removed. One to three sprouts on main branch stubs are retained to become permanent branches and reform a more natural appearing crown. Selected epicormic branches may need to be thinned to a lateral to control length and ensure adequate attachment for the size of the sprout. Restoration usually requires several prunings over a number of years.

Trees in urban and landscape settings may need to have lower limbs removed. Crown raising or elevating removes the lower branches of a tree in order to provide clearance for buildings, vehicles, pedestrians, and vistas. Excessive removal of lower limbs should be avoided so that the development of trunk taper is not affected and structural stability is maintained.
Definitions of Arboricultural Terms

**Anvil-Type Pruning Tool** – Pruning tool that has a straight sharp blade that cuts against a flat metal cutting surface (see hook and blade-type pruning tool).

**Arborist** – A professional who possesses the technical competence through experience and related training to provide for or supervise the management of trees and other woody plants in the residential, commercial, and public landscape.

**Boundary Reaction Zone** – A separating boundary between wood present at the time of wounding and wood that continues to form after wounding.

**Branch** – A secondary shoot or stem arising from one of the main axes (i.e. trunk or leader) of a tree or woody plant.

**Branch Collar** – Trunk tissue that forms around the base of a branch between the main stem and the branch or a branch and a lateral. As a branch decreases in vigor or begins to die, the branch collar becomes more pronounced.

**Branch Bark Ridge** – Raised area of bark in the branch crotch that marks where the branch wood and trunk wood meet.

**Callus** – Undifferentiated tissue formed by the cambium layer around a wound.

**Cambium** – Dividing layer of cells that forms sapwood (xylem) to the inside and bark (phloem) to the outside.

**Climbing Spurs** – Sharp, pointed devices affixed to the climber’s leg used to assist in climbing trees (also known as gaffs, hooks, spurs, spikes, climbers).

**Closure** – The process of woundwood covering a cut or other tree injury.

**Crotch** – The angle formed at the attachment between a branch and another branch, leader, or trunk of a woody plant.

**Crown** – The leaves and branches of a tree or shrub; the upper portion of a tree from the lowest branch on the trunk to the top.

**Crown Cleaning** – The removal of dead, dying, diseased, crowded, weakly attached, low-vigor branches, and watersprouts from a tree’s crown.

**Crown Raising** – The removal of the lower branches of a tree in order to provide clearance.

**Crown Reduction** – The reduction of the top, sides, or individual limbs by the means of removal of the leader or longest portion of a limb to a lateral no less than one-third of the total diameter of the original limb removing no more than one-quarter of the leaf surface.

**Crown Thinning** – The selective removal of branches to increase light penetration and air movement, and to reduce weight.

**Cut** – The exposed wood area resulting from the removal of a branch or portion thereof.

**Decay** – Degradation of woody tissue caused by biological organisms.
Espalier Pruning – A combination of cutting and training branches that are oriented in one plane, formally or informally arranged, and usually supported on a wall, fence, or trellis. The patterns can be simple or complex, but the cutting and training is precise. Ties should be replaced every few years to prevent girdling the branches at the attachment site.

Facility – Equipment or structure used to deliver or provide protection for the delivery of an essential service such as electricity.

Girdling Roots – Roots located above or below ground whose circular growth around the base of the trunk or over individual roots applies pressure to the bark area, ultimately restricting sap flow and trunk/root growth. Frequently results in reduced vitality or stability of the plant.

Heading – Cutting a currently growing or one-year-old shoot back to a bud, or cutting an older branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role. Heading should rarely be used on mature trees.

Heartwood – The inactive xylem (wood) toward the center of a stem or root that provides structural support.

Hook and Blade Pruning Tool – A hand pruner that has a curved, sharpened blade that overlaps a supporting hook (in contrast to an anvil-type pruning tool).

Horizontal Plane (palms) – An imaginary level line that begins at the base of live frond petioles.

Lateral – A branch or twig growing from a parent branch or stem.

Leader – A dominant upright stem, usually the main trunk. There can be several leaders in one tree.

Limb – Same as Branch, but larger and more prominent.

Lopping – See Heading.

Mycellum – Growth mass of fungus tissue found under bark or in rotted wood.

Obstructing – To hinder, block, close off, or be in the way of; to hinder or retard a desired effect or shape.

Parent Branch or Stem – The tree trunk or a large limb from which lateral branches grow.

Petiole – The stalk of a leaf.

Phloem – Inner bark tissue through which primarily carbohydrates and other organic compounds move from regions of high concentration to low.

Pollarding – Pollarding is a training system used on some large-growing deciduous trees that are severely headed annually or every few years to hold them to modest size or to give them and the landscape a formal appearance. Pollarding is not synonymous with topping, lopping, or stubbing. Pollarding is severely heading some and removing other vigorous water sprouts back to a definite head or knob of latent buds at the branch ends.
**Precut or Precutting** – The two-step process to remove a branch before the finished cut is made so as to prevent splitting or bark tearing into the parent stem. The branch is first undercut, and then cut from the top before the final cut.

**Pruning** – Removal of plant parts.

**Qualified Line Clearance Tree Trimmer** – A tree worker who, through related training and on-the-job experience, is familiar with the techniques in line clearance and has demonstrated his/her ability in the performance of the special techniques involved. This qualified person may or may not be currently employed by a line clearance contractor.

**Qualified Line Clearance Tree Trimmer Trainee** – Any worker undergoing line-clearance tree trimming training, who, in the course of such training, is familiar with the techniques in line clearance and has demonstrated his/her ability in the performance of the special techniques involved. Such trainees shall be under the direct supervision of qualified personnel.

**Qualified Person or Personnel** – Workers who, through related training or on-the-job experience, or both, are familiar with the techniques and hazards of arboriculture work including training, trimming, maintaining, repairing, or removing trees, and the equipment used in such operations.

**Qualified Tree Worker, Person, or Personnel** – A person who, through related training and on-the-job experience, is familiar with the hazards of pruning, trimming, repairing, maintaining, or removing trees and with the equipment used in such operations and has demonstrated ability in the performance of the special techniques involved.

**Qualified Tree Worker Trainee** – Any worker undergoing on-the-job training who, in the course of such training, is familiar with the hazards of pruning, trimming, repairing, maintaining, or removing trees, with the equipment used in such operations and has demonstrated ability in the performance of the special techniques involved. Such trainees shall be under the direct supervision of qualified personnel.

**Remote/Rural** – Areas associated with very little human activity, land improvement, or development.

**Sapwood** – The active xylem (wood) that stores water and carbohydrates, and transports water and nutrients; a wood layer of variable thickness found immediately inside the cambium, comprised of water-conducting vessels or tracheids and living plant cells.

**Shall** – As used in this standard, denotes a mandatory requirement.

**Should** – As used in this standard, denotes an advisory recommendation.

**Stub** – An undesirable short length of a branch remaining after a break or incorrect pruning cut is made.

**Stubbing** – See *Heading*.

**Target** – A person, structure, or object that could sustain damage from the failure of a tree or portion of a tree.

**Terminal Role** – Branch that assumes the dominant vertical position on the top of a tree.
**Thinning** – The removal of a lateral branch at its point of origin or the shortening of a branch or stem by cutting to a lateral large enough to assume the terminal role.

**Throwline** – A small, lightweight line with a weighted end used to position a climber's rope in a tree.

**Topping** – See *Heading*.

**Tracing** – Shaping a wound by removing loose bark from in and around a wound.

**Urban/Residential** – Locations normally associated with human activity such as populated areas including public and private property.

**Utility** – An entity that delivers a public service such as electricity or communication.

**Utility Space** – The physical area occupied by the utility's facilities and the additional space required ensuring its operation.

**Wound** – An opening that is created any time the tree's protective bark covering is penetrated, cut, or removed, injuring or destroying living tissue. Pruning a live branch creates a wound, even when the cut is properly made.

**Woundwood** – Differentiated woody tissue that forms after the initial callus has formed around the margins of a wound. Wounds are closed primarily by woundwood.

**Xylem** – Wood tissue; active xylem is called *sapwood* and inactive xylem is called *heartwood*.

**Young Tree** – A tree young in age or a newly installed tree.

(Ord. PL04727-050721, 06-17-2021)
C2 Stormwater Control Measures (SCMs) Guidelines for Certain Residential Development

C2.01 Purpose

C2.01.01 The purpose of these guidelines is to allow certain residential uses, as outlined in Subsection 21.01.01, to utilize a more simplified methodology to control stormwater runoff by means of stormwater control measures (“SCMs”), thereby reducing the necessity for complex engineering generally required for higher density residential and commercial projects.

C2.02 Stormwater Management System

A. A stormwater management system as described herein is a system that is designed, constructed, implemented and maintained to control the stormwater runoff generated by impervious surfaces during rainfall events. These systems incorporate methods to collect, store, absorb, convey and/or reuse stormwater to prevent or reduce flooding.

B. Each development is required to provide and continually maintain a stormwater management system adequate to control each square foot of impervious area associated with the development.

C. When designing a stormwater management system, choose one or more of the best SCMs detailed herein that is compatible with the site.

C2.02.01 The SCMs herein provide a simplified design methodology intended to meet the stormwater detention requirements for certain projects within the Town of Boone. Applicants must provide reasonable assurance that the SCMs chosen:

A. Will not cause adverse flooding on-site or to adjacent properties

B. Will not cause adverse impacts to existing stormwater systems

C. Will be capable of being constructed, implemented and maintained as proposed

C2.03 Drainage Plan

C2.03.01 Applicants shall provide Planning Staff with a drainage plan with supporting calculations detailing the chosen BMPs for the proposed stormwater management system. This plan shall be drawn to scale and shall show:

A. All property lines and easements; and

B. Limits of disturbance; and

C. Existing and proposed ground contours and elevations; and

D. Location of all streams, creeks, ponds, etc. with required buffers; and

E. Location and dimensions of all impervious areas: house, driveways, outbuildings, patios, etc.; and
F. Location and dimension of all pervious areas; and

G. Location, dimensions and materials of all SCMs used to create an overall stormwater management system for the project.

C2.04 Stormwater Control Measures (SCMs)

C2.04.01 General Guidance

A. Proposed grades should follow existing grades as much as possible to allow the stormwater to naturally flow into the area designated to receive the stormwater.

B. No concentrated stormwater discharge from a downspout or any collection device shall be located within 10 feet of any property line.

C2.04.02 Stormwater Control Measures

A. Applicants may choose between one or more of the SCMs (C-1 – C-12) detailed in the North Carolina Department of Environmental Quality Stormwater Design Manual.


Designs must meet the control measure purposes set forth in the Manual, but Staff may approve modifications in design details based upon site conditions.

B. The practices listed above are not comprehensive and alternative SCMs may be appropriate for a particular site. Staff will review any suggested alternative SCM, along with supporting documentation for the SCM, in conjunction with the guidance herein to determine if the SCM would be an acceptable alternative.

(Ord. PL05558-030922, 04-13-2022)
APPENDIX D DOWNTOWN BOONE LOCAL HISTORIC DISTRICT
STANDARDS AND GUIDEBOOK

See separate Downtown Boone Local Historic District Standards and Guidebook

(Ord. PL05044-083121, 10-21-2021)
Downtown Boone Local Historic District Design Standards And Handbook

The Town of Boone circa 1939, from the hill near the R. L. Clay House looking northeast. Photo courtesy of Jones House Collection, Digital Watauga Project.

Town of Boone Historic Preservation Commission

Adopted October 21, 2021
Downtown Boone
Local Historic District
Design Standards and Handbook

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INTRODUCTION

Historic Preservation in Boone

The Boone Town Council established the Historic Preservation Commission (hereafter referred to as the HPC or the Commission) of Boone on March 15, 2007, and on April 15, 2010, the Commission adopted their Rules of Procedure. The Town Council adopted revised Rules of Procedure for the Commission as well as Interim Design Standards applicable to all historically designated properties within the Town limits on January 21, 2016. As individual landmarks and districts are designated, the Commission is required to develop and adopt specific standards for altering, restoring, moving, or demolishing properties that the Commission has designated as landmarks or that are located within an area that the Commission has designated as a historic district, pursuant to the requirements dictated in North Carolina General Statutes as well as the Unified Development Ordinance (hereafter referred to as “UDO”) Article 8.

In order to facilitate the continued conservation of historic districts and landmarks, the Commission offers advisory assistance to property owners who may wish to renovate in areas identified as historic so that they may meet the requirements of the ordinance. However, in certain circumstances preservation power is intended to prevent change when there is a superior reason to preserve, such as in the case of planned demolition. This will ensure that changes are within the spirit and character of the historic property or district. Through the Design Standards set by the HPC and adopted by Town Council, the historic character of the town of Boone can be preserved for the enjoyment of both current and future residents and visitors.

Benefits of Historic District Designation at the Local and/or National Level:

- Designation often stabilizes property values and encourages investment in older residential and commercial areas.
- Increased property values boost the local tax base and facilitate investment in much-needed city services.
- Preservation and designation encourage tourism, which further enhances local tax revenues and benefits local businesses.
- The presence of established historic districts often increases property values within those districts and in surrounding neighborhoods, making it easier for businesses to attract top candidates for open positions.
- Historic landmarks and districts provide a direct, tangible, and meaningful link to the past, particularly if they are publicly interpreted through approved signage, thus promoting a sense of identity, meaning, connection, and character within the surrounding community.
- Designation on the National Register of Historic Places, either individually or as a contributing property to an Historic District, may make a property eligible for a variety of state and federal tax credits that can reduce the rehabilitation costs for
historic properties by up to 40%. (For more on these tax credit programs, visit the tax credits page at the North Carolina State Historic Preservation Office website: https://www.ncdcr.gov/about/history/division-historical-resources/state-historic-preservation-office/restoration-2.)

Map showing the boundary of the Downtown Boone Local Historic District in tan. Map courtesy of Chris Miller, 2019.

The District is comprised of the area bounded approximately by Queen Street to the north, Appalachian Street to the east, Rivers Street to the south, and Water Street/Burrell Street to the west. This area has a particularly rich concentration of commercial buildings that illustrate Boone’s transformation from a sleepy, county seat in 1918 to a bustling commercial center by 1964. This concentration is most pronounced along West King Street from the Smithey’s Department Store Building on the west end of town to the intersection of Appalachian Street and West King Street. This area also aligns most obviously with the establishment of Boone’s traditional downtown business district between the 1910s and the 1940s, and taken as a whole, the commercial resources located within this stretch retain an unusually high degree of integrity in terms of design and materials.
Why Preservation Matters

With increased traffic in the area creating the necessity for growth, the struggle to maintain Boone’s historic landmarks has become increasingly important. Some prominent structures have already been demolished in order to make room for newer developments. One such property, sadly, was the Daniel Boone Hotel, constructed in 1925. Originally, the hotel accommodated tourists, traveling salesmen, visiting court officials, and new faculty at the Appalachian Normal School. The hotel eventually went bankrupt as a result of the Great Depression and was auctioned in 1935. After the Depression finally ended and the hotel reopened, it became the social center of Boone, boasting a legendary Sunday feast. The hotel eventually began losing business, however, when roadside motels were constructed in Boone. The Daniel Boone Hotel permanently closed in the late 1970s.

The hotel was listed on the National Register of Historic Places (NRHP) in 1982, but this did not prevent its demolition by the Daniel Boone Condominium Company, who purchased the property in the early 1980s. Its destruction demonstrates that NRHP designation alone is not sufficient to protect the historically significant properties and the historic character of Boone. Local Historic District designation, however, provides greater protections for business and property owners in Downtown Boone and allows the community to play a role in determining the future for its historic downtown core.

Remnants of the once great hotel have been relocated to other areas of town. Two examples include the hotel's sign, which was previously located on the lawn and for a long time could be seen in the downtown Boone Drug on West King Street, and the ornamental columns that once supported the entrance to the hotel’s veranda; these latter features were incorporated into the chapel in the Watauga Medical Center during construction of that facility.

While many Boone residents appreciate the salvaging and repurposing of the hotel’s artifacts, the demolition of the historic hotel is a cautionary tale regarding the long-term value of historic preservation and the costs of missed opportunities. As Boone struggled to identify a location for its next government center, many local residents regretted the disappearance of the hotel, which would have been an ideal site for adaptive reuse as a home for Town government. Such a project likely would have saved millions of taxpayer dollars and provided the Town of Boone with a centralized, downtown government center that would have met many of its office needs for decades to come.

Development pressures continued to threaten historic resources in the District during the late 2010s, prior to designation of the District in 2020. In just the past two years, five buildings were demolished within the District boundaries to make way for new development: portions of the Goodnight Brothers Complex (2018), the Farmers Cooperative Exchange (FCX) Building (2018), the Boone Furniture and Lumber Company Building (2018), the A&P Supermarket Building (2019), and the Wade E. Brown Office Building #2 (2019).

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1 Watauga Democrat, December 12, 1935: 1.
Historic Districts

Historic Landmarks and Historic Districts Defined

Local governments may designate individual properties as historic landmarks and groups of properties as historic districts because of their historical, pre-historical, architectural, or cultural significance. To qualify for designation, a property or area must also show integrity of design, setting, workmanship, materials, feeling, or association. Integrity enables a property or area to convey its significance to the observer; it mainly has to do with the intactness of the property’s physical features.

The Difference between Local Designation and National Register Listing

Designation by a local governing board has no direct connection with listing in the National Register of Historic Places. The National Register is the nation’s official listing of buildings, structures, objects, sites, and districts worthy of preservation for their significance in American history, architecture, archaeology, or culture. A historic property or district may qualify for both local designation and National Register listing, but these are separate processes, with different consequences.

Local Historic District Designation (Overlay District)

Local historic district designation is a type of zoning that applies to a group of contiguous properties. As with historic landmarks, owners who wish to make certain kinds of changes to properties in historic districts must first have their plans reviewed and approved by the Commission. Historic District designation triggers an overlay district, meaning that the existing zoning laws in effect still apply to the district, but the additional regulations set forth by historic designation would also apply.

Purpose and Applicability of the Standards

The Downtown Boone Local Historic District Design Standards (hereafter, the “Standards”) have been prepared to assist property owners, developers, architects, and designers conducting building projects within the Downtown Boone Local Historic District (hereafter, the “District”). The Standards outline the requirements for the rehabilitation of historic buildings and the construction of compatible new designs to maintain the historic character of the community.

Work on designated local landmarks located within the District not only must comply with the Standards included here but also must comply with the individual standards established for the landmark in order to ensure that any changes will serve to enhance the historic qualities of the Town. Questions should be directed to Planning and Inspections Department staff. Through the enforcement of these provisions, rehabilitation of historic landmarks within the District will remain consistent with the inherent historic qualities of Downtown Boone.
The basis of the Standards may be found in the Secretary of the Interior’s Standards for the Rehabilitation of Historic landmarks (see below). Basic key ideas in utilizing the Standards are to:

- Retain the historic use of the property or find a new use that will allow as many historic features as possible to be retained.
- Preserve the historic character of the property by being sensitive to its appearance and designated use over time.
- Stabilize, consolidate, and conserve existing historic materials whenever possible, rather than adding modern or reproduction materials.
- Replace a minimal amount of building features. If features of the building must be replaced, new features should match the existing historic features of the structure in design and material.
- Repair and retain significant features instead of removal and replacement.

Pursuant to NC General Statute 160D-947(d), the Historic Preservation Commission reserves the right to consult with the National Park Service and the NC State Historic Preservation Office as needed on items that are not directly addressed through the standards set forth herein.

The Standards are also intended to be compatible with and complementary to the design standards developed by the Downtown Boone Development Association (DBDA) for its Façade Incentive Grants Program, which also follow the Secretary of the Interior’s Standards for the Rehabilitation of Historic Landmarks (see below). The Standards are intended to:

- Encourage compatible and sensitive designs.
- Increase public awareness of the value of historic architecture.
- Help reinforce the character of the District and protect its overall appearance.
- Preserve the integrity of the District and any landmarks located within the District.
- Assist property owners and architects in making preliminary design decisions.
- Improve the quality of development.
- Explain, expand, and interpret general design criteria in the local preservation ordinance.
- Educate the public on the importance of good design and historic preservation.
- Protect the value of public and private investment.

These standards are NOT intended to:
• Limit growth or regulate where growth takes place. The Standards address only the visual impact of individual work projects on the character of the District.
• Control how space within most buildings is used. In most cases, these Standards deal only with the exterior, publicly visible portions of the buildings and grounds of historic properties or properties within the District.\(^2\)
• Guarantee that all new construction in the District will be compatible with the District’s architectural history, design, and materials.

**Legal Overview of Historic Preservation Legislation**

**National Historic Preservation Act (NHPA):**

The National Historic Preservation Act, passed in 1966 and amended in 2006, serves as the legal justification for the importance of preserving historic landmarks and districts in the United States. The NHPA provides standards for historic preservation on the national level as well as stipulates that each state should have a State Historic Preservation Office, the responsibility of which is to focus on identifying historic elements statewide. The NHPA also requires that the Federal Government assist in the acceleration and growth of federal, state, and local preservation programs.

**Historic Preservation Enabling Legislation in North Carolina:**

The North Carolina General Statutes (160D-940, et seq.) provide for communities to conserve and preserve historic districts and landmarks for the purpose of stabilizing and increasing local property values and to strengthen the overall economy of the State. The relevant statutes can be viewed here: [Chapter_160D.pdf (ncleg.gov)](http://ncleg.gov)

The Statutes describe the method of establishing such preservation programs and their operation. The primary administrative entity that identifies and enforces a community’s historic district or districts is the local Historic Preservation Commission (HPC).

**The State Historic Preservation Office (SHPO):**

The purpose of the North Carolina State Historic Preservation Office (NC SHPO) is to aid citizens, organizations, local governments, and state and federal agencies with the protection of significant historical landmarks and areas in North Carolina. The duties of the SHPO are as follows:

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\(^2\) The owner of a privately owned historic property may choose to consent to an interior review of his/her property, which is thereafter binding on all future owners of the property, provided that the designation has been appropriately recorded with the local Register of Deeds. In addition, publicly owned landmarks (except North Carolina state property) are also subject to interior review. The Town of Boone is committed to protecting historically significant interior spaces to the extent permitted under NC GS 160D-947.
Investigate nominations of historic sites to the National Register
Conduct an environmental review of state and federal actions that may impact historic landmarks
Provide technical assistance (including the administration of the Certified Local Government program)
Grant assistance
Education
Training for local preservation organizations and citizens in order to increase involvement in preservation programs.

The Certified Local Government Program (CLG):

Created in 1980, this program was an amendment to the National Historic Preservation Act. The Certified Local Government Program (CLG) stipulates that each state must create a procedure that certifies local governments to participate in historic preservation programs on the national level. The benefits of such a program include the ability for local governments to be considered for federal funding for preservation programs. Just as the requirements of each SHPO vary slightly from one another, so do the requirements of the CLG. In North Carolina, the requirements for certification are as follows:

- Each local government must be equipped with an active HPC that abides by the legal regulations for the formation of such a commission. This commission must have a paid staff member.
- Local governments must follow state or local laws when designating and protecting historic areas.
- Each local government should have a regularly maintained survey in order to keep an inventory of historic landmarks and districts that is consistent with the statewide survey.
- There must be adequate public participation in the local historic preservation program, and historic landmarks must be nominated to the National Register of Historic Places.
- Finally, local governments should adhere to the responsibilities required of them under the National Historic Preservation Act, as amended.

Facade Incentive Grant Program

The purpose of the Downtown Boone Development Association (DBDA) Façade Incentive Grant Program is to encourage property owners and lease holders in the Municipal Service District (MSD) of Boone to improve the appearance of downtown buildings. Buildings that are thirty (30) years old or older should be renovated according to the Secretary of the Interior’s Standards for Rehabilitation, reproduced below. Projects seeking funding under the Facade Incentive Grant Program must also follow
the standards that apply to construction methods and materials for properties within the Town of Boone MSD and the standards of the Community Appearance Commission, available through the Town of Boone Planning and Inspections Department. A sample Facade Grant application is available from the DBDA office in Town Hall.

Some properties within the District have lost their integrity as historic properties because of later alterations to the building facade. The Facade Incentive Grant Program helps property owners remove non-historic components and rehabilitate facades to their historic appearance, as in the case of the Appalachian Theatre on King Street, which was meticulously rehabilitated over an eight-year period. The image at left was taken on June 25, 2011. The image at right was taken on August 18, 2019. Both images are provided courtesy of Eric Plaag.

The Municipal Service District or MSD is a financing mechanism used to provide revenue to support existing town services, downtown advertising, promotion, and community events, and to contribute funding for downtown amenities, such as planters, maps, benches, trash/recycle receptacles, and sidewalk upgrades. The MSD is a core economic development tool created by the legislature in 1973. Boone’s MSD was established in 1988 at the request of downtown businesses. There are currently more than 55 MSDs across North Carolina. With the exception of the Frank A. Linney House, all of the properties of the District are located within Boone’s MSD.

The Secretary of the Interior’s Standards for Rehabilitation

The US Department of the Interior developed national standards for the preservation of historic buildings in 1976. These standards, often referred to as the Secretary’s Standards, are widely used within the preservation profession in determining the appropriateness of proposed changes to historic buildings. For this reason, the Town of Boone Historic Preservation Commission also uses these ten standards in developing the Standards contained within this document and in considering proposed changes to historic properties and properties within identified historic districts. The current edition of the Secretary’s Standards reads as follows:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
Historical Influences on Boone’s Architecture

Overview of Boone’s History

The town of Boone, North Carolina, serves as the county seat for Watauga County, which was created in 1849 from portions of Ashe, Wilkes, Caldwell, and Yancey Counties. Known as early as 1823 as Councill’s Store, when a post office was established there, the community changed the name of the settlement by 1850 to Boone in honor of Daniel Boone, who was believed to have hunted in the area. Formal incorporation of the Town of Boone did not occur until January 23, 1872, when the act was ratified by the state legislature.

The Town of Boone sits near the center of the present-day boundary of Watauga County. Located in what is essentially a geographic bowl, Boone is surrounded by mountains on nearly all sides. Immediately to the north of town is the east portion of Rich Mountain and a popular local landmark, Howard’s Knob, both of which have long served as barriers to movement to the north. To the west of town is a valley divide that allows passage through Hodges Gap, southwest of town, and a small notch northwest of town near the Oak Grove community. To the south of town, Pine Ridge, Deck Hill, and Yarnell Knob create another difficult barrier leading to the more distant peaks of Flat Top Mountain and yet another Rich Mountain. The area to the east of town, meanwhile, is dominated by a series of hills leading to Wilson Ridge to the southeast.

As a sleepy, county seat for the second half of the nineteenth century and the early years of the twentieth century, Boone relied primarily on a local agrarian interests, some attempts at mining, and court traffic to sustain its economy. Two changes in the early twentieth century, however, dramatically altered Boone’s economy and its settlement patterns. The first was the growth of the Watauga Academy (1899) from a small, teacher’s school into the four-year college known as Appalachian State Teachers College in 1929. Thereafter, enrollments continued to increase exponentially, so that today, the school is known as Appalachian State University and is home to more than 19,000 students as of 2018—matching the local population of approximately 19,200 people.

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3 Much of the content of this section is replicated or summarized from Eric W. Plaag, Comprehensive Architectural Survey of Downtown Boone, North Carolina, prepared for the Town of Boone, January 2020.
4 As seen on several early maps prior to the 1830s, the village of Boone may also have been known as “Howard,” probably in honor of Benjamin Howard, who had a hunting cabin near the present downtown and for whom Howard’s Knob was named. For an early map reference to Boone as “Councill’s Store,” see Map of North and South Carolina Exhibiting the post offices, post roads, canals, railroads, etc., by David H. Burr...entered according to Act of Congress, July 10th 1839, National Archives II, College Park, MD, RG 28, Burr Atlas, 6. This map is stored as four map sections. Later maps showed the community under the “Boone” name as early as 1865. See Captain William Kossak and John B. Muller, Military Map Showing the Marches of the United States Forces Under Command of Maj. Genl. W. T. Sherman USA During the Years 1863, 1864, 1865, St. Louis, 1865, National Archives II, College Park, MD, RG 77, US 254 ½.
5 Private Laws of the State of North Carolina, Passed by the General Assembly at Its Session 1871-72, (Raleigh: Theo N. Ramsay, 1872), Chapter 50, 81-82.
Boone as it appeared about 1885, looking to the northeast from a point just south of the intersection of present-day Burrell and Rivers Streets. In the center foreground is the first Boone Baptist Church, with the Critcher Barn and the Coffey Hotel and Old Brick Row directly beyond. The pathway between the Critcher Barn and the Coffey Hotel would later become Depot Street. Image by L. A. Ramsour, courtesy of the Historic Boone Collection, Digital Watauga Project.

The second change was the extension of the Linville River Railway from Shull’s Mills to Boone in October 1918. While the line served both freight and passenger traffic, its primary significance lay in the introduction of mass quantities of building materials—brick, concrete, limestone, lumber, and sand—into an area that was virtually unreachable by truck traffic in the first quarter of the twentieth century. Not surprisingly, Boone’s commercial center was transformed over the next 25 years from a near-equal mix of domestic architecture and frame commercial establishments into an impressive array of brick and steel-frame, commercial block buildings. Once the train stopped running in 1940 as a result of a major flood, improved highways into the area continued to bring new industry and diversity in the downtown area’s commercial architecture. By the 1950s, Boone was running out of space in its original downtown area, in part because the growth of the university from the southeast was also beginning to crowd the downtown area. As a result, urban sprawl moved to the east and south of town along US 321 and US 421 in particular, where agricultural lands were ripe for development along the two principal highways leading to larger, distant population centers.
While the town is often reported to have an elevation of 3,333 feet, a geodetic benchmark in the heart of downtown near the corner of Depot and West King Streets reports the elevation as 3,323.602 feet. The original downtown area is located primarily to the north of Boone (Kraut) Creek, which flows downstream to its intersection with Winkler’s Creek on the southeast side of town. Winkler’s Creek then merges with the East and Middle Forks of the New River to form the South Fork of the New River, which flows away to the northeast on the east side of the current town boundaries. Because of the abundance of drainage from the hills and mountains surrounding Boone, both the original downtown and the lower areas to the southeast are prone to frequent flooding.

The downtown area is dominated by its principal artery, West King Street, running southeast to northwest through the center of town, with Queen Street to the north and Howard Street to the south as important secondary routes in the town’s history. Another major thoroughfare, Rivers Street, dates to about 1968 and runs along the old Linville River Railway rail bed but now serves as a major boundary between Boone’s downtown and Appalachian State University. Primary cross streets in the downtown area, running southwest to northeast, are (west to east) Burrell Street (south) and Water Street (north), Depot Street, and Appalachian Street.

The Architecture of Downtown Boone

Downtown Boone has a rich history dating to the early nineteenth century. To comply with the requirements of the North Carolina legislature when Watauga County was established in 1849 and Boone was chosen as the county seat, a local surveyor laid out the grid for the Town of Boone, with a courthouse on the site of the present Frank A. Linney House on Queen Street between Linney Street and Water Street. This early map of Boone shows two parallel main roads—Queen Street and King Street—running roughly east-west through the concentration of lots bounded on the east by Lower Branch running under the present path of Depot Street. Notably absent from the map are Howard Street and Depot Street, which would not be laid out until well into the twentieth century. By 1900, Boone featured predominantly frame buildings—both commercial and residential—grouped along King Street as its main corridor. Notable exceptions were the brick 1875 Courthouse, at one time located on the northwest corner of present-day Water and King Streets, and the 1889 Watauga County Jail on Burrell Street, home today to a restaurant. Brick for both buildings was kilned locally.

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6 Laws of the State of North Carolina, Passed by the General Assembly, at the Session of 1850-'51, (Raleigh: T. J. Lemay, State Printer), Chapter 51, 119-21. For the name change to Boone, see United States Postal Guide and Official Advertiser, 1:2, August 1850: 47. The exact date is frequently given as June 20, 1850, although typically without sourcing.
While Boone’s role as a county seat and the presence of Watauga Academy (1899), later renamed the Appalachian Training School (1903), brought frequent outside traffic to the community, Boone was nevertheless fairly isolated from external economic forces prior to 1919, in large part because of the poor quality of roads into the region and the absence of a reliable transportation alternative. That changed in 1919 with the arrival of the Linville River Railway. The influence of rail service on Boone was nearly immediate. Rail service meant easy access to and transport of ample supplies of sand, masonry, lumber, and steel—all essential construction components. Rail service meant builders no longer had to kiln their own bricks or harvest, mill, and cure their own lumber locally, thus vastly accelerating the construction process. Rail service meant an extended transportation network for a region so notoriously cut off from the rest of the state that it was known widely as the “Lost Province,” and extended transportation meant expanded markets and supply chains for businesses located in Boone.

That year (1919) also marked the beginning of a robust building campaign in Boone, which was spurred by the rallying cry of “Watch Boone Grow” in the local paper. The first downtown building constructed using materials brought in by train was the Watauga Motor Company garage on the west side of Depot Street. The first occasion of the slogan appeared in September 1919 in an article describing the construction of several

The west part of Downtown Boone from the southwest, as it appeared in 1905. The intersection of Water and King Streets is at center. The 1889 Watauga County Jail is just below the southwest corner of this intersection, while the 1875 Courthouse sits at the northwest corner. The dome and columns of the 1905 Watauga County Courthouse are visible at far left. Image courtesy of the Bobby Brendell Postcard Collection, Digital Watauga Project.
new homes just outside downtown and plans for a warehouse on Depot Street. In November 1919, Dr. L. R. Bingham, a local dentist, announced plans for a new, two-story, brick, drug store building; this news was also accompanied by the slogan.

Completed in December 1921, the new building on King Street, located just east of the Critcher Hotel, was home to the Boone Drug Company in its east storefront, while the west portion of the building housed Davidson's Department Store. Over the next ten years, local business owners built many of the commercial block buildings that now define the core of the District on King Street, including the Qualls Block (1922), the J. Walter Jones Building (1922), the Watauga County Bank Building (1923), the Boone Hardware/Farmer’s Hardware Block (1923), the Linney Law Office (1923), the Pastime Theatre (1924), the Frank A. Linney Block (1925), the W. R. Winkler Building (1927), the Edwin N. Hahn Building (1927), the H. W. Horton Building (1929), and the Perry and Winkler Building (1929), as well as several others. In keeping with Boone’s historic mix of domestic and commercial buildings in its downtown area, the 1920s boom saw the construction of a handful of new residences downtown, including the Oscar and Suma Hardin House (1926) on Water Street.

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7 *Watauga Democrat*, September 4, 1919: 3.
8 *Watauga Democrat*, November 20, 1919: 3.
Aside from some occasional infill during the period from the late 1920s to 1935, few major, new buildings appeared in downtown during this time. The Great Depression certainly played a role in restricting downtown development during the early 1930s, but by 1936, there were signs of hope for the future. Following the failure of Boone’s two major banks in the early 1930s, the Watauga Building and Loan began to take up the slack, often funding downtown commercial projects of Boone second construction boom of the late 1930s.

Demolition of the old Critcher Hotel led to the creation of three major buildings near the southeast corner of the intersection of Depot and King Streets: the Shell Café, later expanded as the Crest Five and Ten Cent Store (1936/1940); the Belk-White Department Store (1937); and the Hamby and Winkler Building (1937), which again featured wagon wheel, limestone medallions like those on the Horton Building. This detail became a familiar architectural trope on later Winkler-associated buildings.

Toward the west end of town, meanwhile, the Rivers Printing Company Building (1937) took form on the site of the original home of the Watauga Democrat press. Another major addition to downtown was the Appalachian Theatre (1938), Boone’s only Art Deco-style building. Once again, the Linville River Railway played a crucial role in construction of these new buildings; extant freight records document the arrival of the large, 50-feet-long, steel beams that were critical to the framing of the theater. Works Progress Administration funding from the federal government also led to the construction of several major buildings in downtown, including the Boone Post Office (1939) on King Street and the Watauga County Office Building (1939) on Water Street. Other major additions included the John W. Hodges Building (1940), the Smither’s Department Store (1940) and the Dr. H. B. Perry...
Building (1942). Numerous one-story buildings also went up in the downtown area, mostly consisting of one-story, commercial block, retail or automotive establishments, including clusters of such buildings near the intersection of King and Appalachian Streets, along North Depot Street, along the north side of King Street between Water and Depot, and at the west end of town along King Street, opposite the courthouse buildings. Domestic construction continued in the downtown area, too, including the A. E. and Roberta Hodges House (1940) at the corner of Queen Street and Grand Boulevard.

Perhaps one of the most significant changes during this second period was the development of the South Depot Street and Howard Street corridors. Long the site of scattered frame warehouses and barns located in proximity to the rail depot, this lower part of the downtown area saw numerous transportation-related buildings, many of them built from brick or concrete block, constructed between 1936 and 1941. Perhaps most significant were the Cook-Nichols Motor Company Building (1940), the Duncan Motor Company Building (1940), and the Southeastern Motor Lines Building (1941). While World War II briefly interrupted construction activities in Downtown Boone because of the scarcity of building materials, large-scale rationing, and war-time inflation, the Howard Street redevelopment resumed with a third boom period by 1944, with such noteworthy buildings as the Baker-Commack Hosiery Mills (1944) and the Wilcox Drug Company Building (1944). Two other buildings that year—the Boone Tire and Bargain Store
Warehouse and the first phases of the Goodnight Brothers Complex—further secured Howard Street’s role as the downtown’s warehouse and transportation corridor.

Following the formal cessation of hostilities in 1945, the Howard Street boom continued, resulting in even grander transportation-related projects such as the Boone Bus Depot (1946) at the southern end of Depot Street and the Winkler Motor Company Building #1 (1946) on the north side of Howard Street. Another half dozen warehouse and automotive buildings, many of them just one story in height and typically unrefined in design, went up in the corridor between 1946 and 1950.

While most of the focus was on the Howard Street corridor during Boone’s third construction boom, infill continued along King Street, resulting in some impressive new additions to the downtown landscape. These included the two-story, brick Edmisten Building at the west end of town (1946); a two-story, brick building clad in electric blue structural glass and known as the Newton Brothers Department Store (1946); and the W. R. Winkler Warehouse and Masonic Hall (1949). Another handful of smaller, usually brick and/or concrete block buildings went up elsewhere along King Street in Boone’s downtown before 1950.
A brief recession in 1948-49 probably played a significant role in halting this third boom, and by 1950, downtown construction came to a brief stop. Lack of available lots may have also played a role, as did the first signs of Boone’s urban sprawl to the US 321 (Blowing Rock Road) and US 421 (East King Street) corridors. Some businesses, like the Blue Ridge Electric Cooperative, chose to build new operations on the outskirts of town, while factory operations like the International Resistance Company sought larger acreage outside of downtown to allow for possible expansion. New motels and even a drive-in theater also went up away from downtown. Older downtown properties were under increasing pressure to modernize in order to keep up with the postwar fascination with innovation and modernization.

During Downtown Boone’s last major phase of development between 1950 and 1964, then, construction focused primarily on infilling the few undeveloped lots, demolishing older buildings for new construction, and making alterations to existing architecture. While most of these new buildings were smaller projects on King Street, Depot Street, and Howard Street, the Swofford’s Tire Store (1951) that replaced the old, frame J. B. Taylor Motor Company Building and the W. B. and Ola Wilcox Hodges Building (1956) that replaced the old Jennie Coffey Store were examples of demolition leading to new construction. This “revitalization” process led to the demolition of several historically important houses that had survived for decades if not a full century on King Street, including the David and Lucy Greene bungalow adjacent to the Appalachian Theatre, demolished for construction of the Northwestern Bank (1960), as well as the J. G. Rivers House—originally built for Jordan Councill, Jr., in 1850—that was demolished for the new A&P Grocery Store (1960) at the southeast corner of Burrell and King Streets.
Looking west on King Street with Depot Street intersection at center, circa 1952. At right are the J. Walter Jones and W. R. Winkler Buildings, now home to the Mast General Store. At left are a portion of the Boone Drug Company Building as well as the Hamby and Winkler Building, the Belk-White Department Store Building, the Crest Five and Ten Cent Store Building, the Watauga County Bank Building, and other early twentieth century buildings of King Street. Image by Palmer Blair, courtesy of the Palmer Blair Collection, Digital Watauga Project.

The late 1950s and early 1960s also brought the first clear signs of development tensions between Appalachian State Teachers College and the Town of Boone, as developers started erecting mixed-use projects like the Estel and Lucille Wagner Building (1957) on King Street, the Cook and Wagner Apartment Building (1959) on Howard Street, the Anderson-Weston Building (1962) on Appalachian Street, and the Harvey Ayers Building (1963) on King Street, each of which offered student apartments on the second floor with retail space on the first. Many of the apartment houses on Hippy Hill (just east of the District), originally built as mixed-use projects, went up during this same period. Toward the very end of this last downtown boom period, developers abandoned the mixed-use conceit and opted instead for large-scale apartment complexes. Perhaps the most significant of these was the Stanley A. Harris Apartment House, built in two phases in 1963 and 1964 immediately to the northwest of the 1905 Courthouse. This demand for student housing that intrudes on the commercial downtown core remains a pressure for Boone today.

West King Street, looking southwest from intersection with Grand Boulevard. Downtown Boone retains many historic properties, although changes to some of them (many of them reversible changes) have had a negative impact on the historical integrity of the downtown historic district. Image courtesy of Eric Plaag, 2013.
Commission Procedures

Organization of the Town of Boone Historic Preservation Commission

The Boone Historic Preservation Commission (HPC) is responsible for helping to preserve any districts or landmarks therein that embody important elements of the Town of Boone’s culture, history, architectural history, or prehistory and to promote the use and conservation of such districts or landmarks for the education, pleasure, and enrichment of the residents of the Town and the State.

The Historic Preservation Commission is organized and regulated by Town of Boone UDO Article 2 Administrative Mechanisms, and UDO Article 8 Historic Preservation Procedures.

Design Review Process

Except for minor work eligible for a Statement of Conformity (SOC), the Town of Boone Historic Preservation Commission (HPC) is responsible for the design review of all proposed changes to the exterior of structures, demolition of structures, moving of structures, new construction, and signage in the district. The design review process for changes in the District requires application for a Certificate of Appropriateness (COA). This process is designed to ensure proposed work is compatible with the nature of the property and the character of the surrounding properties in the historic district. The HPC is assisted by Town of Boone Planning and Inspections Staff, who prepare HPC agendas and minutes and perform other administrative and design review duties as required.

The District overlay requires an applicant to meet design standards set forth herein, in addition to all other codes and laws. Applicants in the District are first required to obtain a COA as a preliminary step before obtaining zoning and building permits, if such permits are required for the proposed work. The issuance of a COA indicates that, in the opinion of the HPC, the proposed alterations, improvements, new construction, or demolition is consistent with the Standards and reflects the historic character of the District. Any repair or replacement that involves a change in exterior design, materials, or general appearance is defined as an alteration and requires an approved COA before work can begin. In addition, properties that are subject to interior review (either publicly owned properties or those whose owners have requested interior review) must have an approved COA for alterations affecting historically significant interior features. Some landscaping, streetscaping, and archaeological projects also require a COA.

(Ord. PL05504-021822, 06-08-2022)

Pre-Application Meetings – Planning and Inspections Department Staff

Informal meetings to become familiar with the Commission’s standards of appropriateness, the design review process, and timeline may be arranged by contacting the Planning and Inspections Department. During this informal meeting,
Planning and Inspections Staff will spend time with an applicant reviewing the procedures set forth below.

**Exemption to COA Design Review – Ordinary or Routine Maintenance**

Although other zoning or building permits may be required, a COA is not required for ordinary or routine maintenance or repair of any of the existing features of a structure or building that does not involve a change in design, materials, or the outward appearance.

Examples of ordinary or routine maintenance include:

- Maintenance of existing paint (changes to masonry are not considered ordinary or routine maintenance)
- Replacement of window glass only with like kind and quality
- Caulking and weather-stripping
- Replacement of small amounts of missing or deteriorated original or existing siding, trim, roof coverings, porch flooring, steps, etc., as long as replacement materials match the original or existing materials in detail and color.

**Elevation Definitions**

**Primary Elevation:** The elevation generally thought of as the main facade that faces the public street and that contains the building’s primary pedestrian entrance.

**Secondary Elevation:** The elevation that faces a public street or adjacent buildings and that may contain additional pedestrian entrances other than the primary pedestrian entrance.

**Tertiary Elevation:** The elevation(s) that does not face a public street and is generally not visible from public streets. This elevation typically includes posterior, exterior elevations, features, and land area.

**Completing the Statement of Conformity or COA Application**

An applicant may obtain an application from the Town of Boone Planning and Inspections Department or on the Town of Boone’s website (http://www.townofboone.net/departments/planning-inspections). After obtaining the correct application, it is important that the form be filled out completely. Please see section on Application Submission and Review below for details on submittal requirements.

Completed applications are submitted to the Planning and Inspections Department, along with the required fee. Applications are processed in accordance with the most recent Town of Boone Planning and Inspections Meeting Schedule.

Applications fall under two different project types: minor work and major work. Requirements for approval are outlined in the following sections.
Statement of Conformity Application

Minor work includes those changes to a structure or a site that do not have significant impact on the historical integrity or character of the property. While minor work does not require a review by the HPC, applicants are required to submit an application for a SOC. This application is reviewed administratively by Planning and Inspections Staff in context with the historic district standards. If an application for a SOC cannot be approved by staff for any reason, the application will be forwarded to the HPC for review as a COA application for major work.

Minor work that may be approved pursuant to issuance of a SOC includes those examples set forth in the table provided herein.

Required materials for a Statement of Conformity Application for Minor Work shall include:

- **Written Description of the Proposed Work**: The application shall describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).

- **Design Standards References**: The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed project.

- **Photographs of Existing Conditions**: The application shall include contemporaneous photographs showing the current conditions of the area where the work will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.

- **Site Plan**: For development which includes modifications to the site in addition to a structure, the applicant shall provide scaled drawings showing the relationship of all existing structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. Tree caliper sizes should be indicated as measured from four (4) feet above the earth’s surface. (Not required for minor work, unless the proposed minor work involves modifications to landscaping, fencing, sidewalks, mechanicals, or other elements of the present “footprint” of the site.)

- **Historical Documentation**: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

COA Application for Major Work
Major work includes all other work that cannot be approved as either ordinary or routine maintenance or minor work. Examples are set forth in the table below. Major work requires submission of a COA application and approval by the HPC.

(Ord. PL05504-021822, 06-08-2022)

**Table of Minor Work and Major Work in the Historic District**

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<thead>
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<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
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<td>New construction of or additions to structures, except as specifically provided otherwise herein.</td>
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**Accessory Buildings**

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<td>In-kind replacement of existing, non-contributing accessory building</td>
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<td>Demolition of an existing, non-contributing accessory building</td>
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**ADA**

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<th>Major Work (COA)</th>
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<tbody>
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<td>In-kind repair or replacement of existing ADA features</td>
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<tr>
<td>Installation of temporary accessibility ramps</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of ADA-required features on tertiary elevations not visible from a public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Architectural Features (not to include items specifically addressed in other categories) (may include but are not limited to cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, decorative moldings, quoins, columns, brickwork, string courses)**

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-kind repair/replacement of any existing architectural feature</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition, removal, or alteration of an architectural feature on tertiary elevation not visible from a public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Awnings, Canopies, or Shutters**

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-kind repair/replacement of an existing awning, canopy or shutters</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition of awnings, canopies or shutters on tertiary elevation not visible from a public street</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of an awning, canopy or shutters on a non-contributing structure</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Decks, Patios, and Sidewalks**

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-kind repair/replacement of an existing deck, patio, or sidewalk; addition of public sidewalks</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additions of decks, patios, and sidewalks on tertiary elevations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Demolition and Relocation**

<table>
<thead>
<tr>
<th>Description of Work</th>
<th>Routine Maintenance</th>
<th>Minor Work (SOC)</th>
<th>Major Work (COA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Except as otherwise specifically provided herein, any removal, relocation, or demolition of any structure or part thereof</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal/alteration of archaeologically significant features</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Description of Work</td>
<td>Routine Maintenance</td>
<td>Minor Work (SOC)</td>
<td>Major Work (COA)</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Any work that is likely to disrupt or damage known or discovered archaeological</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>resources on the site</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Doors &amp; Windows</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of any door or window, including casing, frames, and</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>trim</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of storm windows where divided mullions of storm windows and doors</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>align with windows and doors behind</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of skylights within a tertiary elevation or where the skylight is</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>not publicly visible</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition, removal, or modification of a door or window on tertiary elevations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>not visible from public street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other installation, removal, addition or modification of doors or windows,</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>including construction of new openings and replacement, removal, or modification</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of existing openings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Driveways</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing driveways</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additions/alterations of driveways on tertiary elevations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Fences</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of existing fence</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additions/alterations of fences on tertiary elevations or not visible from</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>public streets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Exterior Surfaces Materials (Masonry, Siding, etc.)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repairs/replacement, including repointing, to existing exterior surfaces</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>when the material, color, composition of the new material matches the existing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>exterior surface (includes requirement that the composition of mortar match the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>original)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Foundations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair of a foundation</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alteration of a foundation on a tertiary elevation not visible from a public</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gutters and Downspouts</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of gutters and downspouts</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of gutters and downspouts that match the house or trim color as</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>long as no historic features are damaged or removed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of gutters or downspouts that are not historic to the building</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Landscaping</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insignificant landscaping including vegetable and flower gardens and shrubbery</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pruning of trees and/or shrubbery</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of trees less than 25 inches in diameter</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of trees that are dead, dangerous per adequate documentation from licensed</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>arborist</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description of Work</td>
<td>Routine Maintenance</td>
<td>Minor Work (SOC)</td>
<td>Major Work (COA)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Removal of any invasive species (landscape material) as listed on the <strong>Invasive Plants Found in the Mountains of North Carolina</strong> list published by the NC Invasive Plant Council</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Removal of any tree 25 inches or greater, unless documented as dead or dangerous</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Mechanical Systems/Equipment</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of any existing mechanical systems, vents, and related equipment</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of existing mechanical systems, vents and related equipment</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Installation of mechanical systems, vents, and related equipment on tertiary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Installation of window air conditioners</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>All other installations</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>Painting</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/re-painting of a previously-painted surface</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other painting, including the painting of exterior surfaces not previously painted</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Parking Lots</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of existing parking lots</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insufficient alterations of existing parking lots and removal of non-historic parking lots</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>Public Art</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/maintenance of previously-approved and installed public art</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement of previously-approved and installed public art with artwork of essentially identical mass, proportions, and general features (e.g., a statue replacing a statue, or one mural design replacing another)</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>New installation or substantial modification of public art in the local historic district</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Roofs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of roof coverings</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Repair/replacement of roof coverings not publicly visible</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>All other alterations, including any modification of roof line</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Satellites</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of existing satellite dishes</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition of satellite dishes on tertiary elevations</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of satellite dishes</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>All other alterations</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>Signs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-kind repair/replacement of an existing permanent sign</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Addition/alteration of temporary sign or approved historic house marker</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Addition/alteration of permanent sign on a non-contributing building</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Addition/alteration of permanent sign on a contributing building</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of non-historic permanent sign</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Removal of historic permanent sign</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Solar</strong></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
Description of Work | Routine Maintenance | Minor Work (SOC) | Major Work (COA)
--- | --- | --- | ---
In-kind repair/replacement of an existing solar energy system | X | | |
Addition/alterations of solar panels on tertiary elevations | | X | |
Removal of solar panels | | X | |
All other alterations | | | X

Miscellaneous

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
Installation of house numbers and mailboxes | X | | |
Establishment of exterior fire exits on tertiary elevations | | X | |
Establishment of exterior fire exits on secondary and primary elevations | | | X

Notes:
1. “In-kind” means having no change in the design, construction method and materials, and general appearance of the existing or original historic feature.
2. “Alteration” means and includes new construction or installation, modifications, additions, removal or demolition, and any other material change.

(Ord. PL05504-021822, 06-08-22)

**COA Application Submission and Review**

Pursuant to UDO Subsections 4.04 and 8.05.04, a pre-application consultation between the applicant and Staff is required. The aim of this consultation is to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. At this meeting, Staff shall inform applicants with respect to application requirements and provide assistance in identifying possible resources for historic information.

Required materials for all COA Application for Major Work shall include:

- **Written Description of the Proposed Work**: The application shall describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).

- **Design Standards References**: The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed project.

- **Photographs of Existing Conditions**: The application shall include contemporaneous photographs showing the current conditions of the area where the work will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.

- **Site Plan**: The application shall provide scaled drawings showing the relationship of all existing structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes.
Tree caliper sizes should be indicated as measured from four (4) feet above the earth’s surface.

- **Historical Documentation**: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

- **Elevations**: The application shall provide architectural drawings showing all elevations, including scale, where proposed work will occur.

- **For Projects Involving Demolition or Relocation**: The application shall describe the structure, the reason for its demolition or relocation, the proposed reuse of the site, as well as plans for new landscaping at the site.

Once submitted, the COA application for major work and supporting documentation are initially reviewed by Planning and Inspection Staff in context of the design standards. The results of this review are condensed to a Staff Report, which is then forwarded to a regularly scheduled HPC meeting.

Planning and Inspections Staff shall give notice of any official hearing of the board as required by UDO Subsection 6.01.04.

(Ord. PL04402-0211822, 04-13-2022, Ord. PL05504-021822, 06-08-22; Ord. PL05826-062722, 07-27-2022)

**Hearing**

All hearings shall be conducted in a quasi-judicial manner as described in UDO Article 6 Quasi-Judicial Hearings, Subsection 6.01 Provisions Applicable to All Quasi-Judicial Hearings and the Commission’s adopted Rules of Procedures. Applicants must attend the hearing at which their application will be considered or send a representative to appear who can speak for and legally bind the applicant. During the hearing, the application will be reviewed for compliance with all applicable ordinances and codes. Applicants, their representatives, and any adjacent property owners will be given the opportunity at the hearing to make brief comments.

The Historic Preservation Commission must issue or deny within 180 days but typically takes action within 90 days or less after the filing of a completed application, except when the time limit has been extended by mutual agreement between the applicant and the Commission. Once an application has been approved, a formal mailed notice and a COA permit placard will be issued. The placard should be posted in a window or elsewhere on the property where it is visible from the street for the duration of the project.

(Ord. PL05826-062422, 07-27-2022)
See COA Flow Chart Below

(Ord. PL05502-021822, 04-13-2022)
Residential Properties Within the District

Standards for Residential Properties Within the District

These Standards for residential properties are intended to address many of the most common issues to arise during renovations, additions, and new construction in the District. Where the Standards are silent on a particular issue or concern, the HPC will rely upon the Secretary of the Interior’s Standards for Rehabilitation to guide their review of the proposed work under the COA process and any subsequent recommendations.

“Residential Property” Defined

A residential property within the District is any property whose purpose-built function at the time of construction was to serve solely as a residence for long-term (greater than 30 days) occupants. Such properties may include single-family homes, single-family residences with an accessory purpose, apartment homes, condominiums, or apartment complexes that were built strictly for apartment living without a mixed-use component in any other part of the building.

Buildings within the District that meet this definition include, but may not be limited to, the John Walter Jones House (WT0008), the Watauga County Jail (WT0067), the Frank A. Linney House (WT0582), the Stanley A. Harris Apartment House (WT0805), the Terrace Apartments (WT0809), the J. M. and Ida Moretz House (WT0810), the A. E. and Roberta Hodges House (WT0818), the Dr. H. B. Perry Building (WT0844), the Chapell Wilson/B. G. Teams House (WT0845), and the G. F. and Josie Critcher House (WT0876).

(Ord. PL05826-062722, 07-27-2022)

1. Architectural Components and Details

Exterior architectural components, including door and window casings, columns, brackets, porch railings, soffits, fascias, roof configurations, trim details, architectural flourishes, and various joinery and surface patterns, all contribute significantly to the character and historical integrity of properties located within the District. Because many of these components are either irreplaceable or very expensive to reproduce, they should be maintained and valued in the same way that one might consider an important family heirloom or expensive antique furniture. In many cases, missing or damaged architectural details can be replaced with like items from salvage yards, antique shops, or mail order companies that specialize in replacement of historic architectural components. If such items cannot be replaced, many construction supply companies stock simulations of period architectural components that are approved by the Secretary of the Interior and the National Park Service as suitable historic replacements. In any event, before replacing any exterior architectural component, property owners should
familiarize themselves with the architectural style and historic characteristics of their building to avoid introduction of inappropriate elements.

1.1. It is important to preserve historical architectural features of exterior walls, such as cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, and decorative moldings. Original architectural details should always be retained if structurally feasible, even if portions of the original material are damaged or deteriorated to a point requiring replacement.

1.2. It is NOT appropriate to remove rather than repair or replace in kind such features when they are deteriorated. If replacement is necessary, the new materials should match the materials being replaced in composition, design, texture, color, and other visual qualities.

1.3. It is NOT appropriate to cover or replace historic materials with substitute materials, such as aluminum, vinyl, fiber cement board siding (or similar materials simulating the appearance of wood), or plywood panels. Architectural details that are not appropriate to the historic context and character of a building should never be added. At the same time, property owners should never use details from an earlier period to try to make a building look older than it is.
"The Oscar and Suma Hardin House retained many original and architecturally significant features prior to its demolition in January 2021, but later updates removed some original elements and grafted other architectural components (such as vinyl siding) into the mix that did not fit with the original architectural character of the house. Removal of inappropriate new elements and thoughtful restoration of original elements that have disappeared can restore architectural integrity to significant properties within the District. Photo by Nicole Holladay, 2015."

2. Foundations

For most property owners, the foundation of their historic residential property will consist of either piers of masonry or a complete masonry wall on the perimeter of the structure as well as interior piers for support and a sill plate connecting the perimeter wall with the rest of the house. In some cases, masonry walls have been added between original masonry piers on the perimeter of the foundation.

Settling—sometimes of an inch or more—is quite common and should be expected in a historic property, often in an uneven or disproportionate manner along the entirety of the foundation. Settling also typically cracks mortar joints. For this reason, it is part of routine maintenance to periodically repoint mortar joints and inspect for more severe settling problems. In some cases, property owners will need to consult with a masonry contractor or civil engineer to correct serious settling problems. A number of less
expensive and fairly common repair tricks are inappropriate for historic properties and can actually cause further damage to the historic fabric and integrity of the property.

2.1. Whenever a foundation requires repairs, always use the original bricks or stones if possible. If these materials are damaged beyond repair, replace them with bricks or stones similar in size, color, and surface texture to the originals. If using recycled bricks, always put the weathered side to the exterior in order to maintain the historic appearance of the foundation walls and/or piers.

2.2. In repairing or reconstructing a foundation, the historic bond patterns and mortar treatments should always be replicated. Brick header or rowlock rows, soldier or sailor courses, bandboards, water tables, driplines, and other horizontal design elements should match and align with the existing historic elements.

2.3. Sandblasting, painting, waterproofing, and parging—a technique of applying a cement-like coating to a deteriorating foundation in order to avoid repairs—should never be employed on the exposed portions of foundation exteriors, as all of these treatments damage original masonry and mortar treatments. In addition, non-porous applications trap moisture that can freeze, cause further damage to masonry, and result in damage to the interior of the home.

2.4. Exposed concrete block and cast concrete are strongly discouraged, unless these components are already part of the historic context of the property in question. Such treatments are somewhat common in the District and should be left intact if original, rather than covered over.

2.5. If closing in the openings between brick piers, use matching masonry materials or lattice that is slightly recessed from the façade plain of the historic masonry. Note that foundations need to be vented. Vents should be painted a color that blends with the existing foundation color.

2.6. Access doors to basements or foundation crawls spaces should always be located in an area not visible from the street unless a different historic configuration that aligns with the building’s historic context already exists.

3. Masonry

Many residences in the District are composed of brick or stone masonry, and it is imperative that original masonry materials—many of which have a weathered appearance reflecting the history of the building—remain preserved whenever possible. For this reason, masonry should never be cleaned unless it is determined that perceived “dirt” is actually accumulated deposits and not the effects of weathering. If cleaning is pursued, always use the gentlest method available, preferably with low-
pressure water, a mild, non-caustic detergent, and a natural bristle brush where needed. In addition, while repointing is sometimes necessary when mortar is missing or moisture problems have developed, it should only be completed in a manner that avoids smearing the mortar onto the surface of the masonry.

3.1 It is NEVER appropriate to paint masonry materials, such as brick, concrete block, cast concrete, or stone, that were historically unpainted, including masonry associated with foundations. If there is an historic precedent for painting the masonry at issue, repainting should be completed using colors that generally reflect the natural color of the masonry in question.

Removal of non-historic paint from masonry can be challenging and problematic, and doing so requires strict adherence to preservation guidance published by the National Park Service. Generally speaking, such work should be completed by a professional trained in historic preservation methods and using a chemical paint remover specifically intended for masonry and the gentlest application means possible. In some instances, inappropriately applied paints may not be removable without damaging the underlying masonry, so it is always advisable to test removal techniques in an area that is not easily visible to the public. The HPC will provide guidance in such instances on the best approach to addressing unusual paint removal challenges.

3.2 Whenever feasible, historic masonry should be repaired rather than replaced or covered. When replacement is necessary, it should always be completed using traditional materials of like kind and quality to the originals that are being replaced.
The Watauga County Jail features important masonry details on its primary elevation. Patching of second-floor masonry using Portland cement and other materials mars the historic appearance of the masonry and poses a risk to its stability. Photo courtesy of Eric Plaag, 2015.

3.3 Repointing of masonry should also be completed using materials that duplicate the existing mortar in appearance, texture, and color. Colored sands or mineral pigmented mortar can be used to achieve a match with the existing mortar. Portland cement should be avoided in mortar, as it may produce a mortar that is stronger than the surrounding masonry, potentially causing the masonry to crumble.

3.4 Unless there is a specific reason for using waterproof or water-repellent coatings (e.g., brick that has previously been sandblasted, creating a porosity problem), these treatments should be avoided, as they can accelerate deterioration of historic masonry.

3.5 When repairing or replacing masonry or mortar, take care to maintain the alignment, bond pattern, joint spacing, color, texture, and size of the original masonry.

3.6 Unless there is historic precedent for its use on the building in question, stucco should never be applied to existing masonry walls, as it can trap
moisture that accelerates the deterioration of the masonry. If existing stucco is being repaired, the stucco mixture should duplicate the original appearance, color, and texture as closely as possible.

3.7 Masonry should never be treated with abrasive stripping methods, sandblasting, or high-pressure water cleaning, as these methods almost always immediately damage the “skin” of the brick and the mortar joints, and they can make the masonry more susceptible to spalling, or flaking of the masonry surface as a result of the introduction of moisture. Masonry should only be cleaned using the gentlest method available, including low-pressure water, soft natural brushes, and, if necessary, non-abrasive, non-toxic chemicals that will not damage the masonry being treated.

3.8 Spalled masonry should never be repaired using cement infills or other patchwork repairs that will only further degrade the historic materials and alter the historic appearance of the building. Instead, spalled or delaminated bricks should be replaced with a similar brick stock or salvaged historic brick that matches the original in color, size, and appearance. New mortar joints should match the originals in color, composition, texture, and method of application.

3.9 All historic masonry architectural features, including cornices, moldings, chimneys, and other decorative flourishes, should be retained as they are integral to the architectural character and integrity of the building.
3.10 Deteriorated masonry chimneys should never be shortened or covered with parging. Instead, the original chimney configuration should be restored on historic properties using historically appropriate masonry and mortar materials. In addition, the design of the original chimney should be maintained, including corbelling, clay chimney pots, and other original decorative features. Metal chimney caps may be added if they are unobtrusive and do not alter the design of the chimney, but metal vent pipes that protrude through the top of the chimney are not appropriate. Wooden box chimneys and chimneys made of simulated brick or stone are also inappropriate.

3.11 Proper maintenance of masonry is essential to its long-term survival. Property owners should conduct periodic checks for moisture problems and cracking, and they should remove any vegetation that adheres to masonry (such as ivy and other vine plants) or that hinders ventilation and drainage around masonry elements. Vegetation should never be sprayed with defoliants, pesticides, or other harsh chemicals. Please consult with the Planning and Inspections Department for guidance on removal of vegetation on masonry.

4. Siding and Trim

Wooden siding is probably the most commonly found material on residential properties in the District. Traditional historic forms of siding include clapboards, weatherboard, shiplap, drop siding, flush siding, and board-and-batten siding. In some rare cases, wood shingles may also be found.

Maintaining wood siding is essential to the preservation of the historic property on which it appears. In addition to repairing and/or replacing damaged siding members, it is imperative that a regular maintenance program be in place in order to protect the integrity of historic properties that feature siding. This program should include routine caulking and sealing, cleaning, and painting.

4.1 The use of artificial siding (vinyl, aluminum, asphalt, asbestos, Masonite, pressboard, etc.) to cover original siding is not permitted in the District because it destroys the integrity of historic properties. Beyond covering up original architectural details, its installation damages the historic materials underneath, and the artificial siding itself often traps moisture that can lead to further damage of the historic materials. Because it covers historic natural materials, it can also hide the natural critters—termites, carpenter ants, mold, and fungus—that can damage those historic natural materials. In some very rare instances, some forms of artificial siding may be original to the property. Where this does occur, the original siding material should be maintained and repaired whenever possible.
4.2 The original form, details, and materials of exterior walls and trim should be preserved whenever feasible. If damage is present, repair using existing historic materials is always preferable over replacement. If replacement is necessary, replacement materials should duplicate the form, details, texture, size, shape, color, pattern, and composition of the historic wall surface and should be obtained from salvage or antique suppliers. Only the portion that requires replacement should be replaced. The HPC will consider the use of substitute materials ONLY if the historical material is not technically feasible or is no longer available.

4.3 Because its use is not historic to Boone’s residential historic districts, artificial bark siding is not permitted.

4.4 Wood elements that were traditionally stained, such as cedar shingles, should never be painted, as this destroys the historic appearance and integrity of the building.

4.5 Whenever possible, the removal of non-historic artificial siding and trim materials to uncover or facilitate the restoration of original historic siding and trim details is strongly encouraged.

4.6 Historic architectural metals, such as pressed tin, aluminum, and cast or wrought iron, should always be retained. If these items are not repairable due to rust or other deterioration, replacement materials should duplicate the form, details, texture, material, size, shape, color, pattern, and composition of the original. When cleaning of architectural materials is necessary, use the gentlest methods possible, such as water, a gentle, non-caustic soap, and soft bristle brushes.

5. Windows, Doors, and Awnings

The arrangement of doors and windows on an historic property is one of the most important elements of building design. It is imperative that these arrangements be preserved in order to maintain the integrity of individual historic properties and the integrity of the District. Because older windows and doors were not always designed with heating and cooling efficiency in mind, it is often tempting to property owners to replace these features with modern doors and windows. Despite the apparent advantages of doing so, replacement with modern doors and windows is often far more expensive than repairing existing historic doors and windows, and their use often completely destroys the integrity of the historic property in question. Furthermore, many companies are now producing “modern” wood replacement windows that replicate the appearance of their historic antecedents with fixed muntins but feature double-pane glass to assist with heating and cooling efficiency. The HPC reviews proposals for the use of modern wood replacement windows carefully to insure that muntin thickness aligns with the muntin dimensions of historic windows.
5.1 The pattern, arrangement, location, size, and shape of windows and doors contribute significantly to a building’s historic character, and their consistency within the district helps unify the buildings in context to one another. For this reason, it is always preferable to repair damaged windows and doors rather than replacing them. Furthermore, it is imperative that the fenestration pattern of the door and window openings on the building and of the doors and windows themselves (muntin width, number of lights per sash, etc.) be maintained when repairs to or replacement of elements is underway. It is never appropriate to introduce new features, such as vents, bays, windows, or door openings, in exterior walls if they diminish the historic character of the wall or damage historic materials.

5.2 Whenever possible, the original window and door hardware should be preserved and maintained, as these components are also vital elements of historic properties.

5.3 Whenever possible, other original window and door elements, such as sashes, glass, sills, frames, casings, weather-stripping, lintels, architraves, and shutters, should be repaired rather than replaced. This includes sidelights and fanlights on both doors and windows, which are vital architectural elements that help identify the style and period of a particular property. Snap-in muntins are not historically accurate and should always be avoided.

5.4 Unless restoring the appearance of a building to its original, historic context, the pattern, arrangements, and dimensions of doors and windows on principal elevations should be retained. On tertiary elevations not visible from the street, new door or window openings should be proportionate to existing ones and include matching design elements.

5.5 Reflective or tinted glass is not historically accurate to the District or its historic properties and should never be used.

5.6 In cases where historic windows are deteriorated or damaged beyond repair, replacement windows on historic properties must match the original, historic window casings, sash details, and muntin divisions. In most cases, this will mean the use of true, divided light sashes, rather than sashes featuring simulated divided lights. Grids between glass (GBG) windows, vinyl replacement windows, and windows made of fiberglass, aluminum, or other materials that are incongruous to the District are not permitted. For new windows in new construction or an addition to an historic property, new windows may use simulated divided light sashes (with muntins permanently attached to the interior and exterior of the window panes and a matching space in between the glazing) that
approximate the general appearance of windows in other residential properties in the District.

5.7 If a building did not historically possess shutters, they should not be added. Similarly, historic shutter elements should be repaired and retained. Existing shutters should never be replaced with materials that are not historic to the property (metal, vinyl, or plastic shutters, for example), nor should they be replaced with shutters of a different size or configuration, especially those that do not fit the window opening and are attached to existing siding or masonry.

5.8 Shutters should be attached to the window casing, not the siding or masonry, unless the original historic context of the property featured shutters attached to the siding or masonry.

5.9 It is appropriate to have original windows repaired and storm windows added to historic properties. This approach is preferable to replacement of original windows. Storm windows protect original windows, reduce heat loss, and are not a permanent change to a structure when installed properly. Original window and door elements should never be destroyed when storm windows or doors are installed on historic properties. Storm windows and doors should blend with the historic property, rather than appearing to be tacked on as an afterthought. Storm doors should have full glass with no meeting rails or muntins, while storm windows should have a meeting rail that aligns with the meeting rail of the window.

5.9 Raw metal storm windows and doors are not appropriate. When possible, interior storm windows are encouraged. Avoid poorly designed interior storm windows that can trap moisture between the storm window and the original window, causing damage to historic materials. If exterior storm windows and/or doors are installed, frames should be painted wood or painted or baked enamel finish aluminum.

5.10 Awnings are never appropriate on residences where there is no evidence of prior use of awnings or where there is evidence of historic use of shutters.

5.11 Awnings should be composed of canvas or acrylic. Metal awnings are never appropriate, except for historic properties erected after World War II that historically had metal awnings at the time of their construction.

5.12 Awnings on windows, entryways, and porches should be appropriate in design, proportion, scale, and color to the architectural style and period of the property. Awnings should be mounted within the window or entry opening, directly on the frame. If this is not possible, they should be
attached just outside the opening. If attached to a masonry building, attachments should be made in mortar joints and never in the brick itself.

6. Roofs

Among the most significant and important of the distinguishing characteristics of historic properties are the roof form and pitch, which are often essential to identifying the architectural style of a building. For this reason, it is imperative that every effort be made to preserve and maintain the original roof configuration and materials on historic properties, including dormers, turrets, balustrades, etc. While historic roofing materials should always be preserved whenever possible—especially if they consist of specialty roofing materials such as slate or tile—many roofing elements will require replacement due to deterioration and age. Note that North Carolina’s Building Code prohibits that application of more than two layers of roofing materials on a residence at any given time.

6.1 Significant changes to roofs of historic properties are not permitted, including the raising or lowering of pitch, the removal or alteration of widow’s walks, dormers, turrets, balustrades, bargeboards, quarter round, cornices, coping, dentil moldings, brackets, eaves, rafter tails, weather vanes, or lightning rods, the cutting back of roof overhang, and the replacement of historic roofing materials with modern materials that do not replicate the original appearance of the historic property’s roof. Open rafter tails and similar roof trim elements should never be obscured by boxed soffits or similar treatments. Specialty roofing materials, such as tile or patterned slate, should never be replaced with composition shingles. Original roofing materials should never be covered or replaced with a different type of roofing material, such as installing a standing seam metal roof over a slate or asphalt shingle roof.

6.2 Whenever possible, deteriorated soffits, fascia, moldings, brackets, eaves, rafter tails, cornices, coping, and other important roof components should be repaired. If replacement is necessary, it should be completed using historic materials if possible, and at minimum with equivalent materials that replicate the appearance, configuration, size, scale, and composition of the original historic materials. Underlying roofing components are just as important. For example, tongue-and-groove soffit lumber should never be replaced with plywood, and whenever possible, damaged or deteriorated roof decking should be replaced with similar materials rather than modern materials that are not historically appropriate to the house.

6.3 Dormers and gables should never be added to the primary and secondary elevations visible from the street (unless replacing an historic element that had been previously removed) and should be added to tertiary elevations only when it can be shown that they are appropriate for the house style. Skylights, solar panels, power ventilators, and mechanical equipment
should always be restricted to the tertiary elevation slopes of the roof and hidden from the street. Screening materials should never be erected on top of a roof to obscure such elements.

6.4 It is important to provide adequate ventilation for roofing components, as excessive heat buildup under the roof can shorten the life of shingles. Ventilators should be located in an inconspicuous place, preferably on tertiary roof slopes not visible from the street, and low-profile mechanical or power ventilators are best. Soffit vents are permissible as long as the original soffit lumber is retained. On historic properties that already possess louvered wood gable vents, these should never be covered or replaced with metal louvers.

The use of tar as a flashing material, as seen around the second story porch of this historic and otherwise very attractive Boone residence, can damage original masonry and is unsightly. Photo courtesy of Eric Plaag, 2013.

6.5 Tar or roofing cement should never be used as a substitute for properly installed flashing. In most instances, metal flashing is always preferred over asphalt shingle weaving, particularly in valley flashing situations.
6.6 Deteriorated roof coverings should be replaced with materials that are compatible with the old in composition, size, texture, pattern, and color once the structural integrity of the roof decking is assured. If at all possible, the use of historic replacement materials for slate, clay tile, terracotta, pressed metal shingle, and wood shingle roofs is always preferred over new materials. Unless historically appropriate to the building in question, white or very light shingles are not permitted. Exposed tarpaper rolls are also not permitted as a roofing material.

6.7 Metal gutters, downspouts, and other drainage devices are common on historic residences and should always be retained whenever possible, as they provide important protection for both the roof and the foundation of the property. Built-in gutters that are an important part of the architecture of the building should always be repaired rather than replaced if they become deteriorated. When metal finishes must be replaced because of rust or other deterioration, replace ONLY deteriorated material or detail with new materials that match the previously existing historic material in composition, size, shape, texture, pattern, color, and detail. Replacement gutters and downspouts should never conceal or interfere with architectural trim details. It is not appropriate to paint metal finishes, such as metal downspouts or copper trim, if these items were historically unpainted.

6.8 Flashing materials should blend in color with the roof or chimney color. Whenever possible, historically appropriate splash blocks at the base of downspouts should be used to direct water away from the building’s foundation. (Please note that the Town of Boone’s storm water detention requirements may apply to the use of splash blocks.)

7. Entrances, Porches, and Balconies

One of the most significant and defining characteristics of residential architecture is the main or front entrance, including any porches that surround or frame that entrance. In Boone, the front porch was also often one of the most socially important areas of a home—a place where hosts greeted their guests and where neighbors often exchanged news and stories with one another. Unfortunately, main or front entrances are also often the most altered elements of historic properties.

Many historic entrances, porches, and balconies contain architectural elements that are essential to communicating the architectural style of the home. Machine-carved balustrades, spindles, brackets, and posts were common in many of the District’s historic homes, but hand-worked elements were also not uncommon. Preserving these details is vital to preserving the appearance and integrity of the District’s historic domestic architecture.
7.1 Entrances, porches, and balconies, as used in this section, include front (primary elevation), side (secondary elevation), and rear (tertiary elevation) porches, mudrooms, porticos, sleeping porches, balconies, pergolas, terraces, widow’s walks, and entrances. Components of porches include steps, balustrades, columns, trellises, skirt boards, fascias, brackets, and various ornamental details. Most original porches and balconies were built with a slight pitch away from the residence to facilitate the runoff of rainwater.

7.2 Because of their architectural significance, porches, balconies, and entrance configurations—especially those on the front or main elevation—and all of their architectural details (steps, balustrades, brackets, spindlework, columns, roofs, etc.) should be preserved in their original form and detail whenever possible. It is inappropriate to enclose porches and balconies on the front or main elevation for use as an interior space. In addition, the original pitch of porches and balconies should be maintained in order to facilitate the runoff of rainwater and snowmelt. Porches and balconies must be properly maintained and repaired as necessary, as they are exposed to the weather and will deteriorate if regular maintenance is not conducted.
Original entrance configurations and porches should never be closed in or obscured by additions to historic properties. Alterations to the porch of the Watauga County Jail from its appearance in this 1940 image have obscured architectural details and made interpretation of the porch difficult. Image courtesy of the David Wyke Collection, Digital Watauga Project.

7.3 If an historic porch or balcony is completely missing (or if architectural elements associated with the porch or balcony are missing), it should be replaced with a reconstruction based on accurate historic documentation or a new design that is appropriate for the building in terms of architectural style, materials, roof form, details, scale, size, and ornamentation. Adding details that are not historical to create a false historical appearance is never appropriate.

7.4 If an historic porch or balcony requires repair or replacement of original materials, use only materials that are compatible with the original materials associated with the porch or balcony. These replacement materials should match the previously existing historic materials in composition, size, shape, texture, pattern, color, and detail.
7.5 Whenever possible, existing, non-historical enclosures of and additions to historic porches and balconies should be removed and the original appearance of the porch or balcony restored.

7.6 Side and rear porches (i.e., not located on the primary elevation) may be enclosed for interior space, provided that the proposed design of the enclosure is compatible with the architecture of the historic property and the enclosure is reversible. Side porches and rear porches not located on the main elevation may also be screened, provided that framing for the screening and the screening itself is placed behind columns or balustrades. Any such enclosures or screening should be designed so that they can later be removed without damage to the integrity of the historic structure.
Historic stairways and walkways in front of a property, like this one in front of the Linney House on West King Street, are important historic resources on the landscape of properties in the District. They should be maintained and preserved whenever possible. Photo by Eric Plaag, 2013.

7.7 Original porch steps should always be retained. If repair or replacement of porch step materials is necessary, the design, configuration, dimensions, and materials should match the original as closely as possible. In addition, historic stairways and walkways that are part of the landscape around a building—even though not technically part of the building’s architecture—are nevertheless an important part of the landscape that accompanies the property and often informs the architectural style and patterns of the
property. These elements should always be retained and repaired with appropriate materials whenever possible.

7.8 Decks may be added on the rear (tertiary) elevation of a historic property, provided their addition does not require the removal of large, healthy trees, and their design is compatible in scale with the historic property. They should always be designed and installed in such a manner that they may be removed without damage to the historic building. Removal of historic building materials to facilitate the installation of a deck is never acceptable.

7.9 Vegetative screening should be employed to obscure the visibility of decks from the street. The underside of decks should also employ latticework or vegetative screening to incorporate the deck element into the general whole of the building in question.

7.10 Floor coverings, such as artificial turf, indoor/outdoor carpeting, linoleum, and other similar materials (aside from a small doormat near an entrance) should never be installed on porch, balcony, or deck floors, as these materials can trap water and damage the historic architectural elements below.

8. Paint and Paint Color

Determining the original colors associated with historic properties, especially those built before World War II, is very difficult because of the rarity of color photography during the pre-World War II period. While color chronology tests can help to determine original paint colors (contact the State Historic Preservation Office for assistance), this process is difficult, sometimes inconclusive, and often expensive.

Instead, the architectural style of a building can often be a guide to historic colors. While the District does not contain much Victorian residential architecture, such homes, especially Queen Anne style homes—often known colloquially as “painted ladies”—were usually painted in a variety of bold, contrasting colors that might seem gaudy to modern eyes. By contrast, Depression-era homeowners often relied on basic white paint or whitewashing, as it was believed that houses painted white would sell more quickly; as a result, more traditional or historic paint colors may have been covered up through these practices.

While the HPC does not regulate paint colors in the District per se, property owners are required to submit proposed paint samples as part of any COA application and seek guidance from the HPC when considering paint schemes for historic properties. Nevertheless, paint colors and applications must comply with all other general requirements outlined in the Town of Boone UDO. Beyond this, some general standards are applied by the HPC when considering paint in relation to historic properties.
8.1 It is NOT appropriate to apply paint or other coatings to unpainted wall materials and surfaces/finishes that were historically left unpainted, including masonry, stonework, wood shingles, stained wood surfaces, and metal.

8.2 It is NOT appropriate to use abrasive techniques for cleaning or removing paint from exterior walls and trim, such as sandblasting, high-pressure waterblasting, blowtorching, or other methods that may damage the surface. In general, old paint should not be removed unless there is a compelling reason to do so, such as revealing an obscured architectural detail or correcting a severe peeling or cracking problem in existing paint.

Removal of non-historic paint from masonry can be challenging and problematic, and doing so requires strict adherence to preservation guidance published by the National Park Service. Generally speaking, such work should be completed by a professional trained in historic preservation methods and using a chemical paint remover specifically intended for masonry and the gentlest application means possible. In some instances, inappropriately applied paints may not be removable without damaging the underlying masonry, so it is always advisable to test removal techniques in an area that is not easily visible to the public. The HPC will provide guidance in such instances on the best approach to addressing unusual paint removal challenges.

8.3 Select paint colors that are appropriate for the building’s architectural style and that are complementary to neighboring buildings. In general, color should function as a method of contrasting among different materials and architectural elements that make up the house. Typically, trimwork—including window and door casings and surrounds, soffits, fascia, and other elements—is often painted with a contrasting or lower value hue than the weatherboard or siding, especially on Victorian-era properties. Wood shingles are usually stained a dark color and often darker than any associated wood siding.

8.4 Wooden steps should always be painted to match the color of a wooden porch floor.

9. Utilities and Energy Retrofit

Updating utilities and energy systems in historic homes is a common and natural event in the life of a house. As technology improves and environmentally friendly mechanical systems become more readily available, many homeowners will desire to improve the efficiency of their historic homes. The HPC encourages the installation, rehabilitation, or replacement of mechanical systems—in compliance with local building codes and utility company standards—with systems that will improve the overall efficiency of those
properties. That said, these mechanical systems, when installed in or on an historic property, must comply with certain essential standards.

9.1 Install utilities and mechanical equipment in areas and spaces that will require the least possible alteration to the plan, materials, and appearance of the building. Installation at the rear (tertiary elevation) of the building, if feasible, is preferred.

9.2 It is NOT appropriate to locate mechanical equipment farther forward on the property (i.e., toward the street facing the primary elevation) than the midpoint of the primary building.

9.3 Ductwork, piping, fuel tanks, plumbing vents, solar collectors, and satellite dishes should not be visible from the street. Equipment that can be seen from the street should be screened with shrubbery or fencing.

9.4 If an interior location is not feasible, place utilities and mechanical equipment and conduit in inconspicuous locations and/or conceal with architectural elements such as downspouts.

9.5 The location of solar collectors or solar panels should be aligned on the building’s roof in the direction of greatest effectiveness with a minimized view of such equipment from the primary elevation of the structure.

10. Accessibility, Health, and Safety Considerations

Modern building codes and/or the needs of the families who own and live in historic properties often mean that a variety of accessibility and safety elements must be installed in those properties. Careful planning ensures that the integrity of historic properties can be maintained in spite of the addition of these non-historic elements.

10.1 New exterior fire escapes are not permitted on historic properties unless more adequate exit facilities cannot be provided. If they must be installed, fire escapes generally should be located at the rear (tertiary elevation) of the building and never along an elevation visible from an adjacent street.
The J. W. and Mattie Jones House, listed on the National Register of Historic Places and presently used by the Town of Boone as a community center and the home of some town offices, is an excellent example of the preservation of domestic architecture within the downtown historic district area. To achieve its accessibility requirements, access facilities were located at the rear of the building, thus minimizing the impact on the historic integrity of the property. Photo courtesy of Eric Plaag, 2013.

10.2 Introducing items such as wheelchair ramps, fire exits, and fire stairs without damaging the character of a historic structure requires careful planning. Owners should introduce fire exits, stairs, landings, and ramps on rear (tertiary elevation) or inconspicuous side (secondary elevation) locations. If access ramps must be installed in a manner that makes them visible from the public right-of-way, they should be constructed in a manner that makes them as simple and compact as possible and limits their projection from the building.

10.3 Construct fire exits, stairs, landings, and ramps in such a manner that they do not damage or significantly obscure historical materials and features. Such additions should be designed to be complementary to the architectural style, materials, scale, and function of the historic property.
10.4 Whenever possible, existing exterior fire escapes and stairways that are not original to historic properties should be relocated from front or exposed elevations to a rear or unexposed elevation.

11. Additional Standards on Artificial Materials

Over the years, many clapboard houses in Boone were covered with aluminum or asbestos siding. Due to the loss of both historic character and original materials inherent in the application of such substitute materials, the damage caused during installation, and the potential for undetected insect infestation and moisture damage, the practice is not acceptable for a historic residential property in the District. The removal of previously installed substitute siding is strongly encouraged. Previously installed vinyl windows and snap-in muntins are examples of inappropriate replacements for wood windows and should also be removed and replaced with more historically appropriate materials whenever possible.

12. Additions to Existing Buildings in the District

The completion of an addition to a historic property may improve the functionality of an existing building, but it also has the potential to seriously damage the historic integrity of that property. Generally speaking, additions accordingly should be kept to a minimum and always be reversible without resulting in permanent damage to the essential form and integrity of the historic property.

12.1 New additions should be compatible with the original building in scale, placement, proportion, and design, including roof shape, materials, color, location and design of windows and doors, cornice heights, and other design elements.

12.2 New additions should NOT imitate an earlier historic style or architectural period, but they also should not differ from the earlier historical style so much as to be a distraction from or incompatible with the historic design.

12.3 Additions should be differentiated from the original by the use of setbacks or other devices. Whenever possible, additions should be located to the rear (tertiary elevation) or in an inconspicuous location on the side (secondary elevation) of the original building. They should never be attached to the front of the historic property.

12.4 An addition should NOT obscure the original form and proportions of the main building or of other historical additions.

12.5 Additions should be constructed on a smaller scale than the historic structure and not overpower it.
Additions like the one shown on the left side of this Grand Boulevard home should incorporate their own architectural style while also remaining harmonious with the historic part of the building. The use of a roofline distinction can also help communicate that the addition was not part of the original house without distracting from the architectural character of the original section. A lower roof pitch in the addition here, rather than the higher pitch selected, would have helped to further mute the overall impact of the addition on the rest of the property. Photo courtesy of Eric Plaag, 2013.

12.6 Construction should be carried out in a manner that avoids removal or loss of historic materials and damage or destruction of significant original architectural features.

12.7 Construction should impact the exterior walls of the original building as minimally as possible using existing door and window openings for connecting the addition to the original building.

13. New Construction of Residential Buildings within the District

It is inevitable that new buildings will be constructed within the District. The intention of these design standards is not to prevent such changes but to ensure that new construction is compatible with and complementary to the integrity and architectural character of the District. While new residential buildings should not attempt to replicate existing historic properties, they should mesh with and support the historic design.
principles of the other residential properties in the District. These standards are intended to preserve the integrity of the District while also encouraging sensitive and appropriate new construction.

13.1 New residential construction within the District should not seek to duplicate historic buildings in the District or mimic their appearance. That said, new construction should strive to be sensitive to and compatible with the character-defining features of the residential properties in the District. Thus, new construction should employ architectural design that reflects its current time, place, use, and culture, provided that this design is compatible with the character of the District.

13.2 The appropriateness of the site for a new construction project will be evaluated based upon its compatibility with the District context in terms of setback, spacing, orientation, topography, height, and landscaping. New residential buildings should have setbacks, orientation, lot coverage, and spacing that align with existing historic properties and comply with the provisions of the Town UDO.

13.3 New construction should respect the existing topography and vegetation on the site. Large-scale grading to level or otherwise dramatically alter the natural slope of a lot is destructive to the historic landscape and is not appropriate. Whenever possible, existing trees and historic landscape features should be incorporated into the design for a new property. If large trees must be removed, they should be replaced with trees similar in type and species. During construction, any mature tree that will not be removed should be protected with appropriate fencing around the tree’s canopy area that will eliminate construction parking, material storage, and concrete washout that could harm the mature tree.

13.4 The appropriateness of a proposed new residential building will be evaluated based on compatibility in terms of scale, height, form, massing, materials, openings, roof pitch, roof type, and other details within the District context.

13.5 New residential construction should incorporate architectural elements and details into the new design that provide human scale, such as porches and trim.

13.6 Oversized and monumental scale architecture is not appropriate, and the overall height and width of the new residential buildings should be compatible with neighboring structures and Town UDO requirements.

13.7 Design new residential buildings using exterior materials typical of historic buildings in the District, including brick, wood, and stone.
13.8 It is NOT appropriate in new residential construction to use contemporary substitute materials such as vinyl or aluminum siding, fiber cement siding and other simulated wood products, or artificial stacked stone in place of traditional materials historically used in residential architecture in the District.

14. Minimum Spacing and Height Requirements for Residential Structures

For details on the minimum spacing and height requirements for residential structures in the District, please consult the Town of Boone UDO.
Design Standards
For
Commercial Properties Within the District

Standards for Commercial Properties within the District

These Standards for commercial properties are intended to address many of the most common issues to arise during renovations, additions, and new construction in the District. Where the Standards are silent on a particular issue or concern, the HPC will rely upon the Secretary of the Interior’s Standards for Rehabilitation to guide their review of the proposed work under the COA process and any subsequent recommendations.

“Commercial Property” Defined

A commercial property within the District is any property whose purpose-built function at the time of construction was primarily to serve a commercial, institutional, or governmental purpose or use. More specifically, commercial properties include 1) any building whose original configuration included commercial, institutional, or governmental uses on the ground floor accessed via the entrance(s) located on the primary elevation, even if residential spaces were available elsewhere in the building (such as a commercial block building with stores on the first floor and apartments on the second floor), or 2) any building with a garage bay or bays on the ground floor accessed via the entrance(s) located on the primary elevation and commercial, institutional, or governmental spaces located elsewhere in the building (such as a garage building with an office or store located on an upper floor or in the basement).

Any property within the District whose purpose-built function at the time of construction was to serve solely as a residence for long-term (greater than 30 days) occupants, even if the property currently serves a commercial use, is still considered a residential property. For standards for residential properties, please see the “Standards for Residential Properties within the District” section elsewhere in this publication.

1. Storefronts, Upper Facades, Side Elevations, and Rear Elevations

Downtown Boone is dominated by historic properties that reflect the commercial block architecture that was so common and influential during the period from 1910 to 1960 in many American towns and cities. In the case of the District, commercial block development began around 1919 and continued to the early 1960s. Central to this architecture is the importance of the storefront itself, whose familiar architectural details—large display windows, transom bars and windows, clerestory recessed entries,
and prominent cornice and corbelling work—frequently signaled to customers not only the function of a business but also the quality of its wares. Many other elements—including projecting, flat awnings anchored to the façade with cables or steel rods, or fabric awnings amounted on metal frames, hinged or unhinged—provided customers with shelter from the elements while window shopping or otherwise enhanced the shopping experience. After 1950, many of these architectural details were removed, either in response to decay of these features or in an effort to “update” a building to the stylistic preferences of a later time. One such example is the Appalachian Theatre on West King Street, whose original Art Deco marquee and structural glass were removed during the late 1970s in response to safety concerns. Other elements—most notably transoms and clerestory windows, as well as the details of upper facades—were simply covered over and may still survive today underneath modern additions to the facades of many of Boone’s historic downtown properties in the District.

This West King Street building is an outstanding example of successful façade restoration and preservation that uncovered numerous original storefront details, including the clerestory windows above the shop windows and entrance. Photo courtesy of Eric Plaag, 2013.
Similarly, secondary and tertiary elevations of many of Boone’s historic commercial properties are vital to the character and integrity of its downtown commercial district. Often, significant side (secondary) elevations are located on corner buildings adjacent to two or even three streets, but sometimes such details are visible on mid-block buildings separated from nearby buildings by an alleyway or a vacant lot. Many of these buildings retain original fenestration, entrances, brickwork, and/or advertisements (some of the “ghost ad” variety) that contribute in their own significant way to the architectural character of the downtown historic district. Similarly, rear (tertiary) elevations can possess many of these same characteristics and also reveal much about the history of a property because of their frequently utilitarian design intended for the workers, owners, and residents who most often saw these rear elevations.

In an effort to preserve what remains of the District’s historic commercial architecture and encourage the reconstruction or rehabilitation of elements that have been removed or covered over, the standards for storefronts, upper facades, and other elevations are intended to facilitate preservation and reconstruction wherever possible while also addressing new construction and its compatibility with the rest of the District.

1.1 Whenever possible, historic storefronts and storefront features such as entrance configurations, display windows, doors, clerestory windows, transom bars and windows, bulkheads, corbelling, cornice work, windows, stonework, stringcourses, structural glass, and other architectural flourishes should be retained and preserved. When repairing these features, retain and preserve in place original elements as much as possible. If repair is not possible, replace damaged elements with materials that match the originals in composition, design, texture, color, and other visual qualities.
“Mountain village” porch coverings like this one on King Street are never historically appropriate to the District and should be removed in favor of historically documented metal-frame or cable-hung awnings as part of facade rehabilitation efforts. Hidden historic architectural elements, such as clerestory windows and transoms, should also be uncovered and restored. Photo by Paul Fuller, 2016.

1.2 When reconstructing an historic storefront, upper façade, or other elevation, use historical research and evidence as the basis for the design. Reconstructed storefronts should incorporate original dimensions, proportions, and architectural elements.

1.3 In making changes to storefronts or other elevations to comply with code or accessibility requirements, avoid destroying historic materials and features and select configurations that have minimal intrusion or impact on the character-defining aspects of the property in question.

1.4 When original or early storefronts or upper facades no longer exist, are too deteriorated to save, or cannot be reconstructed based on the available documentary evidence, retain the commercial character and any salvageable architectural details through a contemporary design that is
compatible with the scale, materials, color, style, design, and texture of the surviving and surrounding historic buildings.

This building on West King Street is an example of both “good” and “bad” preservation decisions made in 2004. While much of the original brick detailing, corbelling, and ornamentation of the façade has been preserved, this upper façade’s windows were replaced with modern materials, and the prominent, ornate cartouche that once appeared between these windows was removed in favor of modern signage. Another renovation in 2018-19 added a rooftop bar structure that adversely impacts the historical integrity of the building as well as the District as a whole. Photo courtesy of Eric Plaag, 2013.

1.5 Original upper facade windows should not be removed and replaced with modern materials, nor is the enclosing or bricking in of upper facade windows appropriate. When upper floor windows must be replaced, use new windows that match the original windows in configuration, appearance, and materials.

1.6 It is never appropriate to cover an historic upper facade. Whenever possible, non-historic coverings of upper facades, including metal, stucco, or faux mountain village fronts and porches, should be removed and underlying original architectural elements repaired and restored.
Historic painted advertisements are a significant element of the architectural and commercial history of downtown Boone, and their preservation and restoration are recommended whenever feasible, even if the product or store advertised is no longer available or in business.

Facade details of side (secondary) and rear (tertiary) elevations should always be retained and preserved if possible. When repairing these features, retain and preserve in place original elements as much as possible. If repair is not possible, replace damaged elements with materials that match the originals in composition, design, texture, color, and other visual qualities. If there is evidence of a rear public entrance that is no longer extant, use historical research and other evidence to reconstruct or provide an equivalent rear entrance whenever possible.

Utility lines, mechanical equipment, pipes, garbage receptacles, and other service items on side (secondary) and rear (tertiary) elevations—whether old or new—should be screened from public view whenever possible.
Unnecessary or out-of-service elements should be removed unless they are essential to the historic character of the property.

2. Architectural Components and Details

Exterior architectural components, including door and window casings, storefront configurations, cast iron ornamentation, stone relief, cornices, columns, brackets, porch railings, soffits, fascias, roof configurations, trim details, architectural flourishes, and various joinery and surface patterns all contribute significantly to the character and historical integrity of properties located within the District. Because many of these components are either irreplaceable or very expensive to reproduce, they should be maintained and valued in the same way that one might consider an important family heirloom or expensive antique furniture. In many cases, missing or damaged architectural details can be replaced with like items from salvage yards, antique shops, or mail order companies that specialize in replacement of historic architectural components. If such items cannot be replaced, many construction supply companies stock simulations of period architectural components that are approved by the Secretary of the Interior and the National Park Service as suitable historic replacements. In any event, before replacing any exterior architectural component, property owners should familiarize themselves with the architectural style and historic characteristics of their building to avoid introduction of inappropriate elements.

2.1 It is important to preserve character-defining, historical, architectural features of exterior walls, such as cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, quoins, columns, brickwork, string courses, and decorative moldings. Original architectural details should always be retained if structurally feasible, even if portions of the original material are damaged or deteriorated to a point requiring replacement. If original details are missing, design replacement features based on historic photos and other documentation.

2.2 It is NOT appropriate to cover or remove rather than repair or replace in kind such features when they are deteriorated. If replacement is necessary, the new materials should match the materials being replaced in composition, design, texture, color, and other visual qualities. Original architectural features that are covered should be uncovered, exposed, repaired and/or restored, and maintained.

2.3 It is NOT appropriate to cover or replace historic materials with substitute materials, such as aluminum, vinyl, fiber cement board siding (or similar materials simulating the appearance of wood), or plywood panels. Architectural details that are not appropriate to the historic context and character of a building should never be added. At the same time, property owners should never use details from an earlier period to try to make a building look older than it is.
2.4 Historic architectural metals, such as pressed tin, aluminum, and cast or wrought iron, should always be retained. If these items are not repairable due to rust or other deterioration, replacement materials should duplicate the form, details, texture, material, size, shape, color, pattern, and composition of the original. When cleaning of architectural metals is necessary, use the gentlest methods possible, such as water, a gentle, non-caustic soap, and soft bristle brushes.

3. Foundations

For most property owners of commercial properties, solid masonry walls on the exterior of the building will obscure the foundation of their historic property. For others, the foundation will resemble the type found in residential architecture and will consist of either piers of masonry or a complete masonry wall on the perimeter of the structure as well as interior piers or walls for support and a sill plate connecting the perimeter wall with the rest of the building. Some historic commercial buildings in Downtown Boone will have cast concrete or even stacked stone foundations below the first floor level of the primary elevation. In some cases, masonry walls have been added between original masonry piers on the perimeter of the foundation.

Settling—sometimes of an inch or more—is quite common and should be expected in a historic property, often in an uneven or disproportionate manner along the entirety of the foundation. Settling also typically cracks mortar joints. For this reason, it is part of routine maintenance to periodically re-point mortar joints and inspect for more severe settling problems. In some cases, property owners will need to consult with a masonry contractor or civil engineer to correct serious settling problems. A number of less expensive and fairly common repair “tricks” are inappropriate for historic properties and can actually cause further damage to the historic fabric and integrity of the property.

3.1 Whenever a foundation requires repairs, always use the original bricks or stones if possible. If these materials are damaged beyond repair, replace them with bricks or stones similar in size, color, and surface texture to the originals. If using recycled bricks, always put the weathered side to the exterior in order to maintain the historic appearance of the foundation walls and/or piers.

3.2 In repairing or reconstructing a foundation, the historic bond patterns and mortar treatments should always be replicated. Brick header or rowlock rows, soldier or sailor courses, band boards, water tables, driplines, and other horizontal design elements should match and align with the existing historic elements.

3.3 Sandblasting, painting, waterproofing, and parging—a technique of applying a cement-like coating to a deteriorating foundation in order to avoid repairs—should never be employed on the exposed portions of foundation exteriors, as all of these methods damage original masonry
and mortar treatments. In addition, non-porous applications trap moisture that can freeze, cause further damage to masonry, and result in damage to the interior of the building.

3.4 Exposed concrete block, cast concrete walls, and pre-cast concrete panels are strongly discouraged, unless these components are already part of the historic context of the property in question. Such treatments are somewhat common in the District and should be left intact if original, rather than covered over.

3.5 If closing in the openings between brick piers, use matching masonry materials or lattice that is slightly recessed from the façade plain of the historic masonry. Note that foundations need to be vented. Vents should be painted a color that blends with the existing foundation color.

3.6 Access doors to basements or foundation crawlspace should always be located in an area not visible from the street unless a different configuration that aligns with the building’s historic context already exists.

4. Masonry

Many commercial properties in the District are composed of brick or stone masonry, and it is imperative that original masonry materials—many of which have a weathered appearance reflecting the history of the building—remain preserved whenever possible. For this reason, masonry should never be cleaned unless it is determined that perceived “dirt” is actually accumulated deposits and not the effects of weathering. If cleaning is pursued, always use the gentlest method available, preferably with low-pressure water, a mild, non-caustic detergent, and a natural bristle brush where needed. In addition, while re-pointing is sometimes necessary when mortar is missing or moisture problems have developed, it should only be completed in a manner that avoids smearing the mortar onto the surface of the masonry.

Terracotta, stucco, and concrete are other masonry elements that are occasionally found on historic commercial properties in Boone. In addition, many historic commercial properties feature chimneys, arches, quoins, lintels, sills, cornices, corbelling, and pediments that are all essential to the historic character of the building in question.

4.1 It is NEVER appropriate to paint masonry materials, such as brick, concrete block, cast concrete, or stone, that were historically unpainted, including masonry associated with foundations. If there is historic precedent for painting of masonry in the building’s original historic context, it should be completed using colors that can be documented with original historic photographic evidence or analysis of original paint samples.

Removal of non-historic paint from masonry can be challenging and problematic, and doing so requires strict adherence to preservation
guidance published by the National Park Service. Generally speaking, such work should be completed by a professional trained in historic preservation methods and using a chemical paint remover specifically intended for masonry and the gentlest application means possible. In some instances, inappropriately applied paints may not be removable without damaging the underlying masonry, so it is always advisable to test removal techniques in an area that is not easily visible to the public. The HPC will provide guidance in such instances on the best approach to addressing unusual paint removal challenges.

4.2 Whenever feasible, historic masonry, including decorative masonry features, should be repaired rather than replaced or covered. When replacement is necessary, it should always be completed using traditional materials of like composition, size, color, shape, pattern, texture, and quality to the originals that are being replaced.

4.3 Re-pointing of masonry should also be completed using materials that duplicate the existing mortar in appearance, texture, and color. Colored sands or mineral-pigmented mortar can be used to achieve a match with the existing mortar. Portland cement should be avoided in mortar, as it may produce a mortar that is stronger than the surrounding masonry, potentially causing the masonry to crumble.

4.4 Unless there is a specific reason for using waterproof or water-repellent coatings (e.g., brick that has previously been sandblasted, creating a porosity problem), these treatments should be avoided, as they can accelerate deterioration of historic masonry.

4.5 When repairing or replacing masonry or mortar, take care to maintain the alignment, bond pattern, joint spacing, color, texture, and size of the original masonry.

4.6 Unless there is historic precedent for its use on the building in question, stucco should never be applied to existing masonry walls, as it can trap moisture that accelerates the deterioration of the masonry. If historic stucco is being repaired, the stucco mixture should duplicate the original appearance, color, and texture as closely as possible.
Retaining original masonry configurations, patterns, and detailing is essential to preserving the architectural character of the District. Veneer walls used to obscure original details, like the one on the left side of this complex that covers original masonry and a ghost ad, are always inappropriate. Photo courtesy of Eric Plaag, 2013.

4.7 Masonry should never be treated with abrasive stripping methods, sandblasting, or high-pressure water cleaning, as these methods almost always immediately damage the “skin” of the brick and the mortar joints, and they can make the masonry more susceptible to spalling, or flaking of the masonry surface as a result of the introduction of moisture. Masonry should only be cleaned using the gentlest method available, including low-pressure water, soft natural brushes, and, if necessary, non-abrasive, non-toxic chemicals that will not damage the masonry being treated.

4.8 All historic masonry architectural features, including cornices, moldings, chimneys, and other decorative flourishes, should be retained as they are essential to the architectural character and integrity of the building.
This West King Street property has suffered from poor attempts at re-pointing the masonry between the roofline and upper story windows. Photo courtesy of Eric Plaag, 2013.

4.9 Deteriorated masonry chimneys and boiler stacks should never be shortened or covered with parging. Instead, the original chimney configuration should be restored on historic properties using historically appropriate masonry and mortar materials. In addition, the design of the original chimney should be maintained, including corbelling, clay chimney pots, and other original decorative features. Metal chimney caps may be added if they are unobtrusive and do not alter the design of the chimney, but metal vent pipes that protrude through the top of the chimney are not appropriate. Wooden box chimneys and chimneys made of simulated brick or stone are also inappropriate.

4.10 Proper maintenance of masonry is essential to its long-term survival. Property owners should conduct periodic checks for moisture problems and cracking, and they should remove any vegetation that adheres to masonry (such as ivy and other vine plants) or that hinders ventilation and drainage around masonry elements. Vegetation should never be sprayed with defoliants, pesticides, or other harsh chemicals. Please consult with
the Planning and Inspections Department for guidance on removal of vegetation on masonry.

Spalling, as seen on the western wall of this King Street building, is often the result of moisture being trapped behind the brick face, freezing, and thus forcing the brick face to pop off. Attempting to cover the spalling through the use of cement infills or other patchwork repairs, as seen here, actually amplifies the spalling issue, damages surrounding brick, and degrades the historical integrity of the building. It is not recommended. Photo by Eric Plaag, 2015.

4.11 Spalled masonry should never be repaired using cement infills or other patchwork repairs that will only further degrade the historic materials and alter the historic appearance of the building. Instead, spalled or delaminated bricks should be replaced with a similar brick stock or salvaged historic brick that matches the original in color, size, and appearance. New mortar joints should match the originals in color, composition, texture, and method of application.

5. Wooden Elements
Wooden bulkheads below display windows, window sashes, cornices, doors and doorframes, and trim are probably the most common wooden historic materials found on commercial buildings in the District. These wooden design elements are important components of the architectural character and integrity of the District.

Maintaining wooden elements is essential to the preservation of the historic properties on which they appear. In addition to repairing and/or replacing damaged wooden details, it is imperative that a regular maintenance program be in place in order to protect the integrity of historic properties that feature wooden design components. This program should include routine caulking and sealing, cleaning, and painting or staining where appropriate.

5.1 The use of artificial siding (vinyl, aluminum, asphalt, asbestos, Masonite, pressboard, hardboard etc.) to cover original wood siding is not permitted in the District because it destroys the integrity of historic properties. Beyond covering up original architectural details, its installation damages the historic materials underneath, and the artificial siding itself often traps moisture that can lead to further damage of the historic materials. Because these man-made materials cover historic natural materials, they can also hide damage caused by termites, carpenter ants, fungi, mold, and other natural invaders. In some very rare instances, some forms of artificial siding may be original to the property. Where this does occur, the original siding material should be maintained and repaired whenever possible.

5.2 The original form, details, and materials of exterior wooden features and trim should be preserved whenever feasible. If damage is present, repair using existing historic materials is always preferable over replacement. Where necessary, patching with new wood, the use of epoxy, splicing, consolidating, and reinforcing deteriorated sections should be considered before replacing historic elements. If replacement is necessary, new materials should duplicate the form, details, texture, size, shape, color, pattern, and composition of the historic wooden elements and should be obtained from salvage or antique suppliers. Only the portion that requires replacement should be replaced. The HPC will consider the use of substitute materials ONLY if the preservation of the historic material is not technically feasible, or is no longer available.

5.3 Because its use is not historic to the District, artificial bark siding is not permitted in the District.

5.4 Wood elements that were traditionally stained, such as cedar shingles, should never be painted, as this destroys the historic appearance and integrity of the building.
5.5 Whenever possible, the removal of non-historic artificial siding and trim materials to uncover or facilitate the restoration of original historic wooden details is strongly encouraged.

5.6 It is never appropriate to replace historic wooden architectural materials—especially in siding, trim, or window sashes—with contemporary substitute materials such as vinyl or aluminum.

6. Windows, Doors, and Awnings

The arrangement of doors and windows on an historic property is one of the most important elements of building design. It is imperative that these arrangements be preserved in order to maintain the integrity of individual historic properties and the integrity of the District. Because older windows and doors were not always designed with heating and cooling efficiency in mind, it is often tempting to property owners to replace these features with modern doors and windows. Despite the apparent advantages of doing so, replacement with modern doors and windows is often far more expensive than repairing existing historic doors and windows, and their use often completely destroys the integrity of the historic property in question. Furthermore, many companies are now producing “modern” wood replacement windows that replicate the appearance of their historic antecedents with fixed muntins but feature double-pane glass to assist with heating and cooling efficiency. The HPC reviews proposals for the use of modern wood replacement windows carefully to insure that muntin thickness aligns with the muntin dimensions of historic windows.

Boone’s downtown commercial historic district has also suffered from the installation of various architectural elements designed to simulate a “mountain village” appearance. These typically consist of large, wooden porch attachments or awnings that are not historically appropriate to the downtown area and its historic context. Metal and modern vinyl awnings have also appeared on some properties, disrupting the integrity of many of Boone’s historic commercial properties.
The pattern, arrangement, location, size, and shape of windows and doors contribute significantly to a building's historic character, and their consistency within the district helps unify the buildings in context to one another. For this reason, it is always preferable to repair damaged windows and doors rather than replacing them. Furthermore, it is imperative that the fenestration pattern of the door and window openings on the building and of the doors and windows themselves (muntin width, number of lights per sash, etc.) be maintained when repairs to or replacement of elements is underway. It is never appropriate to introduce new features, such as vents, bays, windows, or door openings, in exterior walls if they diminish the historic character of the wall or damage historic materials.
Historic window patterns, like those found here on the Watauga County Bank building, should always be repaired and preserved rather than replaced. Architectural flourishes, like the night depository door below the window, which is no longer used, should be retained, as they help tell the story of an historic property’s function and importance to the District. Photo courtesy of Eric Plaag, 2013.

6.2 Whenever possible, the original window and door hardware should be preserved and maintained, as these components are also vital elements of historic properties.

6.3 Whenever possible, other original window and door elements, such as sashes, glass, sills, frames, casings, weather-stripping, lintels, architraves, surrounds, and shutters, should be repaired rather than replaced. This includes sidelights and fanlights on both doors and windows, which are vital architectural elements that help identify the style and period of a particular property. Snap-in muntins are not historically accurate and should always be avoided.

6.4 Unless restoring the appearance of a building to its original, historic context, the pattern, arrangements, and dimensions of doors and windows
on principal elevations should be retained. On tertiary elevations not visible from the street, new door or window openings should be proportionate to existing ones and include matching design elements.

Original clerestory windows, like these found on one West King Street property, contain elaborate details that contribute to the character, appearance, and integrity of the downtown historic district. Photo courtesy of Eric Plaag, 2013.
Reflective glass, like the kind found on this Depot Street property, is not historically accurate to the District and should never be used if visible from the street or public rights of way. Photo courtesy of Eric Plaag, 2013.

6.5 Reflective or tinted glass is not historically accurate to the District or its historic properties and should never be used. Property owners whose buildings already possess reflective or tinted glass should endeavor to replace this glass with materials that are more historically appropriate to their building and the District.

6.6 In cases where historic windows are deteriorated or damaged beyond repair, replacement windows on historic properties must match the original, historic window casings, sash details, and muntin divisions. In most cases, this will mean the use of true, divided light sashes, rather than sashes featuring simulated divided lights. Grids between glass (GBG) windows, vinyl replacement windows, and windows made of fiberglass, aluminum, or other materials that are incongruous to the District are not permitted. For new windows in new construction or an addition to an historic property, new windows may use simulated divided light sashes (with muntins permanently attached to the interior and exterior of the window panes and a matching space in between the glazing) that
approximate the general appearance of windows in other residential properties in the District.

6.7 If a building did not historically possess shutters, they should not be added. Similarly, historic shutter elements should be repaired and retained. Existing shutters should never be replaced with materials that are not historic to the property (metal, vinyl, or plastic shutters, for example), nor should they be replaced with shutters of a different size or configuration, especially those that do not fit the window opening and are attached to existing siding or masonry.

6.8 Shutters should be attached to the window casing, not the siding or masonry, unless the original historic context of the property featured shutters attached to the siding or masonry.

6.9 It is appropriate to have original windows repaired and storm windows added to historic properties. This approach is preferable to replacement of original windows. Storm windows protect original windows, reduce heat loss, and are not a permanent change to a structure when installed properly. Original window and door elements should never be damaged or destroyed when storm windows or doors are installed on historic properties. Storm windows and doors should blend with the historic property, rather than appearing to be tacked on as an afterthought. Storm doors should have full glass with no meeting rails or muntins, while storm windows should have a meeting rail that aligns with the meeting rail of the window.

6.10 Raw metal storm windows and doors are not appropriate. When possible, interior storm windows are encouraged. Avoid poorly designed interior storm windows that can trap moisture between the storm window and the original window, causing damage to historic materials. If exterior storm windows and/or doors are installed, frames should be painted wood or painted or baked enamel finish aluminum.
Shed roof porticoes like this one on West King Street attempt to create a “mountain village” appearance but are not historically appropriate to the District and damage the integrity of the District. Photo courtesy of Eric Plaag, 2013.

6.11 Awnings, porches, shed roof porticoes, and arcades that attempt to create a “mountain village” appearance or that are not historically accurate to the District’s historic context only work to damage the integrity and appearance of the District. Property owners whose buildings possess such features should endeavor to remove them and restore the facade of their property to its historic appearance. Such “mountain village” treatments should never be incorporated into additions or new construction within the District.
Awnings should be historically appropriate to the buildings they are attached to, and they should never obscure historic architectural features. This awning on West King Street, for example, is stylistically inappropriate to the building and almost entirely covers the structural glass that was once visible above this storefront. Photo courtesy of Eric Plaag, 2013.

6.12 Awnings installed on properties in the District should always be historically appropriate based on available photographic and historical documentation demonstrating the historic presence of such an awning on the property in question. Awning styles with no documented historical precedent should never be added to properties in the District. For example, properties that historically possessed flat awnings anchored by cables or steel rods should retain these kinds of awnings. In cases where they have been removed, and particularly in cases where they have been replaced with modern, clamshell, half-round, or vinyl awnings or awnings that are historically inappropriate to the building, property owners should endeavor to remove the modern feature and restore the original awning configuration with appropriate materials based on historical documentation for that particular building. Another common, historic awning type in the District was the metal-frame, sloped, fabric awning that was sometimes retractable. New sloped awnings should be composed of canvas or acrylic, and never of vinyl. Metal and shed roof awnings are never appropriate, except for historic properties erected after World War II that historically had metal or shed roof awnings at the time of their
construction. Awnings should never obscure vital architectural components of the original building. Awnings on new construction or additions should also be historically appropriate to the District and not feature configurations that distract from the historical integrity and continuity of the District.

6.13 Awnings on windows, entryways, and porches should be appropriate in design, proportion, scale, and color to the architectural style and period of the property. Window awnings should be mounted within the window or entry opening, directly on the frame. If this is not possible, they should be attached just outside the opening. If attached to a masonry building, all awning attachments should be made in mortar joints and never in the brick itself.

The historic Boone Drug flat awning supported by cables anchored to the façade is visible to the far left in this photo of the effects of the 1940 Flood along King Street. Sloped, fabric awnings on retractable metal frames, like those seen on the buildings at center and right, were also common in the District. Where possible, original awning configurations like these should be restored to historic downtown buildings. Photo courtesy of David Wyke Collection and Digital Watauga Project.

6.14 If awnings must double in use as signage, they should be kept discreet and not detract from the architectural features and details of the building. All signage on awnings must comply with the signage requirements of the Town of Boone UDO.

6.15 Awnings and canopies that are illuminated from within must be covered or finished with fully opaque material.
6.16 New construction, additions, and renovations to existing historic buildings or properties within historic districts should maintain established proportions and spacing of window and door openings.

7. **Roofs**

Among the most significant and important of the distinguishing characteristics of historic properties are the roof form and pitch, which are often essential to identifying the architectural style of a building. For this reason, it is imperative that every effort be made to preserve and maintain the original roof configuration and materials on historic properties, including dormers, turrets, balustrades, parapets, etc. While historic roofing materials should always be preserved whenever possible—especially if they consist of specialty roofing materials such as slate or tile—many roofing elements will require replacement due to deterioration and age.

Many of the commercial buildings in the District originally featured flat or gently sloping roofs behind a parapet wall along the primary elevation and sometimes the secondary elevations.

7.1 Significant changes to roofs of historic properties are not permitted, including the raising or lowering of pitch, the removal or alteration of widow’s walks, dormers, turrets, balustrades, bargeboards, quarter round, cornices, corbelling, parapets, coping, dentil moldings, brackets, eaves, rafter tails, weather vanes, or lightning rods, the cutting back of roof overhang, and the replacement of historic roofing materials with modern materials that do not replicate the original appearance of the historic property’s roof. Open rafter tails and similar roof trim elements should never be obscured by boxed soffits or similar treatments. Specialty roofing materials, such as tile or patterned slate, should never be replaced with composition shingles. Original roofing materials should never be covered or replaced with a different type of roofing material, such as installing a standing seam metal roof over a slate or asphalt shingle roof.

7.2 Whenever possible, deteriorated soffits, fascia, moldings, brackets, eaves, rafter tails, cornices, coping, and other important roof components should be repaired. If replacement is necessary, it should be completed using historic materials if possible, and at minimum with equivalent materials that replicate the appearance, configuration, size, scale, and composition of the original historic materials. Underlying roofing components are just as important. For example, tongue-and-groove soffit lumber should never be replaced with plywood, and whenever possible, damaged or deteriorated roof decking should be replaced with similar materials rather than modern materials that are not historically appropriate to the building.

7.3 Dormers and gables should never be added to the primary and secondary elevations visible from the street (unless replacing an historic element that
had been previously removed) and should be added to tertiary elevations only when it can be shown that they are appropriate for the building style. The addition of dormers to commercial block buildings is especially inappropriate and should be avoided on all occasions and reversed in cases where this change has already been made. Skylights, solar panels, power ventilators, and mechanical equipment should always be restricted to the tertiary portions of the roof or areas behind parapet walls and hidden from the street. Screening materials should never be erected on top of a roof to obscure such elements.

Rooftop screening materials should never be erected on top of a roof to obscure mechanical elements. Instead, strategic positioning of such elements and the use of existing parapet walls is the preferred method for obscuring such features. Image by Eric Plaag, 2015.

7.4 It is important to provide adequate ventilation for roofing components, as excessive heat buildup under the roof can shorten the life of shingles. Ventilators should be located in an inconspicuous place, preferably on tertiary roof slopes not visible from the street, and low-profile mechanical or power ventilators are best. Soffit vents are permissible as long as the original soffit lumber is retained. On historic properties that already possess louvered, wood, gable vents, these should never be covered or replaced with metal louvers.

7.5 Tar or roofing cement should never be used as a substitute for properly installed flashing. In most instances, metal flashing is always preferred over asphalt shingle weaving, particularly in valley flashing situations.

7.6 Rooftop additions to existing commercial buildings, including those intended to accommodate elevator shafts, bars, decks, kitchen prep
areas, social areas, or solar arrays, or to otherwise enable recreational use of open rooftops, are generally not appropriate if any portion of the rooftop addition is visible from the street-level right of way adjacent to the primary elevation.

7.6.A. Rooftop additions should never be more than one story (10 feet) in height from the roof surface of the existing building.

7.6.B. Rooftop additions should never destroy or damage character-defining features of an existing building, and they should be designed to be compatible with both the size, scale, color, material, form, style, and character of the building on which they are erected and the historic district as a whole. Rooftop additions should be subordinate to the existing building in size and design, and compatible with its massing, scale, materials, and features. Nevertheless, additions should be sufficiently differentiated as new elements from original components of the existing building.

7.6.C. Rooftop additions should be positioned on the roof to eliminate the possibility of the structure being visible from the street-level right of way located along the building’s primary elevation. For buildings located on corner lots, additions should not be visible from the streetside secondary elevation, either. In the vast majority of cases, this will mean positioning the addition within the one-third portion of the rooftop located closest to the tertiary elevation of the existing building. In many cases, rooftop additions are most feasible on buildings at least four stories in height located adjacent to taller buildings or existing high party walls that will help shield the rooftop addition from street-level view.

7.6.D. Rooftop additions should maintain the lowest possible profile in their construction, so that walkways, decks, seating areas, solar arrays, and similar components are built as close as functionally possible to the original roof surface of the existing building.

7.6.E. Rooftop additions must be approved through the Conditional District zoning process prior to being considered under the Certificate of Appropriateness process associated with these Standards.
7.6 Deteriorated roof coverings should be replaced with materials that are compatible with the old in composition, size, texture, pattern, and color once the structural integrity of the roof decking is assured. If at all possible, the use of historic replacement materials for slate, clay tile, terra cotta, pressed metal shingle, and wood shingle roofs is always preferred over new materials. Unless historically appropriate to the building in question, or unless totally obscured by street view by parapets, white or very light roofing materials are not permitted. Exposed tarpaper rolls are never permitted as a roofing material.

7.7 Historically appropriate metal gutters, downspouts, and other drainage devices are common on historic properties and should always be retained whenever possible, as they provide important protection for both the roof and the foundation of the property. Built-in gutters that are an important part of the architecture of the building should always be repaired rather than replaced if they become deteriorated. When metal finishes must be replaced because of rust or other deterioration, replace ONLY deteriorated
material or detail with new materials that match the previously existing historic material in composition, size, shape, texture, pattern, color, and detail. Replacement gutters and downspouts should never conceal or interfere with architectural trim details. It is not appropriate to paint metal finishes, such as metal downspouts or copper trim, if these items were historically unpainted.

When located too close to the primary elevation or built too high above roof parapets, rooftop additions, like this elevator shaft and bar area on a King Street building, can distort the historic scale and rhythm of the buildings of the District as seen from the public right of way and create unintended nuisances for adjacent property owners that were not contemplated during the building’s historic period. Photo by Eric Plaag, 2019.

7.8 Flashing materials should blend in color with the roof or chimney color. Whenever possible, historically appropriate splash blocks at the base of downspouts should be used to direct water away from the building’s foundation. (Please note that the Town of Boone’s storm water detention requirements may apply to the use of splash blocks.)

7.9 Roof coping on commercial buildings with original flat roofs was typically made of terracotta tile. Modern coping systems that are often used in conjunction with rubber membrane roofs, especially if they employ metal
coping in a color that contrasts with the masonry walls they cover, are inappropriate.

8. Entrances, Porches, and Balconies

One of the most significant and defining characteristics of all architecture is the main or front entrance, including any porches that surround or frame that entrance. While most of the commercial buildings in the District employed conventional storefront configurations (see Section 1 of these commercial standards), a handful of properties in the District do not employ traditional commercial entrance configurations. These properties include the Boone Post Office (WT0049), the Wade E. Brown Law Office Building (WT0586), the Watauga County Office Building (WT0607), and the Boone Recreation Parlor (WT0869). Retaining the original porch and entrance components of these buildings is especially important for understanding the building’s history in context with the District. Unfortunately, main or front entrances are also often the most altered elements of historic properties.

Many historic entrances, porches, and balconies contain architectural elements that are essential to communicating the architectural style of the home. Machine-carved balustrades, spindles, brackets, entrance surrounds, and posts were common in many of the District’s buildings, but hand-worked elements were also not uncommon. Preserving these details is vital to preserving the appearance and integrity of the District’s historic architecture.

8.1 Entrances, porches, and balconies, as used in this section, include front (primary elevation), side (secondary elevation), and rear (tertiary elevation) porches, mudrooms, porticos, sleeping porches, balconies, pergolas, terraces, widow’s walks, and entrances. Components of porches include steps, balustrades, columns, trellises, skirt boards, fascias, brackets, and various ornamental details. Most original porches and balconies were built with a slight pitch away from the residence to facilitate the runoff of rainwater.

8.2 Because of their architectural significance, porches, balconies, and entrance configurations—especially those on the front or primary elevation—and all of their architectural details (steps, balustrades, brackets, spindlework, columns, roofs, etc.) should be preserved in their original form and detail whenever possible. It is inappropriate to enclose porches and balconies on the front (primary) elevation for use as an interior space. In addition, the original pitch of porches and balconies should be maintained in order to facilitate the runoff of rainwater and snowmelt. Porches and balconies must be properly maintained and repaired as necessary, as they are exposed to the weather and will deteriorate if regular maintenance is not conducted.
The entrance details of the Boone Post Office are critically important architectural elements for the interpretation and historical integrity of the property, as they help to identify the style of the building as well as its period of construction. Photo by Eric Plaag, 2015.

8.3 If an historic porch or balcony is completely missing (or if architectural elements associated with the porch or balcony are missing), it should be replaced with a reconstruction based on accurate historic documentation or a new design that is appropriate for the building in terms of architectural style, materials, roof form, details, scale, size, and ornamentation. Adding details that are not historical to create a false historical appearance is never appropriate.

8.4 If an historic porch or balcony requires replacement of original materials, use only materials that are compatible with the original materials associated with the porch or balcony. These replacement materials should match the previously existing historic materials in composition, size, shape, texture, pattern, color, and detail.

8.5 Whenever possible, existing, non-historical enclosures of and additions to historic porches and balconies should be removed and the original appearance of the porch or balcony restored.
8.6 Side and rear porches (i.e., not located on the primary elevation) may be enclosed for interior space, provided that the proposed design of the enclosure is compatible with the architecture of the historic property and the enclosure is reversible. Side porches and rear porches not located on the main elevation may also be screened, provided that framing for the screening and the screening itself is placed behind columns or balustrades. Any such enclosures or screening should be designed so that they can later be removed without damage to the integrity of the historic structure.

8.7 Original porch steps should always be retained. If repair or replacement of porch step materials is necessary, the design, configuration, dimensions, and materials should match the original as closely as possible. In addition, historic stairways and walkways in front of a building—even though not technically part of the building’s architecture—are nevertheless an important part of the landscape that accompanies the property and often inform the architectural style and patterns of the property. These elements should always be retained and repaired with appropriate materials whenever possible.

8.8 Decks may be added on the rear elevation of a historic property, provided their addition does not require the removal of large, healthy trees, and their design is compatible in scale with the historic property and district. They should always be designed and installed in such a manner that they may be removed without damage to the historic building. Removal of historic building materials to facilitate the installation of a deck is never acceptable.

8.9 Vegetative screening should be employed to obscure the visibility of decks from the street. The underside of decks should also employ latticework or vegetative screening to incorporate the deck element into the general whole of the property in question.

8.10 Floor coverings, such as artificial turf, indoor/outdoor carpeting, linoleum, and other similar materials (aside from a small doormat near an entrance) should never be installed on porch, balcony, or deck floors, as these materials can trap water and damage the historic architectural elements below.

9. Paint and Paint Color

For most of the District’s historic commercial properties, which typically were made of masonry and rarely painted, determining historic paint colors, except on trim, ornamentation, windows, original stucco walls, or other architectural details, is usually not a problem. While color chronology tests can help to determine original paint colors
(contact the State Historic Preservation Office for assistance), this process is difficult, sometimes inconclusive, and often expensive.

While the HPC does not regulate paint colors in the District per se, property owners are required to submit proposed paint samples as part of any COA application and seek guidance from the HPC and/or the State Historic Preservation Office when considering paint schemes for historic properties. Nevertheless, paint colors and applications must comply with all other general requirements outlined in the Town of Boone UDO. Beyond this, some general standards are applied by the HPC when considering paint in relation to historic properties.

9.1 It is NOT appropriate to apply paint or other coatings to unpainted wall materials and surfaces/finishes that were historically left unpainted, including masonry, stonework, wood shingles, stained wood surfaces, and metal.

9.2 It is NOT appropriate to use abrasive techniques for cleaning or removing paint from exterior walls and trim, such as sandblasting, high-pressure waterblasting, blowtorching, or other methods that may damage the exterior materials. In general, old paint should not be removed unless there is a compelling reason to do so, such as revealing an obscured architectural detail or correcting a severe peeling or cracking problem in existing paint.

Removal of non-historic paint from masonry can be challenging and problematic, and doing so requires strict adherence to preservation guidance published by the National Park Service. Generally speaking, such work should be completed by a professional trained in historic preservation methods and using a chemical paint remover specifically intended for masonry and the gentlest application means possible. In some instances, inappropriately applied paints may not be removable without damaging the underlying masonry, so it is always advisable to test removal techniques in an area that is not easily visible to the public. The HPC will provide guidance in such instances on the best approach to addressing unusual paint removal challenges.

9.3 Select paint colors that are appropriate for the building's architectural style and that are complementary to neighboring buildings. In general, color should function as a method of contrasting among different materials and architectural elements that make up the building. Contrasting colors that accent architectural details and entrances are discouraged, however, except in those cases where this design element was common to the historic architectural style of an existing historic property and there is historic precedent for such accenting.
9.4 Wooden porch steps should always be painted to match the color of a wooden porch floor.

10. Utilities and Energy Retrofit

Updating utilities and energy systems in historic properties is a common and natural event in the life of a building. As technology improves and environmentally friendly mechanical systems become more readily available, many property owners will desire to improve the efficiency of their historic properties. The HPC encourages the installation, rehabilitation, or replacement of mechanical systems—in compliance with local building codes and utility company standards—with systems that will improve the overall efficiency of those properties. That said, these mechanical systems, when installed in or on an historic property, must comply with certain essential standards.

10.1 Install utilities and mechanical equipment in areas and spaces that will require the least possible alteration to the plan, materials, and appearance of the building. Installation at the rear (tertiary elevation) of the building, if feasible, is preferred.

10.2 It is NOT appropriate to locate mechanical equipment farther forward on the property (i.e. toward the street facing the primary elevation) than the midpoint of the primary building.

10.3 Ductwork, piping, fuel tanks, plumbing vents, solar collectors, and satellite dishes should not be visible from the street. Ground-level equipment that can be seen from the street should be screened with shrubbery or fencing. Rooftop equipment should be screened with existing parapet walls or located toward the portion of the roof nearest the tertiary elevation.

10.4 If an interior location is not feasible, place utilities and mechanical equipment and conduit in inconspicuous locations and/or conceal with architectural elements such as downspouts.

10.5 The location of solar collectors or solar panels should be aligned on the building’s roof in the direction of greatest effectiveness with a minimized view of such equipment from the primary elevation of the structure.

11. Accessibility, Health, and Safety Considerations

Modern building codes and/or the needs of the people who own, shop, work, and live in historic properties often mean that a variety of accessibility and safety elements must be installed in those properties. Careful planning insures that the integrity of historic properties can be maintained in spite of the addition of these non-historic elements.

11.1 New exterior fire escapes are not permitted on historic properties unless more adequate exit facilities cannot be provided. If they must be installed,
fire escapes generally should be located at the rear (tertiary elevation) of the building and never along an elevation visible from an adjacent street.

11.2 Introducing items such as wheelchair ramps, fire exits, and fire stairs without damaging the character of a historic structure requires careful planning. Owners should introduce fire exits, stairs, landings, and ramps on rear (tertiary elevation) or inconspicuous side (secondary elevation) locations. If access ramps must be installed in a manner that makes them visible from the public right-of-way, they should be constructed in a manner that makes them as simple and compact as possible and limits their projection from the building.

11.3 Construct fire exits, stairs, landings, and ramps in such a manner that they do not damage or significantly obscure historical materials and features. Such additions should be designed to be complementary to the architectural style, materials, scale, and function of the historic property.
During recent renovations to this King Street property, the architect designed a new but inconspicuous, ADA-accessible fire exit on a secondary elevation adjacent to a public alley, including a curb cut to allow for wheelchair movement. Photo by Eric Plaag, 2019.

11.4 Whenever possible, existing exterior fire escapes and stairways that are not original to historic properties should be relocated from front or exposed elevations to a rear or unexposed elevation.

12. Additional Standards on Artificial Materials

While most of the historic properties in the District were built using traditional materials (such as kilned brick, wood trim, structural glass, and native stone), over the years, some properties have been covered with aluminum, vinyl, asbestos, plywood, parging, modern brick veneers, simulated stone, pre-formed concrete panels, cast concrete patterned to look like stone or brick, or other non-traditional materials. Due to the loss of both historic character and original materials inherent in the application of such substitute materials, the damage caused during installation, and the potential for
undetected insect infestation and moisture damage, the practice is not acceptable for a historic property in the District.

12.1 The removal of previously installed substitute materials of all types is strongly encouraged.

12.2 Previously installed vinyl windows and snap-in muntins are examples of inappropriate replacements for wood windows and should also be removed and replaced with more historically appropriate materials whenever possible.

12.3 Simulated stone in all of its forms is inappropriate, as are “contemporary” bonding techniques, including the “stacked stone” design. Faux brick and roughcasting are also inappropriate.

13. Additions to Existing Buildings in the District

The completion of an addition to a historic property may improve the functionality of an existing building, but it also has the potential to seriously damage the historical integrity of that property. Generally speaking, additions accordingly should be kept to a minimum and always be reversible without resulting in permanent damage to the essential form and integrity of the historic property.

13.1 New additions should be compatible with the original building in scale, placement, proportion, and design, including roof shape, materials, color, location and design of windows and doors, cornice heights, and other design elements. Synthetic, non-traditional materials are not permitted in alterations to existing buildings, and the use of the highest-quality, historically appropriate, exterior facing materials is encouraged.

13.2 New additions should NOT imitate an earlier historic style or architectural period, but they also should not differ from the earlier historical style so much as to be a distraction from or incompatible with the historic design.

13.3 Additions should be differentiated from the original by the use of setbacks or other devices. Whenever possible, additions should be located to the rear (tertiary elevation) or in an inconspicuous location on the side (secondary elevation) of the original building. They should never be attached to the front of the historic property. Additions such as rooftop penthouses or additional stories should NOT be constructed unless there is documented historic evidence (such as the prior removal of a similar historic feature) to justify the change.

13.4 An addition should NOT obscure the original form and proportions of the main building or of other historical additions. Do not add fanciful
decorative elements and colors that are out of place or not in keeping with the historic context of the District and/or an individual historic property.

### 13.5

Additions should be constructed on a smaller scale than the historic structure and not overpower it.

As part of the renovation of the Appalachian Theatre, a larger stage house was constructed to facilitate modern performances. The addition to the theater was substantial but harmonious, integrating complementary (but not replica) facing brick, a size and scale that still privileged the original building, and sufficient differences in brick color and setbacks to make it clear what materials are original and what materials are part of the addition. The railing at the top of new stage house—required by code for rooftop access to mechanicals—is located along the tertiary elevation. Photo by Eric Plaag, 2019.

### 13.6

Construction should be carried out in a manner that avoids removal or loss of historic materials and damage or destruction of significant original architectural features.

### 13.7

Construction should impact the exterior walls of the original building as minimally as possible using existing door and window openings for connecting the addition to the original building.

### 13.8

Historically, most of Boone’s downtown commercial buildings had flat roofs. Walls on additions should not appear to terminate at flat roofs except at tertiary elevations. Instead, flat roofs should be concealed from view by using historically appropriate pitched roof features, parapets, or a mixture thereof. Where only one elevation has this condition, the parapet or other feature will continue four feet along the adjacent elevation. The minimum slope for pitched roofs is four feet vertically to every twelve feet.
horizontally. Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall.

13.9 Residential roof types are discouraged, except in historic properties that were originally residences or historic commercial properties that historically featured a residential roof type.

14. New Construction of Commercial Buildings within the District

It is inevitable that new commercial buildings will be constructed within the District. The intention of these design standards is not to prevent such changes but to ensure that new construction is compatible with and complementary to the integrity and architectural character of the District. While new commercial buildings should not attempt to replicate existing historic properties, they should mesh with and support the historic design principles of the other commercial properties in the District. These standards are intended to preserve the integrity of the District while also encouraging sensitive and appropriate new construction.

14.1 New commercial construction within the District should not seek to duplicate historic buildings in the District or mimic their appearance. That said, new construction should strive to be sensitive to and compatible with the character-defining features of the commercial properties in the District. Thus, new construction should employ architectural design that reflects its current time, place, use, and culture, provided that this design is compatible with the character of the District.

14.2 New construction should incorporate the predominant historic materials typical in surrounding historic buildings when possible—usually brick, native stone, structural glass, wooden trim, and similar historic materials. Synthetic, non-traditional materials, such as vinyl, synthetic stone, fiber cement board, aluminum, plywood, parging, and pre-formed concrete panels, are not permitted in new construction. It is NOT appropriate in new construction to use contemporary substitute materials in place of traditional materials. The use of the highest-quality, historically appropriate, exterior facing materials is encouraged.

14.3 Design, height, massing, and proportions of new buildings should complement and be compatible with the dimensions of neighboring buildings with similar character and style. New buildings should not overpower adjacent buildings or the District as a whole as a result of out-of-scale massing, footprint, height, or overhang. Roofs, fenestration, and materials should be compatible with surrounding buildings. Traditional separations between storefronts and upper facades should be maintained and consistent with those existing in adjacent or nearby buildings. Vertical divisions maintain the feeling of traditional building widths and should be maintained. New buildings generally should align with adjacent buildings.
facing on the same street and conform to existing setbacks from the street. The primary façade and main building entry shall face the primary public way.

14.4 Reserved

14.5 The appropriateness of the site for a new commercial construction project will be evaluated based upon its compatibility with the district context in terms of setback, spacing, orientation, topography, height, and landscaping. New buildings should have setbacks, orientation, lot coverage, and spacing that align with existing historic properties and comply with the provisions of the Town UDO.

14.6 New construction should respect the existing topography and vegetation on the site. Large-scale grading to level or otherwise dramatically alter the natural slope of a lot is destructive to the historic landscape and is not appropriate. Whenever possible, existing trees and historic landscape features should be incorporated into the design for a new property. If large trees must be removed, they should be replaced with trees similar in type and species. During construction, any mature tree that will not be removed should be protected with appropriate fencing around the tree’s canopy area that will eliminate construction parking, material storage, and concrete washout that could harm the mature tree.

14.7 The appropriateness of a proposed new commercial building will be evaluated based on compatibility in terms of scale, height, form, massing, materials, openings, roof pitch, roof type, and other details with the District context.

14.8 New commercial construction should incorporate architectural elements and details into new construction that provide human scale. Do not add fanciful decorative elements and colors that are out of place or not in keeping with the historic context of the District and/or adjacent historic properties.

14.9 Oversized and monumental scale architecture is not appropriate, and the overall height and width of the new buildings should be compatible with neighboring structures and Town UDO requirements.

14.10 Historically, most of Boone’s downtown commercial buildings had flat roofs. Residential roof types are not permitted in new commercial buildings. Roof planes should be hidden from view on the façade, and rooflines should be decorated using historic decorative details, using historic photographs and/or neighboring buildings as a guide. Walls should not appear to terminate at flat roofs, except along the tertiary elevation. Instead, flat roofs should be concealed from view by using historically
appropriate pitched roof features, parapets, or a mixture thereof. Where only one elevation has this condition, the parapet or other feature will continue four feet along the adjacent elevation. The minimum slope for pitched roofs is four feet vertically to every twelve feet horizontally. Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall.

(Ord. PL05826-062722, 07-27-2022)

15. Height, Width, Spacing, and Setback Requirements

For details on building height, width, spacing, and setback requirements for commercial buildings in the Town of Boone, please consult the Town of Boone UDO. Generally speaking, building spacing, height, and width in the District shall maintain consistency with the spacing, height, and width of surrounding buildings to the greatest degree possible.
Design Standards for Historic Streetscapes, Landscapes, Monuments, and Other Resources in the District

1. Streetscapes

In contrast to the natural elements around which communities are often organized, historic streetscapes instead represent the built environment that defines the character, context, and components around which a community grows and evolves. Typically, buildings are the most obvious and dominant streetscape features, but this type of landscape includes other elements, including the spaces between buildings, private yards, alleyways and streets, sidewalks and other pedestrian elements, lighting, fences, public benches, retaining walls, monuments, public art, and street signage.

With regard to all streetscapes in the District, the following standards should be observed:

1.1 The form, scale, and massing of building facades located along public ways should be preserved.

1.2 The width, alignment, and configuration of streets, alleys, sidewalks, and walkways within the District should be retained and preserved.

1.3 The intended sightlines and views of historic public monuments and public art should be maintained.

1.4 Historic streetscape features, including lighting, fences, benches, and signage, should be preserved.

1.5 When installing new street and building lighting, select fixtures that complement the height and character of existing streetscape features and surrounding architecture, and that align with the historic context of the properties in question. Employ the minimal street lighting levels required for public safety while striving to eliminate light pollution. Whenever possible, lighting should be directed toward the ground, away from surrounding properties, and be shielded from direct view.

1.6 All historic streetscape elements between buildings—most particularly road width, grade, crown, swale, curbing, sidewalks, lawns, tree plantings, and setbacks—should be preserved and maintained.

1.7 Shared and public open spaces visible from public ways created by private yards, natural settings, and building setbacks should be preserved and maintained.
1.8 Historic traffic circulation patterns along sidewalks and roadways, including dual or one-way designations, should be preserved and maintained whenever possible.

1.9 Existing historic block patterns, setbacks, and other land divisions—both natural and created—should be maintained.

1.10 When necessary, prune or remove and replace trees that threaten public safety, utilities, or property. When considering new plantings near existing utilities, select historically appropriate, native species that will not interfere with the utility when they reach mature height.

1.11 Historic street paving and sidewalk materials, as well as historic curbing, should be retained and preserved, using salvaged or historically compatible materials when repairs are necessary. If historic materials cannot be found, substitute materials may be used, provided they replicate the durability, color, texture, and appearance of the original historic materials.

1.12 To prevent damage to historic street paving and sidewalk materials, the Town of Boone and property owners should avoid the application of de-icing salts, relying instead on less intrusive materials such as sand or non-salt chemical de-icers (including calcium magnesium acetate).

1.13 New paving and sidewalk materials, especially new accessibility features, should be designed to be consistent with the character and appearance of historic paving materials.

1.14 Because historic streetscapes often did not account for the high volume of automobile traffic found today in Boone, parking areas are often a challenge. New parking areas should be as unobtrusive as possible, located behind buildings with access from alleyways and secondary streets rather than main thoroughfares, and screened with historically appropriate natural plantings and/or fences. Parking decks should be built to complement and blend with the existing historic architecture. Generally speaking, new parking areas should be built on the periphery of the District so as not to impede historic traffic patterns or conflict with historic landscapes and streetscapes.

1.15 Materials, architectural features, and entrance orientations of all historic buildings associated with historic streetscapes should be preserved and maintained. Non-historic architectural features, including promenades, porches, and other additions to buildings intended to create an imagined "mountain village" appearance that is not an accurate reflection of the District's historic buildings and streetscapes, should be removed and/or
altered to more accurately reflect the context and history of Boone’s streetscapes. When possible, public-private partnerships, including programs like the Main Street Façade Grant program, should be utilized to restore historic streetscape features.

1.16 Historic accessory structures, such as garages, sheds, and other outbuildings, should be preserved and maintained in situ. Deteriorating buildings should be repaired using salvaged materials that match existing ones. When repair of accessory structures is not possible, only those accessory structures for which there is sufficient historic documentation should be reconstructed using materials and configurations similar to the original structure.

1.17 New accessory structures should be complementary to the scale, form, materials, and details of surrounding historic buildings, but built in such a way that they do not convey a false sense of historic association. New structures should be located at the rear of historic properties so that they do not intrude upon the historic streetscape.

1.18 Property owners and the Town of Boone should protect, encourage, and replace as necessary all street plantings that are in keeping with the historic context of the streetscape and for which there are historic precedents.

(Ord. PL05826-062722, 07-27-2022)

2. Lots and Street Frontages

2.1 For details on minimum lot size, minimum lot width and minimum street frontage, please consult the Town of Boone UDO.

(Ord. PL05826-062722, 07-27-2022)

3. Landscapes and Ecologically Sensitive Areas

Boone has a number of inconspicuous but nevertheless historic landscape features in the District, ranging from the open land surrounding the Frank A. Linney House on King Street to the ancient sugar maple trees located on the Jones House property. Because the proponents of expanding development rarely stop to consider the importance of these kinds of landscape features and their links to Boone’s history, it is essential that the Town of Boone have a comprehensive set of standards for the treatment of these valuable historic resources.

Landscape features, regardless of whether they consist of formally planned, human-constructed gardens or naturally evolving woodlands and meadows in the community,
are essential to maintaining and preserving the character, aesthetic appeal, and history of the District. Evaluating and preserving the integrity of such existing features and their historical significance requires documentation with historic images, maps, and other data. As with architecture, the preservation and restoration of historic landscape features is always preferred over elimination or replacement, but when the integrity of an existing feature is seriously compromised, new features should be designed to be compatible with the historic context of the District and simultaneously identifiable as a new feature rather than as an attempt to recreate the old.

Some of these historic landscapes are essential to understanding the settlement patterns of our community. As the Town of Boone and the educational institution now known as Appalachian State University grew rapidly during the early twentieth century, for example, the landscape along Boone Creek evolved rapidly from its pastoral origins. While much of this historic landscape to the north of Rivers Street has been compromised by modern development, especially in relationship to the University, pockets in the District still remain. Among these are the warehouse areas positioned directly along the north side of the creek, south of Howard Street from just west of Burrell Street to the vicinity of Appalachian Street. While this may seem an unlikely example of an historic landscape, the wholesale removal of these buildings and the burial of Boone Creek underground—which has occurred in many other areas of Boone along Boone Creek and other tributaries—would erase this natural resource and the settlement patterns associated with it from Boone’s tangible past.

It is important to maintain landscaping details that enhance the character of the District. Additions to landscaping such as fences, lighting, garden art, and streetscape furniture should be in accordance with the surrounding environment. The purpose of the landscaping standards is to regulate the planting and preservation of landscape material; to promote the general health, safety, and welfare of the community; to facilitate the creation of an attractive environment; to protect property values; to further the urban design and economic development of the community; and to encourage skilled installation and continued maintenance of all plant materials.
Keeping historic landscapes and waterways open, such as this stretch of Boone Creek to the east of Depot Street, rather than burying them under concrete, not only preserves the history of Boone but also prevents and/or minimizes the effects of flooding and other environmental problems. Photo courtesy of Eric Plaag, 2013.

Regarding ecologically sensitive areas and natural areas, the Town of Boone has seen dramatic development over the past fifty years, much of which has adversely impacted
the stream corridors flowing through the District as well as once-forested and open areas in the community. As a result, the remaining ecologically sensitive and natural environments within the Town’s limits are valuable resources, especially in the context of the Town’s urban environment. Contrary to the public perception when the occasional flooding rainstorm visits Boone, these areas actually help slow and filter rainwater and runoff, improve air and water quality, provide natural habitat, and offer aesthetic contributions to the community. In addition, some of these natural areas offer essential clues to the settlement history of Boone and the ways in which its natural resources have been utilized for the better part of two centuries.

Accordingly, the following standards should be followed in an effort to maintain these vital resources:

3.1 Maintain mature street trees. When removal or replacement is warranted, replace with historically appropriate, indigenous cultivars that will thrive at the site and that will achieve a similar canopy and street edge definition at maturity.

3.2 Use plant materials that are indigenous to the District. New plant material should complement those found on the site and in the District.

3.3 Retain and maintain landscape elements that contribute to the character of the District such as mature trees and hedge rows, grassy lawns, foundation plantings, paver materials, ground covers, fountains, outbuildings, and gardens.

3.4 Keep the location of new landscape features consistent with the location of similar elements in the District.

3.5 It is inappropriate to introduce contemporary plant edging materials such as exposed landscape timbers (e.g., rail ties) in primary and secondary elevations.

3.6 Maintain the relationship between building mass and open space that exists on the block or streetscape. Property owners should preserve the historic spatial arrangements and land-use patterns within the District as they have changed over time, and they should strive to protect character-defining elements of both constructed and natural landforms, including the topography and open spaces surrounding historic buildings and landscape features.

3.7 Locate additions and new construction, if possible, in areas that do not necessitate the removal of mature plantings or cause the disruption of the established rhythm of building mass and open space. New construction should not interrupt or obstruct significant views and sight lines within the
District, and existing intrusions within the District should either be removed or screened with plantings.

3.8 Property owners should maintain historic views to and from buildings, especially the facades of these buildings. Use outbuildings, public art, statuary, and fountains as focal points in public and private spaces. Avoid placing such elements in areas that will obscure historic buildings or their architectural features. Due to the subjectivity involved in the evaluation of art, the HPC shall only consider the appropriateness of the location of the art in reviewing applications for Certificates of Appropriateness.

3.9 Development of new and existing developed parcels should be regulated to minimize impacts on ecologically sensitive areas.

3.10 The Town of Boone and its residents should prioritize the uncovering and restoration of natural stream corridors throughout the District. New development that impedes, obscures, or covers these stream corridors is not appropriate.

3.11 Natural landforms and outcroppings, trees, plantings, and other natural features in ecologically sensitive areas should be preserved, protected, and maintained using ecologically approved methods.

3.12 Property owners should maintain no-mow zones along stream corridors.

3.13 In cooperation with property owners within and bordering historic landscapes and ecologically sensitive areas, the Town of Boone will encourage historically appropriate tree plantings of indigenous species, especially within parks and along stream corridors; maintain appropriate recreational trails through ecologically sensitive areas and public parks in order to increase public awareness of and participation in the preservation of these areas and to discourage the misuse of these areas; and monitor the condition of trees and other plantings within natural areas, public parks, and along streetscapes to track and prevent the encroachment of diseases and pests.

4. Fences and Garden Walls

4.1 Required street trees shall be planted outside of the sight triangle area, as regulated by UDO Subsection 31.02.02. For detailed descriptions of screening regulations, see the Town of Boone UDO.

4.2 Preserve historic fences and garden walls. Preservation requires continual maintenance and repair. A sound paint surface is essential to maintaining and protecting wooden and iron fences. On wooden fences, seal all joinery to avoid moisture damage. To prevent rust and corrosion on iron
fences, clean surfaces with a wire brush to remove all loose paint and rust, then prime immediately with high quality metal primer before the finish coat is applied. Corrosion will occur whenever metal is left unpainted. Brick and masonry walls are vulnerable to uneven ground settling and mortar failure due to weather exposure and vegetation. Resist the tendency to allow plants such as ivy to grow on brick walls as the plants will trap moisture and cause deterioration.

4.4 Retain and preserve all character-defining features of historic fences and walls including gates, decorative pickets, finials, and hardware.

4.5 Repair rather than replace historic fence and wall materials. If replacement is necessary, replace only those sections in need of replacement. Match the original in composition, height, scale, proportion, color, texture, material and design.

4.6 Design new fences that are compatible with the associated building, site, and streetscape in terms of composition, height, scale, proportion, color texture, material and design. Fences and walls based on historic designs are encouraged. New designs that meet the aforementioned criteria are also acceptable.

4.7 Use fences or walls in a manner that is historically appropriate such as for demarcating property lines and screening private areas from the public right-of-way.

4.8 Use walls and hedgerows in the District to screen parking lots. A masonry wall or single species evergreen hedge will maintain the sense of an “edge” to the streetscape in a similar manner as a building. The peripheral screen will also hide wheels, bumpers, and paving, thereby eliminating the undesirable aspects of the automobile while at the same time not jeopardizing safety.

4.9 Avoid the use of utilitarian fences along primary elevations of buildings.

(Ord. PL05826-062722, 07-27-2022)

5. Garages and Accessory Buildings:

5.1 Original structures should be retained and preserved if at all possible.

5.2 Construct new garages and accessory buildings that are compatible with historic outbuildings in the District in terms of roof form, materials, size, scale, proportion, and architectural details.
5.3 Garages and outbuildings for residential properties should ALWAYS be located to the rear or side yards and in traditional locations in relation to the main residential building.

5.4 If it is necessary to replace a historic outbuilding, replace it with a design based on documentary evidence of the original outbuilding, or with a new design similar in form, scale, size, materials and detail as other buildings in the District. Design and construction of the new structure shall be in proportion with other outbuildings of its type within the District.

5.5 It is inappropriate to introduce gazebos adjacent to primary or secondary elevations without documentary evidence to support their existence in the District during the period of significance. If constructed adjacent to the tertiary elevation, gazebos should not be visible from the public right-of-way and must meet the other standards for outbuildings and accessory buildings.

5.6 It is inappropriate to introduce features and details to an outbuilding that will create a false sense of historic development. For example, it would be inappropriate to add Art Deco features using historic materials to a newly constructed accessory building, as doing so might inappropriately suggest that the accessory building was constructed during the 1930s.

5.7 Consult the Town of Boone UDO for setback requirements and lot coverage limitations for all accessory buildings. As a general rule, no accessory building may be further forward to the street setback line than the front-most point of the principal building.

6. Driveways and Off-Street Parking

6.1 Retain historic driveway configuration and materials whenever possible.

6.2 Construct new driveways to conform to the configuration, width, location, and materials of existing driveways.

6.3 Locate new driveways and off-street parking areas in tertiary areas. If this is not possible, driveways should be placed in the least conspicuous area of the lot.

6.4 Discourage additional curb-cuts, new driveways, or drive-throughs in the District.

6.5 It is inappropriate to pave large, off-street parking areas that occupy the majority (more than 50%) of the rear yard so that the residential character of a residential property is severely compromised or lost.
6.6 It is inappropriate to demolish historic buildings or outbuildings to create new parking areas.

6.7 It is inappropriate to destroy mature plantings to create new parking areas. Incorporate said plantings into the design and provide for their protection.

6.8 Incorporate trees, shrubbery, fencing, or other landscape devices around the periphery and within parking areas.

6.9 Utilize a low evergreen hedge or masonry wall, not to exceed 36” in height, along the street frontage of all parking lots. This landscape element will screen automobile wheels, bumpers, and paving, thereby eliminating the harshest aspects of the automobile without compromising surveillance and safety.

6.10 Discourage parking lots on corners, as this creates large voids in the streetscape.

6.11 Follow the standards for exterior lighting in illuminating parking areas.

6.12 Design lighting levels for safety. Avoid spilling light onto adjacent properties.

7. Exterior Lighting

7.1 Select lighting that is compatible with the building, site, height and character of existing streetscape features, and the surrounding architecture, and that aligns with the historic context of the property in question, in terms of design, materials, use, size, scale, location, and level and angle of illumination.

7.2 Avoid placing fixtures in areas that will obscure or damage character-defining architectural or landscape features.

7.3 It is inappropriate to replace original light fixtures when they exist. If no evidence of fixtures is present, select unobtrusive light fixtures that are compatible with the building and site and do not disrupt adjacent properties. Use a white light source.

7.4 Employ minimal lighting levels required for public safety while striving to eliminate light pollution. Whenever possible, lighting should be directed toward the ground, away from surrounding properties, and be shielded from direct view.

7.5 Locate lighting sources in strategic locations on the building or landscape to create a subtle and inviting ambience.
7.6 Avoid removal of historic light fixtures that would alter the historic character and integrity of a property.

7.7 All public streets, sidewalks, and other common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using streets, sidewalks, and other common areas or facilities.

7.8 All entrances and exits in substantial buildings used for nonresidential purposes and in two-family or multifamily developments containing more than four (4) dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings.

7.9 Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standards set forth in the Town of Boone UDO.

7.10 Screen from view ground-mounted accent or spotlights. Such lights should not highlight non-target structures, signs, or premises.

7.11 See the Signage standards for information on illumination of signs.

8. Signage

8.1 Sandwich boards, other temporary street signage, seating, and/or merchandise shall not be placed upon the public ways of the District or otherwise impede the pedestrian or traffic flow on those public ways.

8.2 Permanent signs in the historic district are to be historically appropriate for either a contributing or non-contributing building:

   o Permanent signs of a non-contributing building shall be historically appropriate to the period of significance for the district or landmark. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district or landmark.

   o Permanent signs of a contributing building shall be historically appropriate to the period of significance of the building. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance to the building, and shall not harm, damage, or destroy historic materials or features. In the case there is not photographic evidence of materials appropriate to the historic building, then the materials shall be appropriate to the materials in the historic district.
8.3 All signs are subject to the general sign regulations contained in the Town of Boone UDO.

(Ord. PL05504-021822, 06-08-22)

9. Archaeology

There is evidence of Native American activity in Boone long before the town was established. The Cherokee Indians used the area as hunting grounds long before Daniel Boone reportedly hunted in the area. In addition, the landscape of Boone’s downtown area looked quite different in the nineteenth century than it did during the twentieth century and today. Because the Town of Boone is now in its third century of post-Native American occupation, with modern businesses and other uses taking the place of historic land uses and settlement patterns, it should be expected that these new land uses may uncover archaeological resources—either historic or pre-historic—that may be vital to understanding Boone’s settlement patterns and history. It must be a priority for the Town of Boone, its residents, and its business owners to identify, protect, and preserve any archaeologically significant resources that might be uncovered during either renovation or new construction in the District. The following section outlines the protocol for preserving artifacts if such an event occurs.

New construction and large-scale renovations typically entail a great deal of site grading and trenching, which have the potential to disrupt artifacts. The following standards outline the process for reporting archaeological finds and obtaining the proper permits, licenses, and funds associated with building projects on archaeological sites. Professional technical advice and consultation on archaeology is available from the SHPO or the Office of State Archaeology (OSA). Contact the Town of Boone Planning and Inspections Department for additional contact information.

9.1 Landowners should leave known archaeological resources intact and undisturbed whenever possible, and when disturbance is not avoidable, prepare a mitigation plan for the documentation, preservation, and protection of those resources using professional archaeologists who follow accepted standards, methods, and practices for resource mitigation and/or recovery.

9.2 Notify the Planning Department, the Boone Cultural Resources Department, the SHPO, and the OSA in the early planning stages of the project to assess the potential for presence of archaeological resources on site. In cases where such potential is identified, owners are required to prepare an archaeological assessment report, including an inspection of the proposed area where subsurface disturbance will occur, as well as a site map showing areas of archaeological sensitivity. In addition, landowners may be required to submit to an archaeological survey of their project area by a professional archaeologist whose qualifications meet the Standards of the Secretary of the Interior for archaeology.
9.3 Minimize ground-disturbing activity to reduce the possibility of destroying unknown archaeological resources.

9.4 Avoid the use of heavy machinery or equipment on site that may damage archaeological resources. When new archaeological resources are discovered, owners should cease the use of such equipment and stop work on the site immediately until such time that these resources can be documented, preserved, and protected. To begin this documentation, notify the Planning Department, the Cultural Resources Department, the SHPO, and the OSA.

(Ord. PL05671-042722, 07-27-2022)

10. Parks and Public Spaces:

The District is also home to several parks and public spaces frequently utilized for community events in addition to their intrinsic pastoral and aesthetic purposes. Such locations include the Jones House property and Jimmy Smith Park, among others. Because these areas see a high volume of public traffic, they create a special challenge for protection, preservation, and maintenance by the Town and, in some cases, their private owners.

The Town of Boone and its residents should observe the following standards in managing these important cultural landscapes:

10.1 Preserve historic landscape features that are critical to site identity and form, including landforms, topography, roadways, pathways, trails, trees and other plantings (both natural and planned), fences, and other resources.

10.2 Preserve and protect significant views into, out of, and within parks and public spaces. Carefully weigh the impact on both visitors and nearby residents and businesses when adding or removing landscape features, trails, walkways, and roadways.

10.3 Preserve, protect, and maintain significant primary and accessory structures, including pavilions and fountains, that are essential to the identity of the cultural landscape. When planning new accessory structures, including monuments, public art, interpretive signage, memorials, and similar features, weigh their potential impact on historic views associated with the park and the general character and aesthetics of the public space in its historic context. Necessary accessory structures used for service purposes (maintenance sheds, restrooms) should be as unobtrusive as possible and designed to blend into the park’s historic landscape.
11. Public Art Standards in the Downtown Boone Local Historic District

In the historic district, public art refers to works of art that are placed or created outside and intended for public appreciation. Such artworks include, but are not limited to, sculptures, monuments, murals, and mosaics. Functional aspects of streetscapes and landscapes, such as bridges, benches, and fencing may provide opportunities for artistic expressions and in certain situations will be evaluated as public art.

11.1 Public art installed in the Downtown Boone Local Historic District is to be reviewed by the Historic Preservation Commission for a Certificate of Appropriateness (COA). The HPC does not consider the content, subject matter, or style of any public art. The COA review is concerned with the mass, height, scale, durability, materials, method of installation, and placement of artwork. Artwork is reviewed with respect to these factors to determine if the artwork is congruous with the character of the historic district and the values of historic preservation served by the historic district.

11.2 The HPC will be focused on the following factors:

- The proposed artwork’s relationship to character-defining façades or features (such as doors and windows) of a historic building or other structure.
- The proposed artwork’s placement within a historic streetscape or landscape
- The proposed artwork’s physical impact on historic materials
- The proposed artwork’s height, scale, and massing as it relates to the historic setting.

11.3 The following standards shall generally apply to proposed public artwork:

- Artwork should be placed only in locations that do not compromise or detract from the architectural integrity or historic character, design, or materials of the building, site, or district.
- Artwork should be placed only in locations that do not materially obstruct or otherwise interfere with the view of historic structures or vistas.
- Artwork should not permanently or irreversibly alter the historic character of nearby historically significant buildings or landscapes.
- Wall-mounted artwork, including murals, mosaics, or metal installations, should be placed only in locations that do not compromise
or diminish the overall design, architectural features, or pattern of the building, site, or district. Wall-mounted artwork may be placed on previously unpainted surfaces by methods of attaching the art to the surface without causing harm to the structure.

- Murals may not be placed around or on windows, doors, pilasters, cornices, building trim, roof lines, and other recessed or projecting features. Murals are appropriate for expanses of wall surfaces otherwise without significant architectural detail. The top of the mural shall not be higher than the roofline of any building.

- Murals are permitted only on flat walls where a reasonable amount of open space is available to accommodate an appropriately-sized mural.

- Previously unpainted surfaces should not be painted. Murals may be painted directly onto a wall surface only if the surface was previously painted. Consideration of the type of paint material that may be required will be location- and district-specific and considered on a case-by-case basis.

- It is preferred that wall-mounted artwork be installed on non-historically significant structures. Non-historically significant structures are those that were constructed after the local historic district period of significance from 1918 to 1964.

- Artwork should be installed so that it does not conceal, result in damage to, or remove historical details or features.

- Artwork should have an appropriate massing in relation to the building, site, or district, and be scaled appropriately for the intended space.

- The colors and color palette of artwork is not regulated, except that neon colors are not allowed.

- Artwork should consist of traditional materials including wood, stone, masonry, or metal that are durable for exterior installation and compatible with the character of the building, site, or district. It is not appropriate to introduce artwork in contemporary materials including plastic or resin.

- Installation of artwork should include methods of stabilization or attachment that are fully reversible and do not cause damage to historic buildings, sites, or materials.
• Installation of artwork that includes additional features such as signage, mounting hardware, or lighting should be of compatible materials and should, as appropriate, be installed to be unobtrusive and screened from view as much as possible.
  o Historic signs, such as ghost ads or those painted on side walls, should be preserved in the historic district.

• Artwork should be maintained and repaired as required by the nature of the materials to preserve the appropriate appearance and safety of the artwork. Artwork should be regularly inspected for signs of vandalism and deterioration. When repairs are necessary, use industry best practices and the gentlest available treatments.

• Previously-approved and installed artwork may be replaced with another piece of similar artwork (e.g., a statue replacing a statue, or one mural design replacing another) without need for further approval, so long as general features including mass, scale, durability, method of installation, and placement of the art are not significantly altered and the replacement artwork does not include any new feature that is inconsistent with the standards set forth in this section.

• Any removal of artwork will be evaluated to determine if such removal will damage any historic features artwork is directly placed on, or historic features in close proximity.

11.4 Historical markers, interpretive signage, and public art that is either (i) located on property owned, controlled or maintained for public use by the Town within a historic district or within the boundaries of a publicly-owned landmark or (ii) funded in whole or in part by the Town must be approved by Town Council and shall be exempt from the COA process.

• However, at least 30 days prior to consideration for approval by the Town Council, the proposed historical marker, interpretive signage, and/or public art shall have been considered by the HPC in its advisory capacity with respect to (i) applicable district or landmark standards regarding size, form, massing, materials, and placement, (ii) historical accuracy and appropriateness of the content, and (iii) any other factors, including but not limited to aesthetic considerations, that the HPC deems relevant. The HPC shall forward the results of its review to Town Council. Town Council may consider approval of such historical marker, interpretive signage, or public art within 45 days of consideration by the HPC, regardless of whether or not HPC has submitted the results of its review by that date.
• By way of clarification, public art on public property owned or controlled by public authorities other than the Town is not intended to come within the exemption of this subsection 11.4.

11.5 In order to protect, preserve, and maintain existing monuments located on both public and private property, both the Town of Boone and private property owners should:

• Preserve, protect, and maintain the existing historic landforms, topography, and landscape features—including fences, walkways, gates, trees and other plantings, memorials, monuments, and markers—associated with these resources.

• Avoid the use of chemical treatments, landscape equipment, fertilizers, and earth-moving devices that are known or likely to result in damage to the historic fabric of these monuments.

• Stabilize leaning or loose monuments and prioritize the appropriate restoration of damaged or missing elements of these resources using standards developed by the Secretary of the Interior for the preservation of such resources.

• Before treating any type of masonry, correctly identify the materials and document their condition. During treatment, avoid the use of hard mortars on weathered masonry, and treat corroding metal anchors and fences to avoid further damage to masonry elements.

• When vandalism occurs, store broken or damaged elements on site or in a secure location nearby until restoration can occur. Take care to label the broken or damaged elements (without further damaging them) to ensure that they are not misplaced or forgotten.

• If cleaning of monuments is pursued, use the gentlest procedures available and consult a masonry conservator before using any chemical cleaners. Household products, including bleach, lye, ammonia, and similar items, should never be used.

(Ord. PL05671-042722, 07-27-2022)
Standards For Relocation and Demolition

Standards for Relocation and Demolition

Standards applicable to demolition of a structure in a historic district are set forth in UDO Section 8.08. Additional guidance for any relocation of a structure within the historic district is included below.

1. Relocation of Buildings

As described in UDO Subsection 8.08.05, relocation considered to be a “last resort” to demolition. Most historic buildings are strongly associated with the original site; therefore, relocation could threaten the historic integrity of a property. Relocation requires the HPC’s consideration. Applicants engaged in relocation should:

1.1 Work with reputable and experienced contractors to accomplish the relocation. Assess the structural condition of the building prior to relocation. The North Carolina SHPO should be contacted as the office maintains a list of qualified preservation consultants and building movers with experience working on North Carolina historic properties.

1.2 Plan the relocation route thoroughly. Contact Town Staff, local utility providers, and building officials to secure necessary permits and discuss a work plan for the move. Coordinate efforts to ensure minimum delays en route.

1.3 Secure the structure to be moved to protect from weather damage and water infiltration, to minimize damage during the move, and to deter vandalism.

1.4 Review the compatibility of the proposed relocation site with respect to building spacing, setback, orientation, height, scale, massing, the new site’s topography, and distance from other buildings. Consider if the new site is compatible in character with the original site location. Choose a site within the historic district when possible. The new foundation of the building or structure should match the original in height, design, and materials.

1.5 Move a building as a single unit in order to prevent the unnecessary loss of historic building fabric or any important architectural features. Partial or complete disassembly is only acceptable when absolutely necessary. Protect original and significant site features, features of the new site, and of the route during the relocation.
Preserve important site features within the historic district, or employ measures to keep important features on current site, such as large or historic trees.

If disassembly must be undertaken, measured drawings and photographic documentation of the structure shall be completed with written plan detailing the disassembly as part of the COA application for HPC approval.

Elements that are removed should be reassembled accurately. To do so, any parts of the building or structure should be marked with a non-destructive method that can be removed after reassembly.

In the circumstance that the approved relocated building is disassembled for moving and the physical condition is different than reported during the COA case, any change of physical condition should be documented. Documentation of changed physical conditions includes on-site photographs, written notes of the structure including dimensions, finish quality, texture, or color. The applicant, owner, or the one documenting the physical appearance, should report any change to Planning and Inspections staff.

In the circumstance a structure is being relocated to the historic district, the HPC is to consider if the relocated building or structure is congruous to the historic district in the following areas. This list is not intended to be comprehensive and cannot cover every circumstance that could be encountered in the project.

- Architectural style, scale, height, and massing.
- Siting orientation, building spacing, setbacks, distance from other buildings.
- Landscaping and other site features as included in guidelines for new construction. Other considerations in guidelines for new construction include the structure to be harmonious with the adjacent buildings.
- Relocation within the historic district shall not diminish the overall character of the historic district or damage existing historic buildings.

(Ord. PL05718-051822, 07-27-2022)
Bibliography


Map of North and South Carolina Exhibiting the post offices, post roads, canals, railroads, etc., by David H. Burr…entered according to Act of Congress, July 10th 1839. National Archives II, College Park, MD, RG 28, Burr Atlas, 6.


*Watauga Democrat*.

**Note:** Portions of the City of Raleigh historic design guidelines were also consulted for this project.
Glossary of Architectural Terms
Glossary of Architectural Terms

**Adaptive Reuse** - The process of converting a building to a use other than that for which it was designed, e.g. changing a house into an office.

**Alkyd Resin Paint** - A common modern paint using alkyd (one group of thermoplastic synthetic resins) as a vehicle for the pigment; often confused with oil paint.

**Aluminum Siding** - Sheets of exterior architectural covering, usually with a colored finish, fabricated of aluminum to approximate the appearance of wooden siding. Aluminum siding was developed in the early 1940s and became increasingly common in the 1950s and the 1960s.

**Amenity** - A building, object, area, or landscape feature that makes an aesthetic contribution to environment rather than one that is purely utilitarian.

**Arcade** - A series of arches supported on piers or columns attached to or detached from a wall.

**Arch** - A structure formed of wedge-shaped stones, bricks, or other objects laid so as to maintain one another firmly in position. A rounded arch generally represents classical or Romanesque influence whereas a pointed arch denotes Gothic influences.

**Architrave** - The lowest part of an entablature, sometimes used by itself as a casing for a window or door.

**Art Deco** - A style of decorative arts and architecture popular in the 1920s and 1930s, characterized by its use of geometric, angular forms; also referred to as Moderne or Art Moderne.

**Asbestos Siding** - Dense, rigid board containing a high proportion of asbestos fibers bonded with portland cement; resistant to fire, flame, or weathering and having a low resistance to heat flow. It is usually applied as large overlapping shingles. Asbestos siding was applied to many buildings in the 1950s.

**Ashlar** - A style of stonework consisting of individual stones that are shaped and tooled to have even faces and square edges.

**Asphalt Shingle** - A shingle manufactured from saturated construction felts (rag, asbestos, or fiberglass) coated with asphalt and finished with mineral granules on the side exposed to the weather.

**Asphalt Siding** - Siding manufactured from saturated construction felts (rag, asbestos, or fiberglass) coated with asphalt and finished with mineral granules on the side exposed to the weather. It sometimes displays designs seeking to imitate brick or stone. Asphalt siding was applied to many buildings in the 1950s.
**Attic Ventilator** - In houses, a screened or louvered opening, sometimes in decorative shapes, located in gables or soffits. Victorian styles sometimes feature sheet soffits or metal ventilators mounted on the roof ridge above the attic.

**Awning** - A rooflike covering of canvas, often adjustable, over a window, a door, etc., to provide protection against the sun, rain, and wind. Aluminum awnings were developed in the 1950s.

**Balustrade** - A low barrier formed of balusters, or uprights, supporting a railing.

**Band** (Band Course, Bandmold, Belt) - Flat trim running horizontally in the wall to denote a division in the wall plane or a change in level.

**Bargeboard** (also Vergeboard) - A wooden member, usually decorative, suspended from and following the slope of a gable roof. Bargeboards are used on buildings inspired by Gothic forms.

**Bay** - An opening or division along the face of a structure. For example, a wall with a door and two windows is three bays wide. A bay can also be a projection of a room or facade having windows.

**Beltcourse** - A projecting course of bricks or other material forming a narrow horizontal strip across the wall of a building, usually to delineate the line between stories, also referred to as a string course.

**Beveled Glass** - Glass panes whose edges are ground and polished at a slight angle so that patterns are created when panes are set adjacent to one another.

**Board and Batten** - A method of covering exterior walls using vertical boards, with narrow strips of wood or battens used to cover the joints between boards.

**Bond** - The pattern in which bricks are laid.

**Bracket** - A divide, either ornamental, structural, or both, set under a projecting element, such as the eaves of a house.

**Bulkhead** - The panels below the display windows on a commercial storefront.

**Bungalow Style** - An early 20th century architectural style that grew out of the Arts and Crafts movement of the 19th century. Its basic characteristics are long, low profiles; overhanging, bracketed eaves; wide engaged porches with square, squat brick piers supporting wood posts; and informal interior arrangements.

**Buttress** - A vertical mass of masonry projecting from or built against a wall to give additional strength at the point of maximum stress. Sometimes wooden buttresses are
added to frame Gothic Revival-style buildings as decorative, but not supporting features.

**Capital** - The topmost member, usually decorated or molded, of a column or pilaster.

**Cararra Glass** - Pigmented structural glass developed and popularized in the early 20th century for facing Art Deco and Art Modern-style commercial buildings.

**Casing** - The exposed trim molding, framing, or lining around a door or a window; may be either flat or molded.

**Cast Iron** - Iron that has been shaped by being melted and cast in a mold.

**Caulking** - A resilient mastic compound, often having a silicone, bituminous, or rubber base; used to seal cracks, fill joints, prevent leakage, and/or provide waterproofing.

**Cementitious Board** - A material composed of cement, sand, and cellulose fiber. First introduced in the early twentieth century as a substitute for slate. Today cementitious board has a variety of uses including exterior siding and roofing.

**Center-Hall Plan** - A plan in which the hall or passage extends through the center of a house and is flanked by two or more rooms.

**Certificate of Appropriateness** - A document awarded by a preservation commission or architectural review board allowing an applicant to proceed with a proposed alteration, demolition, or new construction in a designated historic area or site, following a determination of the proposal’s suitability according to applicable criteria.

**Certified Historic Structure** - For the purpose of the federal preservation tax incentives, any structure subject to depreciation as defined by the Internal Revenue Code that is listed individually on the National Register of Historic Places or located in a registered historic district and certified by the secretary of the interior as being of historic significance to the district.

**Certified Rehabilitation** - Any rehabilitation of a certified historic structure that the Secretary of the Interior has determined is consistent with the historical character of the property or the district in which the property is located.

**Chalking** - The formation of a powder surface condition from the disintegration of a binder or an elastomer in a paint coating; caused by weathering or an otherwise destructive environment.

**Chamfer** - A beveled edge or corner.

**Chamfered Post** - A square post with the edges of its corners cut away or beveled.
**Checking** - Small cracks in a film of paint or varnish that do not completely penetrate to the previous coat; the cracks are in a pattern roughly similar to a checkerboard.

**Clapboard** - Horizontal wooden boards, tapered at the upper end and land so as to cover a portion of a similar board underneath and to be covered by a similar one above. The exposed face of clapboard is usually less than 6 inches wide. This was common outer face in the nineteenth and early twentieth century buildings.

**Classical** - Embodying or based on the principles and forms of Greek and Roman architecture.

**Clerestory** - Windows located relatively high in a wall that often tend to form a continuous band. This was a feature of many Gothic cathedrals and was later adapted to many of the Revival styles found here.

**Clipped Gable** - A gable the peak of which is truncated for decorative effect; often the roof overhangs the missing peak.

**Colonial Revival Style** - Late 19th and early 20th century style that combines features of Classical and Colonial architecture.

**Colonnette** - A small-scale column, generally employed as a decorative element on mantels, overmantels, and porticoes.

**Column** - A vertical shaft or pillar that supports or appears to support a load.

**Common Bond** - A method of laying brick wherein one course of headers is laid for every three, five, or seven courses of stretchers.

**Composition Board** - A building board, usually intended to resemble clapboard, fabricated from wood or paper fabric under pressure and at an elevated temperature, usually with a binder.

**Coping** - The cap or the top course of a masonry wall.

**Corbel** - A projection (or building out) from a masonry wall, sometimes to support a load and sometimes for decorative effect.

**Corner Block** - A square piece, either plain or decorated that forms a corner of a window or door surround.

**Corner Boards** - Vertical boards nailed on the external corners of frame buildings to provide a method of finishing and joining the ends of the weatherboards.

**Cornice** - The lowest point of any predominant molded and projecting horizontal member that crowns an architectural composition, such as a wall near the roofline or the
top of the parapet wall. Said cornice, from which the line is determined, shall not exceed three feet. (This definition is consistent with the definitions found in the New Bern Land Use Ordinance Article XXI Section 15-413)

**Cresting** - Ornamental ironwork, often highly decorative, used to embellish the ridge of a gable roof or the curb or upper cornice of a mansard roof.

**Crossette** - A lateral projection of the head of the molded architrave or surround of a door, window, mantel, or paneled overmantel; also known as an “ear” or “dog-ear”.

**Crown Molding** - The upper molding of a cornice, often serving to cap or crown the vertical facing or fascia of a boxed cornice. Also, the term is frequently given to the molding used to decorate the joints between walls and a ceiling.

**Crenellation** - Alternating indentations and raised sections of a parapet, creating a toothlike profile some-times known at a battlement. Crenellation is a detail found most commonly in the Gothic Revival style.

**Cultural Resource** - A building, structure, district, site, object, or document, that is of significance in American History, architecture, archeology, or culture.

**Cupola** - A small structure, usually polygonal, built on top of a roof or tower, mostly for ornamental purposes.

**Deck** - An uncovered porch, usually at the rear of a building; popular in modern residential design.

**Demolition by Neglect** - The destruction of a building through abandonment or lack of maintenance.

**Dentil** - Small, closely spaced blocks, often toothlike, used as an ornamental element of a classical cornice.

**Design Standards** - Criteria developed by preservation commissions and architectural review boards to identify design concerns in an area and to help property owners ensure that rehabilitation and new construction respect the character of designated buildings or districts.

**Design Review** - The process of ascertaining whether modifications to historic and other structures, set-tings, and districts meet standards of appropriateness established by a governing or advisory review board.

**Dogtrot Plan** - A plan in which two pens with their own chimneys separated by an open center passage.
**Dormer** - A structure containing a window (or windows) that projects through a pitched roof.

**Doric Order** - A classical order characterized by simple unadorned capitals supporting a frieze of vertically grooved tablets or triglyphs set at intervals.

**Dormer Window** - An upright window, set in a sloping roof, with vertical sides and front, usually with a gable, shed, or hip roof.

**Double-Hung Window** - A window with two sashes that open and close by sliding up and down in a cased frame.

**Double-Pile House** - A center-hall plan house that is two rooms deep on each side of the hall.

**Double-Shoulder Chimney** - An exterior chimney the sides of which angle inward to form shoulders twice as it ascends from the base to the cap.

**Downspout** - A vertical pipe, often of sheet metal, used to conduct water from a roof drain or gutter to the ground or cistern.

**Dressed** - Descriptive of stone, brick, or lumber that has been prepared, shaped, or finished by cutting, planing, rubbing, or sanding one or more of its faces.

**Eave** - The part of a sloping roof that projects beyond the wall.

**Eclectic or Eclecticism** - A method of design in architecture in which elements from a variety of stylistic sources are selected and combined in new and original ways.

**Elevation** - A drawing showing the vertical elements of a building, either exterior or interior, as a direct projection to a vertical plane.

**Ell** - A secondary wing or extension of a building, often a rear addition, positioned at right angles to the principal mass.

**Eminent Domain** - The power of a government to acquire private property for public benefit after payment of just compensation to the owner.

**Enabling Legislation** - Federal or state laws that authorize governing bodies within their jurisdictions to enact particular measures or delegate powers such as enactment of local landmarks and historic district ordinances, zoning, and taxation.

**Engaged Porch** - A porch the roof of which is continuous structurally with that of the main section of the building.
**English Bond** - A method of laying brick wherein one course is laid with stretchers and the next with headers, thus bonding the double thickness of brick together and forming a high-strength bond of alternating courses of stretchers and headers.

**Entablature** - The horizontal part of a Classical order of architecture, usually positioned above columns or the frieze; the uppermost element is the cornice.

**Escutcheon** - A protective plate, sometimes decorated, surrounding the keyhole of a door, a light switch, or similar device.

**Etched Glass** - Glass whose surface has been cut away with a strong acid or by abrasive action into a decorative pattern.

**Extended Use** - Any process that increases the useful life of an old building, e.g. adaptive use or continued use.

**Exterior End Chimney** - A chimney located outside the walls of a house, usually against the gable end of a building.

**Fabric** - The physical material of a building, structure, or city, connoting an interweaving of component parts.

**Facade** - The face or front of a building.

**Fanlight** - A semicircular window, usually above a door or window, with radiating muntins suggesting a fan.

**Fascia** - A flat board with a vertical face that forms the trim along the edge of a flat roof, or along the horizontal, or eave side of a pitched roof. The rain gutter is often mounted on it.

**Fluting** - Shallow, concave grooves running vertically on the shaft of a column, pilaster or other surface.

**Federal Style** - The style of architecture popular in America from the Revolution through the early 19th century (in North Carolina from about 1800-1840). The style is characterized by the use of delicate Classical ornament.

**Fenestration** - The arrangement of windows on a building.

**Finial** - An ornament, usually turned on a lathe, placed on the apex of an architectural feature such as a gable, turret, or pediment.

**Flashings** - A thin impervious material placed in construction to prevent water penetration, to provide water drainage, or both, especially between a roof and a wall.
Flemish Bond - A method of laying brick wherein headers and stretchers alternate in each course and, vertically, headers are placed over stretchers to form a bond and give a distinctive cross pattern.

Flush Siding - An exterior wall treatment consisting of closely fitted horizontal boards with joints that are carefully formed to be hidden and flush, giving a very uniform, flat siding appearance.

Foundation - The supporting portion of a structure below the first-floor construction, or below grade, including footings.

French Window - Long window reaching to the floor level and opening in two leaves like a pair of doors.

Fretwork - A geometrically meandering strap pattern; a type of ornament consisting of narrow fillet or band that is folded, crossed, and interlaced.

Frieze - The middle portion of a Classical entablature, located above the architrave and below the cornice. The term is usually used to describe the flat, horizontal board located above the weatherboards of most houses.

Gable - The triangular portion of a wall formed or defined by the two sides of a double-sloping roof; often referred to as an “A” roof.

Galvanize - To coat steel or iron with zinc, as, for example, by immersing it in a bath of molten zinc.

Gambrel Roof - A gable roof more or less symmetrical, having four inclined surfaces, the pair meeting at the ridge having a shallower pitch.

Georgian Style - The prevailing style of the eighteenth century in Great Britain and the North American Colonies, so named after George I, George II, and George III. It is derived from Classical, Renaissance, and Baroque forms.

German Siding - Wooden siding with a concave upper edge that fits into a corresponding rabbet in the siding above.

Gingerbread - Thin, curvilinear ornamentation produced with machine powered saws.

Glazed Header - A brick having a glossy, dark coating ranging in color from gray green to almost black, formed on the outer surface through direct exposure to flame and intense heat during the firing process. In Flemish bond brickwork, this glazed surface is often used for decorative effect by laying the brick so that the glazed ends or headers are exposed to form a pattern in the wall.
**Glue-Chip Glass** - A patterned glass with a surface resembling frost crystals common in turn-of-the-century houses and bungalows.

**Gothic Arch** - A pointed arch commonly used in Gothic Revival architecture especially churches.

**Gothic Revival Style** - The nineteenth-century revival of the forms and ornament of medieval/Gothic European architecture, characterized by the use of the pointed arch, buttresses, pinnacles, and other Gothic details in a decorative fashion. The style was popular for church architecture in North Carolina well into the 20th Century.

**Greek Revival Style** - The mid-19th century revival of the forms and ornamentation of the architecture of ancient Greece.

**Gutter** - A shallow channel of metal or wood set immediately below or built in along the eaves of a building to catch and carry off rainwater.

**Hall-Parlor Plan** - A traditional vernacular plan consisting of two principal rooms: a larger “hall,” often nearly square, and an adjoining smaller “parlor.” In most instances, the hall was entered directly from the outside and had a fireplace centered on the end wall; it was the room where most domestic activities took place. The smaller parlor tended to be used for sleeping.

**Harmony**—Pleasing agreement of parts in color, size, scale, texture, and materials.

**Header** - The end of a brick, sometimes glazed.

**Hipped Roof** - A roof that slopes back equally from each side of a building. A hip roof can have a pyramidal form or have a slight ridge.

**Historic district** - A geographically definable area with a significant concentration of buildings, structures, sites, spaces, or objects unified by past events, physical development, design, setting, materials, workmanship, sense of cohesiveness or related historic and aesthetic associations. The significance of a district may be recognized through listing on a local, state, or national landmarks register and may be protected legally through enactment of a local historic district ordinance administered by a historic district board or commission.

**House Museum** - A museum whose structure itself is of historical or architectural significance and whose interpretation relates primarily to the building’s architecture, furnishings, and history.

**Human Scale** - A combination of qualities in architecture or the landscape that provides an appropriate relationship to human size, enhancing rather than diminishing the importance of people.
**Interior End Chimney** - A chimney positioned on the interior side of the gable end of a house.

**Italianate Style** - A revival of elements of Italian Renaissance architecture popular during the mid- and late 19th century, characterized by the presence of broad projecting or overhanging cornices supported by ornate sawn brackets. Other features include the use of arched windows and heavy hoodmolds.

**Jamb** - The vertical sides of an opening, usually for a door or a window.

**Jerkin Head Roof** - A roof whose end has been formed into a shape midway between a gable and a hip, resulting in a truncated or “clipped” appearance; sometimes called clipped gable.

**Joist** - One of a series of parallel timbers or beams, usually set on edge, that span a room from wall to wall to support a floor or ceiling; a beam to which floorboards, ceiling boards, or plaster laths are nailed.

**Keystone** - The central wedge-shaped stone at the crown of an arch or in the center of a lintel.

**Landmarks Register** - A listing of buildings, districts, and objects designated for historical, architectural, or other special significance that may carry protection for listed properties.

**Landscape** - The totality of the built or human-influenced habitat experienced at any one place. Dominant features are topography, plant cover, buildings, or other structures, and their patterns.

**Latex Paint** - A paint having a latex binder (an emulsion of finely dispersed particles of natural or synthetic rubber or plastic materials in water).

**Lattice** - A network, often diagonal, of interlocking lath or other thin strips used as screening, especially in the base of a porch.

**Light** - A pane of glass.

**Lintel** - A beam of wood or stone that spans an opening; in masonry construction it frequently supports the masonry above the opening.

**Lunette** - A semicircular opening.

**Mansard Roof** - A four-sided double-pitch roof characteristic of the Second Empire Style.
**Mixed Use** - a variety of authorized activities in an area or a building as distinguished from the isolated uses and planned separatism prescribed by many zoning ordinances.

**Mildew** - A fungus that grows and feeds on paint, cotton and linen fabrics, etc., that are exposed to moisture; causes discoloration and decomposition of the surface.

**Modillion** - A horizontal bracket, often in the form of a plain block, ornamenting, or sometimes supporting, the underside of the cornice.

**Molding** - A decorative band having a constant profile or having a pattern in low relief, generally used in cornices or as trim around openings.

**Mortar** - A mixture of portland cement, lime, putty, and sand in various proportions, used for laying bricks or stones. Until the use of hard portland cement became general, the softer lime-clay or lime-sand mortars and masonry cement were common.

**Mortise and Tenon** - A joint made by one member having its end cut as a projecting tongue (tenon) that fits exactly into a groove or hole (mortise) in the other member. Once joined in this fashion, the two pieces are often secured by a peg.

**Mullion** - A vertical member dividing a window area and forming part of the window frame.

**Muntin** - A molding forming part of the frame of a window sash and holding one side of a pane.

**Newel Post** - The principal post used to terminate the railing or balustrade of a flight of stairs.

**Neoclassical Style** - A style of architecture popular during the first half of the twentieth century. Elements draw heavily from Greek Revival and early Classical revival.

**Ogee** - A double curve formed by the combination of a convex and concave line, similar to an s-shape.

**Oil Paint** - A paint in which a drying oil, usually linseed oil, is the vehicle for the pigment; rarely used as a house paint since the mid-twentieth century when it was commonly replaced by alkyd resin paints.

**Palladian Window** - A window design featuring a central arched opening flanked by lower square-headed openings separated from them by columns, pilasters, piers, or narrow vertical panels.

**Panel** - A portion of a flat surface set off by molding or some other decorative device.

**Parapet** - A low wall along a roof or terrace, used as decoration or protection.
**Patio** - An open, outdoor living space adjacent to a building, usually surfaced with stone, tiles, or concrete and at ground level.

**Pediment** - A crowning element of porticoes, pavilions, doorways, and other architectural features, usually of low triangular form, with a cornice extending across its base and carried up the raking sides; sometimes broken in the center as if to accommodate an ornament; sometimes of segmental, elliptical, or serpentine form.

**Pen** - A one-room structure, the term is usually used when referring to log buildings. Many dwellings erected by the first settlers of the North Carolina piedmont were single-pen structures. Many of these dwellings were expanded into two-pen houses following the double-pen, saddlebag, or dogtrot plans.

**Pilaster** - A shallow pier or rectangular column projecting only slightly from or engaged to a wall. Pilasters are usually decorated like columns with a base, shaft, and capital.

**Porte Cochere** - A projecting porch that provides protection for vehicles and people entering a building; a common feature of the early 20th century Colonial Revival and Bungalow styles.

**Portico** - A roofed space, open or partly enclosed, often with columns and a pediment, that forms the entrance and centerpiece of the facade of a building.

**Portland Cement** - A very hard and strong hydraulic cement (one that hardens under water) made by heating a slurry of clay and limestone in a kiln.

**Preservation** - Generally, saving old and historic buildings, sites, structures, and objects from destruction or deterioration, and providing for their continued use by means of restoration, rehabilitation, or adaptive use and continued maintenance. The Secretary of Interior’s Standards for Rehabilitation defines it as, “the act or process of applying measures to sustain the existing form, integrity, and materials of a historic property. It may include stabilization work, where necessary, as well as ongoing maintenance of the historic building materials”.

**Preservation Commission** - A generic term for an appointed municipal or county board that recommends the designation of and regulates changes to historic districts and landmarks. It may be called a historic district review board or commission, or architectural or design review board.

**Primer** - A paint applied as a first coat that serves the function of sealing and filling on wood, plaster, and masonry.

**Queen Anne Style** - A popular late 19th century revival of early 18th century English architecture, characterized by irregularity of plan and massing and a variety of textures.
Quoin - Ornamental blocks of wood, stone, brick, or stucco placed at the corners of a building and projecting slightly from the front of the facade.

Rafters - Structural timbers rising from the plate at the top of a wall to the ridge of the roof and supporting the roof covering.

Raised panels - A portion of a flat surface, as in the panel of a door or wainscoting, that is distinctly set off from the surrounding area by a molding or other device and is raised above the surrounding area.

Rake - Trim members that run parallel to a roof slope and form the finish between the wall and a gable roof extension.

Rehabilitation - “The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values” as defined by the Secretary of Interior’s Standards for Rehabilitation.

Renovation - Modernization of an old or historic building that may produce inappropriate alteration or eliminate important features and details.

Repointing - Raking out deteriorated mortar joints and filling into them a surface mortar to repair the joint.

Restoration - “The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of removal of latter work or by the replacement of missing earlier work” as defined in the Secretary of the Interior’s Standards for Rehabilitation.

Returns - Horizontal portions of a cornice that extend part of the way across the gable end of a structure at eave level.

Roofing Tile - A tile for roofing, usually of burnt clay; available in many configurations and types, such as plain tiles, single-lap tiles, and interlocking tiles.

Rusticated Stone - Masonry or wood in which each principal face is rough or highly patterned with a tooled margin.

Saddlebag Plan - A plan in which two single-pen rooms are joined together, separated by a single interior chimney.

Sandblasting - An extremely abrasive method of cleaning brick, masonry, or wood that involves directing high-powered jets of sand against a surface. Sanding, flattening down, rubbing, smoothing a surface with abrasive paper cloth either by hand or by machine.
Sash - The frame, usually of wood, that holds the pane(s) of glass in a window; may be movable or fixed; may slide in a vertical plane or may be pivotal.

Sawnwork - Ornamentation in cutout planking, formed with a bandsaw. Popular in the 1880s and the 1890s, this decorative detailing is flat.

Second Empire Style - An eclectic style derived from the grand architecture of the French Second Empire of Napoleon III (1852-1870), popularly used in America from the 1860s to the 1880s, especially for public buildings, and characterized by heavy ornament and high mansard roofs with dormers.

Section 106 - The provision of the National Historic Preservation Act of 1966 that requires the head of a federal agency financing or licensing a project to make a determination of the effect of the project or property on or eligible for the National Register of Historic Places. This is the only protection the National Register provides for listed properties.

Segmental Arch - An arch formed on a segment of a circle or an ellipse.

Sense of Place - The sum of the attributes of a locality, neighborhood, or property that give it a unique and distinctive character.

Shed Room - A one-story appendage to a larger structure, covered by a simple shed or sloping roof that “leans” against the principal building mass.

Sheet Metal - A flat, rolled-metal product, rectangular in cross-section and form; when used as roofing material, usually tenn- or zinc-plated.

Shingle - A roofing unit of wood, asphalt, slate, tile, or other material cut to stock lengths, widths, and thicknesses; used as an exterior covering on roofs and applied in an overlapping fashion.

Shoulder - The sloping shelf or ledge created on the side of a masonry chimney where the width of the chimney changes.

Shutters - Small wooden louvered or solid panels hinged on the exterior of windows, and sometimes doors, to be operable.

Sidelight - A framed area of fixed glass of one or more panes positioned to either side of a door or window opening.

Sill - A heavy horizontal timber positioned at the bottom of the frame of a wood structure, that rests on top of the foundation; also, the horizontal bottom member of a door or window frame.
Soffit - The exposed undersurface of any overhead component of a building, such as an arch, balcony, beam, cornice, lintel, or vault.

Spindle Frieze - A row of lathe-turned spindles included as the uppermost decorative feature of a gallery or porch below the cornice; also known as an openwork frieze.

Stabilization - “The act or process of applying measures designed to re-establish a weather resistant enclosure and the structural stability of unsafe or deteriorated property while maintaining the essential form as it exists at present,” according to the Secretary of Interior’s Standards for Rehabilitation.

Street Furniture - Municipal equipment placed along streets including light fixtures, fire hydrants, police and fire call boxes, signs, benches, and kiosks.

Streetscape - The distinguishing character of a particular street is created by its width, degree of curvature, paving materials, design of the street furniture, forms of surrounding buildings, and the presence of vegetation (especially trees) along the curb or sidewalk.

Stretcher - The long face of a brick when laid horizontally.

String Course - A projecting course of bricks or other material forming a narrow horizontal strip across the wall of a building, usually to delineate the line between stories, also referred to as a belt course.

Stucco - An exterior finish, usually textured, composed of portland cement, lime, and sand mixed with water. Older-type stucco may be mixed from softer masonry cement rather than portland cement.

Style - A type of architecture distinguished by special characteristics of structure and ornament and often related in time, also, a general quality of distinctive character.

Surround - The border or casing of a window or door opening, sometimes molded.

Tax Incentive - A tax reduction designed to encourage private investment in historic preservation and re-habilitation projects.

Terneplate - Sheet metal coated with terne metal, which is an alloy of lead containing up to 20 percent tin.

Terra Cotta - A ceramic material, molded decoratively and often glazed, used for facings for buildings or as inset ornament.

Textured Siding - Wood cut in various flat patterns, such as half rounds or scallops, and applied to portions of facades to create a picturesque or romantic look. This
treatment was generally used in Queen Anne-style buildings. Surface textures are often found in diamond, scallop, staggered butt, or composite patterns.

**Tongue and Groove** - A joinery system in which boards are milled with a tongue on one side and a groove on the other so that they can be tightly joined with a flush surface alignment.

**Townscape** - The relationship of buildings, shapes, spaces, and textures that give a town or area its distinctive visual character or image.

**Trabeated** - A method of construction employing posts and lintels; hence, a term used to describe a standard Greek Revival entrance door having a transom and sidelights.

**Tracery** - An ornamental division of an opening, especially a large window, usually made with wood. Tracery is found in buildings of Gothic influence.

**Transom (Over-Door Light)** - A narrow horizontal window unit above a door.

**Turned** - Fashioned on a lathe, as in a baluster, newel, or porch post.

**Turret** - A small tower, usually corbelled from a corner.

**Vernacular** - In architecture, as in language, the nonacademic local expressions of a particular region. For example, a vernacular Greek Revival structure may exhibit forms and details that are derived from the principles of formal Classical architecture but are executed by local builders in an individual way that reflects both local or regional needs, tastes, climatic conditions, technology, and craftsmanship.

**Victorian** - The general term used to describe the wide variety of eclectic revival styles that were introduced in British and American architecture during the reign of Queen Victoria (1837-1901)

**Vinyl Siding** - Sheets of thermal plastic compound made from chloride or vinyl acetates, as well as some plastics made from styrene and other chemicals, usually fabricated to resemble clapboard.

**Visual Pollution** - Anything that, because of its placement or intrinsic nature, is offensive to the sense of sight, e.g. garbage dumps.

**Vitrolite** - Pigmented structural glass developed and popularized in the early 20th century for facing Art Deco and Art Modern-style commercial buildings.

**Water Blasting** - A cleaning method similar to sandblasting except that water is used as the abrasive. As in sandblasting, high-pressure water jets can damage wood and masonry surfaces.
**Water Table** - A belt course differentiating the foundation of a masonry building from its exterior walls.

**Weatherboard** - Wood siding consisting of overlapping horizontal boards usually thicker at one edge than the other.

**Wrought Iron** - Iron that is rolled or hammered into shape, never melted.

*These terms have been compiled from a variety of sources including* Landmark Yellow Pages *by the National Trust for Historic Preservation*, The Architecture of Wake County, NC *by Kelly Lally*, and Design Guidelines for Raleigh Historic Districts, Raleigh Historic District Commission, as well as Reid Thomas, Restoration Specialist, Eastern Office, NC SHPO.*
Appendices
Appendix A: N.C. General Statutes
North Carolina Enabling Legislation for the Creation of Historic Preservation Commissions by Counties and Municipalities G.S. 160D-303, 940-951

Note: The following text has been taken from the North Carolina General Assembly General Statutes Web site at http://www.ncga.state.nc.us/Statutes/Statutes.html. Complete texts (by full chapters, not sections) of all General Statutes may be downloaded in HTML, PDF, and RTF formats at that site.

   (a) Composition. – Before it may designate one or more landmarks or historic districts pursuant to Part 4 of Article 9 of this Chapter, the governing board shall establish a historic preservation commission. The governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of the commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside within the planning and development regulation jurisdiction of the local government as established pursuant to this Chapter. The commission may appoint advisory bodies and committees as appropriate. Members of the commission may be reimbursed for actual expenses incidental to the performance of their duties within the limits of any funds available to NC General Statutes - Chapter 160D 18 the commission but shall serve without pay unless otherwise provided in the ordinance establishing the commission.

   (b) Alternative Forms. – In lieu of establishing a historic preservation commission, a local government may designate as its historic preservation commission (i) a separate historic districts commission or a separate historic landmarks commission established pursuant to this Chapter to deal only with historic districts or landmarks respectively, (ii) a planning board established pursuant to this Chapter, or (iii) a community appearance commission established pursuant to this Chapter. In order for a commission or board other than the historic preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of a local government, the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning board or a community appearance commission.

   (c) Joint Commissions. – Local governments may establish or designate a joint preservation commission. If a joint commission is established or designated, it shall have the same composition as specified by this section, and the local governments involved shall determine the residence requirements of members of the joint preservation commission.

   (d) Duties. – The historic preservation commission shall have the duties specified in G.S. 160D-942. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-940. Legislative findings.

The heritage of our State is one of our most valued and important assets. The conservation and preservation of historic districts and landmarks stabilize and increase property values and strengthen the overall economy of the State. This Part authorizes local governments within their respective planning and development regulation jurisdictions and by means of listing, regulation, and acquisition to do the following:

(1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory. NC General Statutes - Chapter 160D 71

(2) To promote the use and conservation of such district or landmark for the education, pleasure, and enrichment of the residents of the city or county and the State as a whole. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)


Before it may designate one or more landmarks or historic districts, a local government shall establish or designate a historic preservation commission in accordance with G.S. 160D-303. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)


A preservation commission established pursuant to this Chapter may, within the planning and development regulation jurisdiction of the local government, do any of the following:

(1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.

(2) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."

(3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.

(4) Restore, preserve, and operate historic properties.

(5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.
(6) Conduct an educational program regarding historic properties and districts within its jurisdiction.

(7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.

(8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(9) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.

(10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part.

(11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-943. Appropriations.

A governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Chapter in any amount determined necessary for the expenses of the operation of the commission and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks, or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-944. Designation of historic districts.

(a) Any local government may, as part of a zoning regulation adopted pursuant to Article 7 of this Chapter or as a development regulation enacted or amended pursuant to Article 6 of this Chapter, designate and from time to time amend one or more historic districts within the area subject to the regulation. Historic districts established pursuant to this Part shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, or culture and to possess integrity of design, setting, materials, feeling, and association.

Such development regulation may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic
districts are designated as separate use districts, the zoning regulation may include as uses by right or as special uses those uses found by the preservation commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until all of the following occur:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district and a description of the boundaries of such district has been prepared.

(2) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the governing board of any responsibility for awaiting such analysis, and the governing board may at any time thereafter take any necessary action to adopt or amend its zoning regulation.

(c) The governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the zoning regulation. With respect to any changes in the boundaries of such district, subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the NC General Statutes - Chapter 160D 73 preservation commission and shall be referred to the planning board for its review and comment according to procedures set forth in the zoning regulation. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the local government may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning regulation.

(d) The provisions of G.S. 160D-910 apply to zoning or other development regulations pertaining to historic districts, and the authority under G.S. 160D-910(b) for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-945. Designation of landmarks.
Upon complying with G.S. 160D-946, the governing board may adopt and amend or repeal a regulation designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling, and/or association. The regulation shall describe each property designated in the regulation, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the regulation shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the regulation may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-946. Required landmark designation procedures.

As a guide for the identification and evaluation of landmarks, the preservation commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No regulation designating a historic building, structure, site, area, or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board, until all of the following procedural steps have been taken:

1. The preservation commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving, or demolishing properties designated as landmarks.

2. The preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Cultural Resources.

3. The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall, upon request of the department or at the initiative of the preservation commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the
Department of the investigation and report of the preservation commission, the commission and any governing board shall be relieved of any responsibility to consider such comments.

(4) The preservation commission and the governing board shall hold a joint legislative hearing or separate legislative hearings on the proposed regulation. Notice of the hearing shall be made as provided by G.S. 160D-601.

(5) Following the hearings, the governing board may adopt the regulation as proposed, adopt the regulation with any amendments it deems necessary, or reject the proposed regulation.

(6) Upon adoption of the regulation, the owners and occupants of each designated landmark shall be given written notice of such designation within a reasonable time. One copy of the regulation and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. In the case of any landmark property lying within the planning and development regulation jurisdiction of a city, a second copy of the regulation and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the regulation and any amendments shall be given to the local government building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the local government for such period as the designation remains in effect.

(7) Upon the adoption of the landmark regulation or any amendment thereto, it shall be the duty of the preservation commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)


(a) Certificate Required. – After the designation of a landmark or a historic district, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on the landmark or within the district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The local government shall require such a certificate to be issued by the commission prior to the issuance of a building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness is required whether or not a building or other permit is required. For purposes of this Part,
"exterior features" include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area. Except as provided in subsection (b) of this section, the commission has no jurisdiction over interior arrangement. The commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district that would be incongruous with the special character of the landmark or district. In making decisions on certificates of appropriateness, the commission shall apply the rules and standards adopted pursuant to subsection (c) of this section.

(b) Interior Spaces. – Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces is limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review binds future owners and/or successors in if the consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(c) Rules and Standards. – Prior to any action to enforce a landmark or historic district regulation, the commission shall (i) prepare and adopt rules of procedure and (ii) prepare and adopt principles and standards not inconsistent with this Part to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition. The landmark or historic district regulation may provide, subject to prior adoption by the preservation commission of detailed standards, for staff review and approval as an administrative decision of applications for a certificate of appropriateness for minor work or activity as defined by the regulation; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission. Other than these administrative decisions on minor works, decisions on certificates of appropriateness are quasi-judicial and shall follow the procedures of G.S. 160D-406.

(d) Time for Review. – All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the regulation or the commission’s rules of procedure. As part of its review procedure, the commission may view the NC General Statutes - Chapter 160D 76 premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.
(e) Appeals. – (1) Appeals of administrative decisions allowed by regulation may be made to the commission. (2) All decisions of the commission in granting or denying a certificate of appropriateness may, if so provided in the regulation, be appealed to the board of adjustment in the nature of certiorari within times prescribed for appeals of administrative decisions in G.S. 160D-405(d). To the extent applicable, the provisions of G.S. 160D-1402 apply to appeals in the nature of certiorari to the board of adjustment. (3) Appeals from the board of adjustment may be made pursuant to G.S. 160D-1402. (4) If the regulation does not provide for an appeal to the board of adjustment, appeals of decisions on certificates of appropriateness may be made to the superior court as provided in G.S. 160D-1402. (5) Petitions for judicial review shall be taken within times prescribed for appeal of quasi-judicial decisions in G.S. 160D-1405. Appeals in any such case shall be heard by the superior court of the county in which the local government is located.

(f) Public Buildings. – All of the provisions of this Part are hereby made applicable to construction, alteration, moving, and demolition by the State of North Carolina, its political subdivisions, agencies, and instrumentalities, provided, however, they do not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies may appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The North Carolina Historical Commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the North Carolina Historical Commission is final and binding upon both the State and the preservation commission. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 24, 51(a), (b), (d).)

§ 160D-948. Certain changes not prohibited.
Nothing in this Part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark that does not involve a change in design, material, or appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing in this Part shall be construed to prevent a property owner from making any use of his or her property that is not prohibited by other law. Nothing in this Part shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the preservation commission. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).) NC General Statutes - Chapter 160D 77

§ 160D-949. Delay in demolition of landmarks and buildings within historic district.
(a) An application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure, or site within
the district may not be denied, except as provided in subsection (c) of this section. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the preservation commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the preservation commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the preservation commission finds that a building or site within a district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal. If the preservation commission or planning board has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the governing board, the demolition or destruction of any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the preservation commission or planning board for a period of up to 180 days or until the governing board takes final action on the designation, whichever occurs first.

(b) The governing board may enact a regulation to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such regulation shall provide appropriate safeguards to protect property owners from undue economic hardship.

(c) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the preservation commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d.).)

§ 160D-950. Demolition by neglect to contributing structures outside local historic districts.

Notwithstanding G.S. 160D-949 or any other provision of law, the governing board may apply its demolition-by-neglect regulations to contributing structures located outside the local historic district within an adjacent central business district. The governing board may modify and revise its demolition-by-neglect regulations as necessary to implement this section and to further its intent. This section is applicable to any local government provided such local government (i) has designated portions of the central business district and its adjacent historic district as an Urban Progress Zone as defined in G.S. 143B-437.09 and (ii) is recognized by the State Historic Preservation Office and the U.S. Department of the Interior as a Certified Local Government in accordance with the National Historic Preservation Act of 1966, as amended by 16 U.S.C. § 470, et seq., and the applicable federal regulations 36 C.F.R. Part 61, but is located in a county that has not received the same certification. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d.).)

§ 160D-951. Conflict with other laws.
NC General Statutes - Chapter 160D 78 Whenever any regulation adopted pursuant to this Part requires a longer waiting period or imposes other higher standards with respect to a designated historic landmark or district than are established under any other statute, charter provision, or regulation, this Part shall govern. Whenever the provisions of any other statute, charter provision, ordinance, or regulation require a longer waiting period or impose other higher standards than are established under this Part, such other statute, charter provision, ordinance, or regulation shall govern. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)
Appendix B: Federal Historic Preservation Information

National Park Service
http://www.cr.nps.gov

National Register of Historic Places (National Park Service)
http://www.cr.nps.gov/places.htm

Certified Local Government Program (National Program)
http://www.cr.nps.gov/hps/tps/tax/rehabstandards.htm

Advisory Council for Historic Preservation (Federal Liaison for Programs)
http://www.achp.gov/

Federal Preservation Tax Incentives Program
http://www.cr.nps.gov/hps/tps/tax/index.htm

The Secretary of Interior's Standards for Rehabilitation
http://www.cr.nps.gov/hps/tps/tax/rehabstandards.htm

Illustrated Guidelines for Rehabilitating Historic Buildings
http://www.cr.nps.gov/hps/tps/tax/rhblindex.htm

Historic American Buildings Survey
https://www.nps.gov/hdp/standards/habsguidelines.htm

Preservation Briefs-A Series of Informative Pamphlets (Listed Below)
http://www.cr.nps.gov/hps/tps/briefs/presbhom.htm
   Preservation Brief 01: Assessing Cleaning and Water Repellent Treatments for Historic Masonry Buildings
       http://www.cr.nps.gov/hps/tps/briefs/brief01.htm
   Preservation Brief 02: Repointing Mortar Joints in Historic Masonry Buildings
       http://www.cr.nps.gov/hps/tps/briefs/brief02.htm
   Preservation Brief 03: Conserving Energy in Historic Buildings
       http://www.cr.nps.gov/hps/tps/briefs/brief03.htm
   Preservation Brief 04: Roofing for Historic Buildings
       http://cr.nps.gov/hps/tps/briefs/brief04.htm
   Preservation Brief 05: The Preservation of Historic Adobe Buildings
       http://www.nps.gov/hps/tps/briefs/brief05.htm
   Preservation Brief 06: Dangers of Abrasive Cleaning to Historic Buildings
       http://www.cr.nps.gov/hps/tps/briefs/brief06.htm
   Preservation Brief 07: The Preservation of Historic Glazed Terra Cotta
       http://www.cr.nps.gov/hps/tps/briefs/brief07.htm
http://www.cr.nps.gov/hps/tps/briefs/brief08.htm

Preservation Brief 09: The Repair of Historic Wooden Windows
http://www.cr.nps.gov/hps/tps/briefs/brief09.htm

Preservation Brief 10: Exterior Paint Problems on Historic Woodwork
http://www.cr.nps.gov/hps/tps/briefs/brief10.htm

Preservation Brief 11: Rehabilitating Historic Storefronts
http://www.cr.nps.gov/hps/tps/briefs/brief11.htm

Preservation Brief 12: The Preservation of Historic Pigmented Structural Glass (Vitrolite and Carrara Glass)
http://www.cr.nps.gov/hps/tps/briefs/brief12.htm

Preservation Brief 13: The Repair and Thermal Upgrading of Historic Steel Windows

Preservation Brief 14: New Exterior Additions to Historic Buildings: Preservation Concerns

Preservation Brief 15: Preservation of Historic Concrete: Problems and General Approaches
http://www.cr.nps.gov/hps/tps/briefs/brief15.htm

Preservation Brief 16: The Use of Substitute Materials on Historic Building Exteriors

Preservation Brief 17: Architectural Character—Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character
http://www.cr.nps.gov/hps/tps/briefs/brief17.htm

Preservation Brief 18: Rehabilitating Interiors in Historic Buildings—Identifying Character-Defining Elements
http://www.cr.nps.gov/hps/tps/briefs/brief18.htm

Preservation Brief 19: The Repair and Replacement of Historic Wooden Shingle Roofs

Preservation Brief 20: The Preservation of Historic Barns
http://www.cr.nps.gov/hps/tps/briefs/brief20.htm

Preservation Brief 21: Repairing Historic Flat Plaster—Walls and Ceilings

Preservation Brief 22: The Preservation and Repair of Historic Stucco
http://www.cr.nps.gov/hps/tps/briefs/brief22.htm

Preservation Brief 23: Preserving Historic Ornamental Plaster
http://www.cr.nps.gov/hps/tps/briefs/brief23.htm

Preservation Brief 24: Heating, Ventilating, and Cooling Historic Buildings: Problems and Recommended Approaches
http://www.cr.nps.gov/hps/tps/briefs/brief24.htm

Preservation Brief 25: The Preservation of Historic Signs
http://www.cr.nps.gov/hps/tps/briefs/brief25.htm

Preservation Brief 26: The Preservation and Repair of Historic Log Buildings

Preservation Brief 27: The Maintenance and Repair of Architectural Cast Iron
http://www.cr.nps.gov/hps/tps/briefs/brief27.htm

Preservation Brief 28: Painting Historic Interiors

Preservation Brief 29: The Repair, Replacement, and Maintenance of Historic Slate Roofs
http://www.cr.nps.gov/hps/tps/briefs/brief29.htm

Preservation Brief 30: The Preservation and Repair of Historic Clay Tile Roofs
http://www.cr.nps.gov/hps/tps/briefs/brief30.htm

Preservation Brief 31: Mothballing Historic Buildings
http://www.cr.nps.gov/hps/tps/briefs/brief31.htm

Preservation Brief 32: Making Historic Properties Accessible
http://www.cr.nps.gov/hps/tps/briefs/brief32.htm

Preservation Brief 33: The Preservation and Repair of Historic Stained and Leaded Glass
http://www.cr.nps.gov/hps/tps/briefs/brief33.htm

Preservation Brief 34: Applied Decoration for Historic Interiors: Preserving Historic Composition Ornament
http://www.cr.nps.gov/hps/tps/briefs/brief34.htm
http://www.cr.nps.gov/hps/tps/briefs/brief35.htm

Preservation Brief 36: Protecting Cultural Landscapes: Planning, Treatment, and Management of Historic Landscapes
http://www.cr.nps.gov/hps/tps/briefs/brief36.htm

Preservation Brief 37: Appropriate Methods of Reducing Lead-Paint Hazards in Historic Housing
http://www.cr.nps.gov/hps/tps/briefs/brief37.htm

Preservation Brief 38: Removing Graffiti from Historic Masonry
http://www.cr.nps.gov/hps/tps/briefs/brief38.htm

Preservation Brief 39: Holding the Line: Controlling Unwanted Moisture in Historic Buildings

Preservation Brief 40: Preserving Historic Ceramic Tile Floors
http://www.cr.nps.gov/hps/tps/briefs/brief40.htm

Preservation Brief 41: The Seismic Retrofit of Historic Buildings: Keeping Preservation in the Forefront
http://www.cr.nps.gov/hps/tps/briefs/brief41.htm

Preservation Brief 42: The Maintenance, Repair, and Replacement of Historic Cast Stone
http://www.cr.nps.gov/hps/tps/briefs/brief42.htm

Preservation Brief 43: The Preparation and Use of Historic Structure Reports
http://www.cr.nps.gov/hps/tps/briefs/brief43.htm

Preservation Brief 44: Replacement, and New Design of Awnings
http://www.cr.nps.gov/hps/tps/briefs/brief44.htm

Preservation Brief 45: Preserving Historic Wood Porches
http://www.nps.gov/history/hps/tps/briefs/brief45.htm

Preservation Brief 46: The Preservation and Reuse of Historic Gas Stations
http://www.nps.gov/history/hps/tps/briefs/brief46.htm

Preservation Brief 47: Maintaining the Exterior of Small and Medium Sized Historic Buildings
http://www.nps.gov/history/hps/tps/briefs/brief47.htm
Appendix C: The Secretary of the Interior’s Standards for the Treatment of Historic Properties

Buildings which are 30 years old or older should be renovated according to the Secretary of the Interior’s Standards for Rehabilitation which are as follows:

The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

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

2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development such as adding conjectural features or architectural elements from other buildings shall not be undertaken.

4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterizes a property shall be preserved.

6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
Appendix D: DBDA Guidelines for Construction Methods and Materials for Properties within the Municipal Service District

A. All work must conform to existing building codes and ordinances of the Town of Boone.

B. Height: Additions or new construction should fall within the range of 10% of mean building height found in the block. Buildings at the ends of blocks should be similar in height to buildings on adjoining corners.

C. Width: Additions or new construction should respect the primacy of established width by designing rhythmic division of the façade to maintain existing progression.

D. Setback: Additions or new construction should maintain the uniform setback of buildings and align with façades.

E. Proportion of Openings: New construction, additions, and remodeling of existing buildings should maintain established proportion and spacing of window openings.

F. Materials: The quality of building materials varies widely, and it is the quality of the finish materials and its application that determines compatibility. Use the highest quality facing materials possible. Materials that are compatible in quality, color, texture, finish and dimension to those existing in the project area are encouraged.

G. Roof Forms: Gabled and/or residential roofs are not appropriate; historically downtown buildings have flat roofs. The roof plane should be hidden from view on the front façade. Decoration of the roofline by use of special materials, forms, or decorative details, using examples from surrounding buildings as a guide is encouraged.

H. Color: Colors should coordinate with neighboring buildings. The more intense hues of a color are discouraged. The use of more than one vivid color per building is discouraged. The use of colors that are disharmonious with other colors used on the buildings or found on the adjacent buildings is discouraged. Contrasting colors which accent architectural details and entrances are encouraged.

I. Cornices: (1) The retention and repair of existing cornices is strongly encouraged wherever possible. (2) The re-creation of missing cornices should be done with care, using surrounding existing cornices as a guide.

J. Side Elevations and Rear Façades: (1) Side elevations and rear façades should be treated as a main façade. (2) The development of rear or side entrances with appropriate design is encouraged.

K. Signs: Sign standards for the central business district have been developed to prevent visual clutter in the downtown areas and to improve the general visual quality of downtown. Individuality and creativity are encouraged within the
framework of quality. Signs should relate to each other through quality, not necessarily through uniform materials, lettering, or size. All signs are controlled by the Sign Ordinance of the Town of Boone. Qualities of good signs are as listed below: (1) Good signs have the following characteristics: legibility, clarity, attractiveness, durability, and good placement.

(2) Most buildings are designed with a defined sign space. The location of signs of appropriate size in these spaces is strongly encouraged. (3) Plastic, illuminated signs are strongly discouraged. Consider attached, flat, or hanging signs lit with outside indirect lighting. (4) All signs must meet zoning and building code requirements. (5) Hanging or projecting signs or hand-painted window signs of good quality are encouraged.

L. Awnings: (1) Awnings should relate to the shape and color of the building. (2) Metal canopies are strongly discouraged, except when historically appropriate, and their removal and replacement with fabric awnings is strongly encouraged. If installed or retained, they should be designed or treated in a manner that adds to the visual quality of the building. (3) All awnings must meet zoning and building code requirements.
Appendix E: Sample Façade Incentive Grant Application

(For more information and to download the official application visit: 2016-2017 FIG.pdf (downtownboonenc.com)

Downtown Boone Development Association
Façade Improvement Grant Program
Fiscal Year 2014-2015

Parcel Pin ID # for proposed improvement __________________________________________

Building Address ____________________________________________________________
City __________________________ State _____________ Zip code __________

Applicant Information
Applicant’s Name ___________________________________________________________
Best contact phone # __________________________ Email _________________________
Mailing Address ____________________________________________________________
City __________________________ State _____________ Zip code __________

Business Name _____________________________________________________________
Business Address __________________________________________________________
City __________________________ State _____________ Zip code __________
Business phone # __________________________ Email _________________________

Length of time at this location ____________________________
Length of time remaining on lease (if applicable) _____________
Date of next lease renewal (if applicable) _________________

Owner(s) Information (if different from applicant)
Name(s) ________________________________________________________________
Best contact # __________________________ Email _________________________
Mailing Address __________________________________________________________
City: __________________________ State: _____________ Zip code: __________

Description of Project (attach additional documents and pages if needed)
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Total Estimated Cost of Improvement(s) $ __________________

Signature of Applicant __________________________ Date ______________

Please Check:
I have attached project plans and design information.

I have attached sample paint colors or other materials (if applicable).

I have attached photograph(s) of the existing condition of the area on the property where the proposed work is to be completed.

I have attached copies of cost estimates for the project.

I have attached the signed **Owner Disclosure** form.

I have attached a signed copy of the Secretary of the Interior’s Standards for Rehabilitation indicating that I have read and understand the program’s requirements and intend to follow the guidelines.

I understand that work completed prior to the processing and subsequent approval of this application will not be considered eligible for funding.

I acknowledge that the DBDA is not liable to the applicant, owner, or any third party for any obligation or claims of any nature growing out of, arising from, or otherwise related to the project or application undertaken by the applicant and/or owner including liens of any kind. I hereby waive and hold harmless the DBDA, the Town of Boone, their officials, employees, agents, and volunteers for any such claims.

Signature of Applicant

Date
Owner/Agent Disclosure Form

I, __________________________ (property owner) hereby grant __________________________ (business owner) permission to apply for the Façade Improvement Grant (FIG). I understand that if __________________________ (business owner) should be awarded monies through the FIG program that the building that I, __________________________ (property owner) own will undergo a façade renovation as outlined in the attached FIG application, which I have reviewed and approve.

_______ (property owner initials) I acknowledge that the DBDA is not liable to the applicant, owner, or any third party for any obligation or claims of any nature growing out of, arising from, or otherwise related to the project or application undertaken by the applicant and/or owner including liens of any kind. I hereby waive and hold harmless the DBDA, the Town of Boone, their officials, employees, agents, and volunteers for any such claims.

Business Owner: ____________________________________________
Best contact phone #: ____________________________________________
Signature: ____________________________________________
Date: __________________________

Property Owner: ____________________________________________
Best contact phone #: ____________________________________________
Signature: ____________________________________________
Date: __________________________
Owners/Agent Disclosure Form

We, ___________________________ (property owners) hereby grant __________________________ (business owner) permission to apply for the Façade Improvement Grant (FIG). We understand that if __________________________ (business owner) should be awarded monies through the FIG program that the building we, __________________________ (property owners) own will undergo a façade renovation as outlined in the attached FIG application, which we have reviewed and approve.

________ (property owner initials) I acknowledge that the DBDA is not liable to the applicant, owner, or any third party for any obligation or claims of any nature growing out of, arising from, or otherwise related to the project or application undertaken by the applicant and/or owner including liens of any kind. I hereby waive and hold harmless the DBDA, the Town of Boone, their officials, employees, agents, and volunteers for any such claims.

Business Owner: ____________________________________________
Best contact #: ____________________________________________
Signature: _________________________________________________
Date: ________________

Property Owners:
If applicable, Member Manger of LLC: ____________________________
If applicable, President of the Corporation: ____________________________
Best contact # for above person: ____________________________
Signature(s): ________________________________________________
Date: ____________________