MEMORANDUM

TO:

Artie Wilson, County Manager,

FROM:

Mark Burrows, Planning and Economic Development Director

SUBJECT:

High Impact Land Uses Ordinance and Other Options

DATE:

November 25, 2013

Following the August 26, 2013 County Commissioner's meeting, staff has reviewed the High Impact Land Uses Ordinance (HILUO) and has contacted members of the County Commission, Planning Board, Economic Development Advisory Board and other interested individuals to seek their input and guidance. Based on these discussions and our review of the draft HILUO, we have identified four different alternatives for the County Commissioners to consider. With each option, we will identify "pros" and "cons" and develop an implementation time-line, as appropriate.

Option 1. Do nothing and allow the current Biomass Facility Using Municipal Solid Waste as a Feedstock moratorium to expire in July 31, 2014.

Option 2. Modify the existing Pisgah Forest Community Zoning Ordinance.

- Expand the definition of corridors to include US 64, US 276, NC 280 and NC 215 throughout Transylvania County.
- Establish a corridor boundary that includes all parcels within, for example, 500 to 1,000 feet
 of the road center line.
- Focus on Open Use District, Special Uses and Prohibited Uses (See pages 21 and 25 from the Pisgah Forest Community Zoning Ordinance).

Option 3. Modify the existing draft High Impact Land Uses Ordinance.

- Protecting existing Transylvania County businesses that might be affected.
- Evaluating the setback and separation requirements for different uses.
- Ensuring that the Ordinance is focused on Transylvania County not another county.
- · Simplifying the requirements/ordinance.

Option 4. Consider **County-wide Zoning** Ordinance. Development and implementation of a County-wide Zoning Ordinance would require at least a year and a great deal of public input. There is also a great deal of uncertainty as to the public support this option would have county-wide. This option would, in many ways, support future conversations with the City of Brevard regarding the future extension of utilities (water and sewer). Attached is a copy of the *Madison County, NC Land Use Ordinance*.

Attached are modified versions of the existing Pisgah Forest Community Zoning Ordinance and the draft High Impact Land Uses Ordinance. These drafts have proposed revisions, but staff recognizes that additional community input is required.

Please let me know if you have any further questions or comments.

Transylvania County High Impact Land Use Ordinance Review: OPTIONS

Option 1. Do nothing and allow the current Biomass Facility Using Municipal Solid Waste Moratorium to expire on July 31, 2014.

Pros:

- Status quo is not changed
- Requires no additional staff time and effort

Cons:

- Does not address the issue at hand does not regulate the biomass facility or other high impact land uses that can impact adjacent property owners/community members
- Does not protect land owners from future high impact land uses nor does it protect high impact land use business owners from adverse community complaints
- · Fails to enhance economic development and/or quality of life

Timeline:

No time and no effort

Option 2. Modify the existing Pisgah Forest Community Zoning Ordinance to include the major corridors.

Pros:

- Extension of an existing zoning ordinance that already exists in Transylvania County
- Buffers high impact land use development along corridors
- Avoids "county-wide" zoning
- Protects schools, churches, and other facilities, via specific setbacks and separation distances
- Supports existing property owners concern of high impact land uses
- Minimizes regulatory authority over high impact land uses, which is not site specific, using separation distances, setbacks, and vegetative buffers
- Provides an opportunity for small area community planning

Cons:

- Public perception may be negative by extending zoning beyond the Pisgah Forest area
- Essentially zoning
- Does not address the issue on a county-wide basis, only along major corridors
- May require more staff support over the long-term

Timeline:

- 3-6 months
- Staff review, staff updates, County Commissioner reviews and updates, public meetings and stakeholder input, approval, and public hearing

Option 3. Modify the existing draft High Impact Land Use Ordinance.

Pros:

- Regulates high impact land uses based on separation distances and setbacks, not geographical location
- Protects schools, hospitals, churches, and dwelling units
- Avoids zoning pursuant to the authority conferred in G.S. §§153A-121 (general ordinance-making power), 153A-122 (territorial jurisdiction), 153A-123 (enforcement), 153A-128 (regulation of explosive, corrosive, inflammable,

or radioactive substances), 153A-133 (noise regulation), 153A-134 (regulation of businesses), and 153A-136 (regulation of solid wastes)

- Supports businesses as well as property owners and special interest groups in Transylvania County
- Other NC counties have utilized similar regulations with little, if any, adverse economic impact
- Legal challenges to similar ordinances enacted by other NC Counties have been upheld
- Template for ordinance exists, minimizing staff commitment

Cons:

- Patch work solution to a broader land use issue concerns
- Can be perceived as being "anti-business"

Timeline:

- 3-6 months
- · Staff review, staff updates, County Commissioner reviews and updates, approval, and public hearing

Option 4. Consider County-wide Open Use Zoning Ordinance

Pros:

- Addresses issue of bio mass facility and other high impact land uses county-wide
- Protects schools, churches, hospitals, dwelling units, etc.
- · Regulates new high impact land uses through separation distances and setbacks
- Supports County opposition to biomass facility and future unwanted high impact land uses
- Provides opportunity for small area community planning
- Water and sewer extensions with the City of Brevard become more viable and/or feasible

Cons:

- Community-wide support may be lacking
- Staff time could be significant
- Public meetings required
- · Public concern about "zoning"

Timeline:

1-1.5 years

PISCAH FOREST COMMUNITY CORRIDOR ZONING ORDINANCE

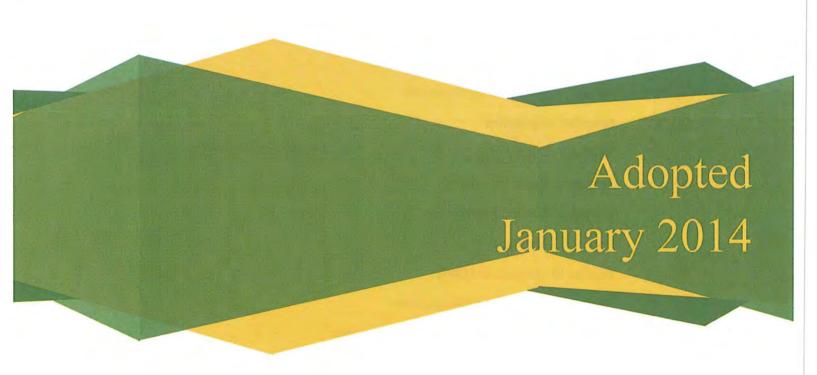


TABLE OF CONTENTS

		Page	
Article I	Title	4	
Article II	Authority and Enactment	4	
Article III	Purpose	4	
Article IV	Jurisdiction	4	
Article V	Exemptions	4	
Article VI	Definitions	5	
Article VII	Administration and Enforcement	11	
	Section 1 - Zoning Administrator; Duties		
	Section 2 - Enforcement Generally		
	Section 3 - Zoning Permits and Administration		
Article VIII	Abrogation or Greater Restrictions	12	
Article IX	Violations	13	
	Section 4 - Penalties for Violations		
	Section 5 - Remedies for Violations		
Article X	Board of Adjustment	13	
	Section 6 - Membership		
	Section 7 - Rules of Conduct		
	Section 8 - General Proceedings		
	Section 9 - Meetings		
	Section 10 - Powers and Duties		
	Section 11 - Appeals and Applications		
	Section 12 - Appeals From Board of Adjustment		
Article XI	Zoning Districts and Maps	18	
	Section 13 - Establishment of District Boundaries		
		Page 2 of	18
		10/21/20	13

	Section 14 - Establishment of Zoning Map	
	Section 15 - Rules Governing District Boundaries	
Article XII	Amendments	19
	Section 16 - County Commissioners to Amend Ordinance	
	Section 17 - Initiation of Amendments	
	Section 18 - Application for Amendment	
	Section 19 - Planning Board Action	
	Section 20 - Public Hearing	
	Section 21 - Decision	
Article XIII	Open Use District	-21.22
	Section 22 - Open Use and Special Uses	
	Section 23 - Permitting Procedures	
	Section 24 - Application Requirements	
Article XIV	Corridor Mixed Use District	27 33
	Section 25 - Applicability	
	Section 26 - Permit Required	
	Section 27 - Access Management	
	Section 28 - Setbacks	
	Section 29 - Buffers	
	Section 30 - Stormwater Run Off Provisions	
	Section 31 - Surface Water Protection	
	Section 32 - Parking	
	Section 33 - Loading	
	Section 34 - Steep Slope Development	
Article XV	Planned Unit Developments	39 44
	Section 35 - Standards for Planned Unit Developments	
Article XVI	Vested Rights	
	Section 36 - Statutory Vested Rights Provisions	42 47
		Page 3 of

Page 3 of 48

10/21/2013

PISGAH FOREST COMMUNITY ZONING ORDINANCE

ARTICLE I.

TITLE

This ordinance shall be known and may be cited as "The Community Corridor Pisgah Forest Community Zoning Ordinance of Transylvania County, North Carolina" and may be referred to as the "Community Corridor Pisgah Forest Zoning Ordinance".

ARTICLE II.

AUTHORITY AND ENACTMENT

Pursuant to the authority and provision conferred by the General Statutes (G.S.) of the State of North Carolina (Chapter 153A, Article 18, Part 3), the Transylvania County Commissioners hereby ordain and enact into law these articles and sections.

ARTICLE III.

PURPOSE

The purpose of this ordinance is to ensure safe, orderly, and economically sound development and to protect the community character and existing property values within the zoned *corridor* areas of Transylvania County.

ARTICLE IV.

JURISDICTION

The provisions of this ordinance shall apply to the portion of Transylvania County specifically identified and delineated on the zoning map entitled "The Official Zoning Map of Transylvania County, North Carolina." Such map and all explanatory matter thereon accompany and are hereby made a part of this ordinance by reference. The ordinance shall be on file in the office of the Transylvania County Commissioners.

ARTICLE V.

EXEMPTIONS

This ordinance shall in no way regulate, prohibit, or otherwise deter any bona fide farm and its related uses, except that any use of such property for non-farm purposes shall be subject to the provisions of this ordinance.

ARTICLE VI.

DEFINITIONS

<u>Word interpretation</u> - Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purpose of this chapter, certain words or terms used herein are defined as follows:

- (1) Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
- (2) The word "County" shall mean Transylvania County, North Carolina.
- (3) The words "County Commissioners" shall mean the County Commissioners of Transylvania County, North Carolina.
- (4) The words "Planning Board" shall mean the Planning Board of Transylvania County, North Carolina.
- (5) The word "may" is permissive.
- (6) The word "shall" is mandatory.
- (7) The word "lot" includes the word "plot", "parcel", "tract" or "camp. "
- (8) The word "building" includes the word "structure."
- (9) The word "road" includes the word "highway."
- (10) The word "person" or "applicant" includes a firm, association, organization, partnership, corporation, company, trust and individual or governmental unit.
- (11) The words "Zoning Map" or "Transylvania County Zoning Map" shall mean The Official Zoning Map of Transylvania County, North Carolina.
- (12) The word "days" shall mean calendar days.

<u>Definitions</u> - The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this article, except where context clearly indicates a different meaning:

Airfield/Airstrip means any runway, land area, or other facility designed or used either publicly or privately by any person for landing and takeoff of aircraft, including all necessary taxiways.

"Airfield/Airstrip" is further defined as aircraft storage and tie-down areas, hangars, and other necessary buildings appurtenant to an airport.

Access Road means a private passageway containing a road, street, driveway, etc., that provides the principal means of direct vehicular entry and/or exit between a regulated use and a paved, public road, street or highway. An access road shall be located entirely on the subject property or on an easement appurtenant. An access road corridor shall contain a clear and unobstructed travel way, except for any approved security gates, and shall have a minimum vertical clearance of a least 13 feet, six inches.

Accessory Use means a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Adult Entertainment Establishment means any establishment which would be considered an adult bookstore, adult motion-picture theater, adult mini-motion-picture theater, or adult live entertainment business as each is defined in G.S. 14-202.10. This definition does not include bona-fide massage parlors as defined in G.S. 90-622.

Amusement park means establishments of the type known as "amusement parks," "theme parks," "water parks" and "kiddy parks," which group together and operates in whole or in part a number of attractions, such as mechanical rides, amusement devices, refreshment stands, and picnic grounds and all associated activities. This definition specifically excludes camps, motion picture theaters, museums, art galleries, arboreta and botanical and zoological gardens.

Applicant means the party applying for permits or other approval required by this article.

Asphalt Plant means an establishment, whether portable or non-portable, engaged in petroleum refining, manufacturing asphalt-type roofing materials, asphalt and tar paving mixtures and paving block made of asphalt and various compositions of asphalt or tar with other materials; and the recycling of old asphalt into asphalt-type material.

Automobile Graveyard means any establishment or place of business that is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard".

Board of Adjustment means a body composed of those appointed members whose duties, powers, and procedures are set forth in Article X of this ordinance.

Bona fide Farm means all land on which agricultural operations are conducted as the principal use as defined in G.S. 153A-340.

Buffer means a continuous strip of land, measured from the property line or from any street bordering or traversing the property (whichever is closer to the principal use or building), where no development or principal use may occur, but which may contain vegetative screening, fencing, a wall or a combination of these items.

Building means any structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals or chattels. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structure, with or without a roof, shall not be deemed to make them one building. The word "building" includes the word "structure" and "manufactured homes."

Building Setback Line means a line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. Front setback lines shall be measured from the road right-of-way to the closest edge of the building (drip line or drip edge).

Bulk Inflammables (Fuel Oil, Propane, Gasoline), Chemicals, or Explosives Manufacturer and/or Storage Facility means a facility whose primary purpose is one of the following:

- (1) Manufacturing and/or storage of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. This term includes but is not limited to dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks, but does not include hand-loaded small arms ammunition.
- (2) The production, synthesis, formation, processing, refining, manufacturing, distribution, and/or storage of chemical products in bulk.
- (3) The storage, distribution, mixing or transfer of flammable or combustible liquids or gases received by or transferred by tank vessel, pipelines, tank car, piping, or portable tank or container except such storage, distribution, mixing or transfer of flammable or combustible liquids or gasses shall not include filling stations or convenience centers used solely for retail distribution to individual customers.

Child Day Care Home means a facility where supervision or care is provided on a regular basis, as an accessory use within a principal residential dwelling unit, by a resident of the dwelling for less than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Chip Mill means any non-portable wood-chipping facility that stands alone and apart from a sawmill, mulch yard, or a pulp mill, and whose purpose is to provide wood chips to an off-site fabricating facility including, but not limited to, a paper mill or oriented strand board mill.

Commercial means related to the buying and selling of goods and services.

Commercial Incinerators means any enclosed device that burns or converts more than 250 pounds of any material per hour other than the classical boiler fossil fuels, such as natural gas, propane, coal or fuel oil, which is a principal use on any lot or parcel.

Concrete Plant means an establishment, whether portable or non-portable, primarily engaged in manufacturing hydraulic cement, including portland, natural, and masonry cements delivered to a purchaser in a plastic and unhardened state. This industry includes production and sale of central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. Also included are the manufacture of concrete products from a combination of cement and aggregate.

Dwelling, Single-family means a building arranged or designed to be occupied by one family.

Dwelling, **Multi-family** means any building or buildings which contain more than one residential dwelling unit on a single lot including, but not limited to, apartment houses and condominiums.

Dwelling Unit means a building, or portion thereof, providing complete and permanent living facilities for a single family.

Easement means a grant by a property owner of land for a specified purpose and use by the public, a corporation or persons.

Electricity Generating Facility means a stand-alone plant not ancillary to another land use which generates electricity to be distributed to consumers, including but not limited to fossil fuel burning facilities and wind power farms and solar power farms. This definition shall not include electricity produced at or on an agricultural farm, residence, business, or other facility where use of the electricity so produced is limited primarily to on-site consumption.

Extremely Hazardous Substance means any material, substance or product that is considered to be a Class 1 explosive; a Class 2, Division 2.3 gas (gases toxic by inhalation); a Class 6 toxic material or infectious substance; or a Class 7 radioactive substance or material, all as classified by the United States Department of Transportation Hazard Classification System.

Family means one or more persons occupying a single dwelling unit. Separate bedrooms shall be provided for persons not related by blood, marriage or adoption, not to exceed two such persons per bedroom.

Family Care Home means a home with support and supervisory personnel providing room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons. (G.S. 168-21)

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

Group Care Facility means a facility that provides resident services to more than six individuals, at least one of which is unrelated to the other. These individuals are handicapped, aged, or disabled and are being provided services in the facility to meet their needs. This category includes uses licensed by any federal, state, or county health/welfare agency.

Hazardous Waste Disposal Facility means any industrial facility that stores, handles, processes or manufactures any material, substance or product that is considered to be a Class 1 explosive; a Class 2, Division 2.3 gas (gases toxic by inhalation); a Class 6 toxic material or infectious substance; or a Class 7 radioactive substance or material, all as classified by the United States Department of Transportation Hazard Classification System. This term shall also mean any industry or facility that is a large quantity generator of hazardous waste as that term is defined by the North Carolina Department of Environment and Natural Resources.

Helicopter Sightseeing Operation means any individual, corporation or commercial enterprise that carries passengers by helicopter for compensation for the purpose of aerial observation of landmarks and other manmade or natural sites, touring, pleasure flying or amusement or for the purpose of transporting passengers for tourist-related activities.

Home Occupation means an occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are non-retail businesses which generally cannot be discerned from the frontage, are

seldom visited by clients, require little parking, little or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling. Home occupations include child day care homes as defined herein.

Impervious Surface means any man-made surface that restricts the percolation of rain water into the soil including, but not limited to, roofs, patios, porches, driveways (paved or graveled), sidewalks, parking areas, and athletic courts.

Incinerator shall mean: (1) any enclosed device that burns material other than the classic boiler fossil fuels, such as natural gas, coal, or fuel oil, is a principal use on any lot or parcel, and (a) uses controlled flame combustion and neither meets the criteria for classifications as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; and (b) meets the definition of "infrared incinerator" or "plasma arc incinerator." This definition does not apply to afterburners, flares, fume incinerators, and other similar devices used to reduce process emissions of air pollutants. Specifically excluded from this definition and any regulation under this chapter are those incinerators that are constructed and/or operated by or on behalf of any federal, state, or local governmental entity; provided, however, that this exclusion from regulation only applies to those incinerators not operating as a hazardous waste facility.

Industry means any industrial use establishment or a large quantity generator of hazardous waste as that term is defined by the North Carolina Department of Environment and Natural Resources. Specifically excluded from this definition are those establishments that operate in an enclosed building(s) or structure(s) having a total gross floor area of less than 30,000 square feet; and those other uses listed in Section 22.3.

Junk means old or scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old scrap ferrous or nonferrous material.

Junkyard means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or maintenance or operation of an automobile graveyard.

Lot means a parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the lot. The word "lot" includes the words "plot", "parcel", "tract" or "camp."

Lot of Record means any lot for which a plat has been recorded in the office of the Transylvania County Register of Deeds, or described by metes and bounds and so recorded.

Medical Waste Facility means a facility that generates, stores or treats medical waste as defined by G.S. §130A-309.26a.

Mining and Extraction Operation means any establishment or business primarily engaged in processing of ores; the breaking, washing and grading of coal; the crushing and breaking of stone; and the crushing, grinding, or otherwise preparing of sand, gravel, and nonmetallic chemical and fertilizer minerals.

Motor Sports Facility means any facility, track, or course upon which racing or motor sporting events are conducted including, but not limited to vehicles, motorcycles, all-terrain vehicles, motor scooters, go-carts, etc.

Motor Sports Facility Major means any motor sports facility having a seating or standing capacity of 1,000 or more persons.

Nonconforming Use means any parcel of land, use of land, building, or structure existing at the time of adoption of this article, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located.

Open Space means a part or portion of the project area unoccupied and unobstructed from the ground upward.

Parking Space means an area for parking a vehicle plus the necessary access space.

Parks means any public or private land managed recreational, aesthetic, or educational use.

Planned Unit Development (PUD) means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 35,000 square feet or more, or any residential complex of five or more units. Residential units within a planned unit development may include single-family detached or attached units, townhouse developments, garden apartments, patio homes, and other types of residential units, excluding mobile homes and mobile home parks.

Planning Board means a body composed of those members organized and appointed by the County Commissioners under the authority granted in G.S. 153A-321 and G.S. 153A-322. The power of the Planning Board to perform its duties is granted in Chapter 58, Article II, of this Code.

Property Line means any boundary line of a lot or parcel of real property.

Residence means any building, structure or portion thereof which is designed, arranged, or used for a residential occupancy, but shall not include a motel, hotel, rooming house, or vacation rental.

Residential Use means the use of land and buildings for domestic occupancy within dwelling units, including single-family dwellings, multi-family dwellings or family care facilities by the persons authorized to occupy such units. Home occupations are considered residential uses. Group care facilities are **not** considered residential uses.

Road or Highway means a right-of-way for vehicular traffic.

Salvage Yard means any property used for the storage, collection, and/or recycling of any type of equipment, including, but not limited to vehicles, appliances and related machinery.

Sawmill means any commercial operation employing ten (10) or more full-time employees established for a period of six months or more where timber is customarily processed into raw lumber, finished wood products or other wood products, regardless of whether the products are sold on premises or transferred to another facility for storage and sale. This definition includes the reprocessing of lumber and wood planing operations, and excludes carpentry operations including but not limited to furniture building and wood carving.

Setback means the distance from the road right of way or property line to the closest edge (drip edge) of a structure or sign.

Slaughtering and/or Processing Plant means an establishment primarily engaged in the slaughtering and/or processing of animals or poultry/small game. This definition specifically excludes slaughtering and processing activities performed for personal use only.

Secured Fencing means a barrier extending from the surface of the ground to a uniform height of 6 to 8 feet around portions of a property containing the facilities, including but not limited to the principle use, accessory uses, storage, materials and equipment, of a special use in the open use district.

Structure means that which is built or constructed.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, and includes all division of land involving the dedication of a new road or a change in existing roads.

Surface Water means any body of water, perennial or intermittent stream (including any "blue line stream" as indicated on a United States Geological Survey Topographical Map), river, brook, wetland (as identified by means of the Cowardin wetland classification system or other appropriate classification system as employed by agencies of the United States or the State of North Carolina), swamp, pond, lake, branch, creek, reservoir, waterway, or other body or accumulation of water, whether surface or temporarily underground by means of a man-made conveyance.

Waste Management Facility means land, personnel, and equipment in the management of waste including a transfer station, landfill, or materials recovery facility.

Wetland means areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Zoning Administrator means an official of the county charged with enforcing and administering this ordinance.

Zoning Map means the official zoning map of Transylvania County.

Zoning Vested Right means a right pursuant to G.S. 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

ARTICLE VII.

ADMINISTRATION AND ENFORCEMENT

Section 1. Zoning Administrator; duties - The County Commissioners shall appoint a Zoning Administrator. It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this ordinance. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Zoning Administrator is questioned, the aggrieved party may appeal such ruling to the Board of Adjustment.

<u>Section 2. Enforcement generally; duties of enforcing officers and agencies</u> - All questions arising in connection with the enforcement of this ordinance shall be presented first to the Zoning Administrator who shall be responsible for the day-to-day administration of this ordinance. The Board of Adjustment shall have the authority to rule on matters of interpretation of this ordinance, consider appeals from decisions of the Zoning Administrator, issue conditional use permits, and grant variances.

Section 3. Zoning Permits and Administration

3.1 Zoning Permit

- 3.1.1 No zoning permit will be required for uses allowed by right in the open use district.
- 3.1.2 A zoning permit is required for special uses shown in Section 22.3, Planned Unit Developments (PUD's) as shown in Article XV and new or expanded uses in the corridor district as shown in Section 26.
- 3.1.3 In districts or for uses requiring a zoning permit, no building or other structures shall be erected, moved, added to or structurally altered, nor shall any building permit be issued, nor shall any change in the use of any building or land, including any land disturbance, be made until a zoning permit is issued by the Zoning Administrator. All buildings and structures shall meet the applicable requirements of this ordinance.

- 3.1.4 Applications for zoning permits shall provide the information specified in Section 24 and any other information required by the Zoning Administrator to ensure the requirements of this ordinance are met.
- 3.2 In conjunction with the final building inspection, the Zoning Administrator shall certify that all requirements of this ordinance have been met. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied, the Zoning Administrator shall state in writing the reasons for denial, and the applicant shall be notified of the denial. A record of all certificates shall be kept on file in the office of the Zoning Administrator.
- 3.3 <u>Construction progress</u> If no construction progress is made within one year of the date of the issuance of the zoning permit, the permit becomes invalid and the applicant must reapply for a permit. A six (6) month extension may be granted by the Zoning Administrator when reasonable cause is shown. The approval or denial of an extension shall be documented in writing.
- 3.4 Prevention of violation by legal procedure In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance, the Zoning Administrator or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceedings to prevent such violation.
- 3.5 Appeal from decision of the Zoning Administrator All questions arising in connection with the enforcement of this ordinance shall be presented first to the Zoning Administrator, and such questions shall be presented to the Board of Adjustment only on appeal from a ruling of the Zoning Administrator. Any order, requirement, decision, or determination made by the Zoning Administrator may be appealed to the Board of Adjustment pursuant to the procedure found in Section 11.

ARTICLE VIII.

ABROGATION, GREATER RESTRICTIONS, AND SEPARABILITY

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law.

When provisions of this ordinance require a greater setback or buffer or impose greater restrictions than are required in any other statute or local ordinance or regulation, provisions of this ordinance shall govern. When the provisions of any other statute or local ordinance or regulation impose greater restrictions than are required by the provisions made by this ordinance, the provisions of that statute or local ordinance or regulation shall govern.

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

ARTICLE IX.

VIOLATIONS

Whenever, by the provisions of this ordinance, the performance of any act is prohibited, or whenever any regulation, dimension, or limitation is imposed on the use of any land, or on the erection or alterations or the use or change of use of a structure, or the uses within such structure, a failure to comply with such provisions of this ordinance shall constitute a separate violation and a separate offense.

<u>Section 4. Penalties for violations</u> - Any person adjudged in violation of this ordinance shall be subject to fine or punishment as provided in G.S. 153A-323 or G.S. 14-4. Each day's continuing violation, as determined by the zoning administrator, shall constitute a separate and distinct offense. Civil penalty for violation of this ordinance shall be \$50 for the first violation, \$100 for the second violation, \$200 for the third violation, and \$500 for the fourth and each succeeding violation.

<u>Section 5. Remedies for violations</u> - If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure, or land is used in violation of this ordinance, the Zoning Administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use; to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct of business or use in or about the premises.

ARTICLE X.

BOARD OF ADJUSTMENT

Section 6. Membership

- 6.1 The Transylvania County Planning Board shall serve as the Board of Adjustment.
- 6.2 The County Commissioners shall also appoint two alternate members who may be called in by the secretary to the Board of Adjustment to serve in the absence of a regular Board of Adjustment member. Alternate members shall serve three year terms. While attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member each alternate member shall have and exercise all powers and duties of a regular member.

6.3 The Board of Adjustment shall appoint a secretary, who may be a County officer, an employee of the County, or a member of the Board of Adjustment. The secretary shall take minutes of meetings, keep all records, conduct correspondence, notify members of meetings, arrange for public notices, and notify parties to cases of hearings and decisions.

Section 7. Rules of conduct

- 7.1 Members of the Board of Adjustment may be removed by the County Commissioners for cause, including violation of the rules stated in this section.
- 7.2 Faithful attendance at meetings of the Board of Adjustment and conscientious performance of the duties required of members of the Board of Adjustment shall be considered a prerequisite of continuing membership on the Board of Adjustment.
- 7.3 A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall, by majority vote, rule on the objection.
- 7.4 No Board of Adjustment member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that a member may receive and/or seek information pertaining to the case from the Zoning Administrator or any other member of the Board of Adjustment or its staff prior to the hearing.
- 7.5 Members of the Board of Adjustment shall not express individual opinions on judgment of any case prior to its determination on that case.
- 7.6 No Board of Adjustment member shall accept any gift, favor, or thing of value that may tend to influence that board member in the discharge of duties.
- 7.7 No Board of Adjustment member shall grant any improper favor, service, or thing of value in the discharge of duties.

<u>Section 8. General proceedings</u> - The chairperson, or in his absence the vice-chairperson, may administer oaths and request the attendance of witnesses in accordance with G.S. 153A-345. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and also keep records of its examinations and other official actions.

Section 9. Meetings

- 9.1 The Board of Adjustment shall hold regular meetings at a specified time and place. Special meetings of the Board of Adjustment may be called at any time by the chairperson or by request of three or more members of the Board of Adjustment.
- 9.2 Whenever there are no appeals, applications for variances, or other business for the Board of Adjustment, or whenever a quorum will not be available, the chairperson may cancel the meeting by giving written or oral notice to all members.
- 9.3 A quorum shall consist of four members of the Board of Adjustment, but the Board of Adjustment shall not pass upon any questions relating to an appeal from a decision, order, requirement, or determination of the Zoning Administrator, or an application for a variance when there are less than six members present.
- 9.4 Board of Adjustment members may vote on any issue unless they have recused themselves for one or more of the reasons listed in Section 7. The required vote to decide appeals and applications shall be as provided in Section 11.4. In all other matters, the vote of a majority of the members present and voting shall decide issues before the Board of Adjustment.
- 9.5 The applicant must file their application for a hearing with the Zoning Administrator. All applications shall be submitted at least 30 days prior to the date the application is to be heard. All applications shall be made on the form specified for that purpose and all information required on the form shall be complete before an application shall be considered as having been filed.

<u>Section 10. Powers and duties</u> - The powers and duties of the Board of Adjustment shall be as follows:

- 10.1 Interpret zoning maps and decide disputed questions of district boundary lines and any other questions of interpretation that may arise in the administration of this ordinance;
- 10.2 Hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator;
- 10.3 Authorize upon appeal in specific cases such variance(s) from the terms of this ordinance as will not be contrary to the public interest and upon a finding by the Board of Adjustment that all the following conditions exist (G.S. 153A-345):
 - 10.3.1 That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance;
 - 10.3.2 That if the applicant complies with the provisions of the ordinance, the property owner seeking the variance can secure no reasonable return from, or make no reasonable use of his property;

- 10.3.3 That special conditions and circumstances exist which are peculiar to the land, structure, or building involved;
- 10.3.4 That the special conditions and circumstances do not result from the action of the applicant;
- 10.3.5 That the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit;
- 10.3.6 That the variance is the minimum necessary to afford relief; and
- 10.3.7 That the public safety and welfare have been assured and substantial justice has been done.
- 10.4 Make findings that the requirements of this ordinance have been met when granting a variance. Written notice of the decision shall be prepared as prescribed in Section 11.4.
- 10.5 Prescribe appropriate conditions and safeguards when granting any variance in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable as described under Section 4.

Section 11. Appeals

- 11.1 The Board of Adjustment shall hear and decide all appeals from any order, requirement, decision, or determination made by the Zoning Administrator. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of this article and those based upon alleged hardship resulting from strict interpretation of this article. Nonconforming uses of neighboring land, structures or buildings in the same district, and permitted uses of land, structures or buildings in other districts will not be considered grounds for the issuance of a variance.
- No appeal shall be heard by the Board of Adjustment unless notice thereof is filed within 30 days after the interested party receives written notice of the order, requirement, decision or determination by the Zoning Administrator. The applicant must file his application for a hearing with the Secretary to the Board of Adjustment in receiving this notice. All applications shall be made upon the form provided by the Zoning Administrator for that purpose and all information required thereon shall be complete before an appeal shall be considered filed.
- 11.3 Hearings shall be conducted as follows:
 - 11.3.1 After receipt of notice of appeal, the secretary to the Board of Adjustment shall schedule the time for a hearing, at a regular or special meeting within 45 days from the receipt of notice.

- 11.3.2 The Zoning Administrator shall mail notices of the hearing to the affected parties to the action appealed from at least ten days prior to the hearing. Such notice shall state the location of the building or lot, the general nature of the question involved in the appeal, and the time and place of the hearing.
- 11.3.3 <u>Conduct of hearing</u> Any party with legally sufficient interest, as determined by the Chairman of the Board of Adjustment, may appear in person or by agent or by attorney at the hearing. The order of business for the hearing shall be as follows:
 - 11.3.3.1 The chairperson, or such person as he shall direct, shall give a preliminary statement of the case.
 - 11.3.3.2 The applicant or the applicants appointed representative shall present the argument in support of the application.
 - 11.3.3.3 Persons opposed to granting the application and other persons supporting the application shall present their arguments.
 - 11.3,3.4 Both sides will be permitted to present rebuttals.
 - 11.3.3.5 The chairperson shall summarize the evidence presented, giving the parties opportunity to make objections or corrections. Witnesses may be called and factual evidence may be submitted. The Board of Adjustment shall not be limited to consideration of only such evidence as would be admissible in a court of law. The Board of Adjustment may view the premises before arriving at a decision. All witnesses before the Board of Adjustment shall be placed under oath and the opposing party may cross examine them.
- 11.3.4 Rehearings An application for a rehearing may be made in the same manner as provided for an original hearing if some substantial change has occurred in the facts, evidence or conditions in the case. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board of Adjustment to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The application for rehearing shall be denied by the Board of Adjustment if, from the record, it finds that there has been no substantial change in facts, evidence or conditions. If the Board of Adjustment finds that there has been a substantial change, it shall treat the request in the same manner as any other application.
- 11.4 <u>Decisions</u> The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant any matter which it is required to pass under this ordinance. (G.S. 153A-345). Decisions shall be made in the following manner:

- 11.4.1 <u>Time</u> A decision by the Board of Adjustment shall be made within 45 days from the time of hearing.
- 11.4.2 Form Written notice by certified or registered mail of the decision in a case shall be sent to the applicant by the Zoning Administrator within 30 days after the case is decided. Also, written notice shall be sent to owners of the subject property, if not the applicant, and to other persons who have made written request for such notice. The final decision of the Board of Adjustment shall be shown in the record of the case as entered in the minutes of the Board of Adjustment and signed by the Zoning Administrator and the chairperson. Such record shall show the reasons for the determination, with summary of the evidence introduced and the findings of fact made by the Board of Adjustment. Where a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board of Adjustment finds to exist. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from.
- 11.4.3 Expiration of permits Unless otherwise specified, any order or decision of the Board of Adjustment granting a variance shall expire if a building permit or certificate of occupancy for such use is not obtained by the applicant, his successors or heirs within one year from the date of the decision. A six (6) month extension may be granted by the Zoning Administrator when reasonable cause is shown.
- <u>Section 12. Appeals from decision of Board of Adjustment</u> Appeals from decisions by the Board of Adjustment shall be taken to the courts pursuant to G.S. 153A-345.

ARTICLE XI.

ZONING DISTRICTS AND MAPS

For the purpose of this ordinance, there shall be two zoning districts: Open Use (OU) and Corridor Mixed Use (CMX).

- <u>Section 13. Establishment of district boundaries</u> The boundaries of the district(s) are hereby established as shown on the Official Zoning Map of Transylvania County, North Carolina.
- <u>Section 14. Establishment of zoning map</u> A zoning map entitled the "Official Zoning Map of Transylvania County, North Carolina," clearly setting forth all approved use districts and their respective boundaries, is hereby made a part of this ordinance and shall be on file in the offices of the Zoning Administrator and the Clerk to the Board of Commissioners. This map shall be available for inspection by interested persons during normal business hours. It shall be the duty of the Zoning Administrator to update any changes to the zoning map.

<u>Section 15. Rules governing district boundaries</u> - Where uncertainty exists with respect to the boundaries of any district, as shown on the zoning map, the following shall apply:

- 15.1 Boundaries indicated as approximately following the centerlines of roads, highways, alleys, railroads, streams, rivers, other bodies of water, ridgelines and/or other topographic features, shall be construed to follow such lines.
- 15.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 15.3 Where district boundaries are so indicated that they are approximately parallel to the centerlines of roads, highways, alleys or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- 15.4 Where a district boundary line divides a lot of single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such lot more than 35 feet beyond the district boundary line.
- 15.5 Where physical features existing on the ground differ from those shown on the zoning map or in other circumstances not covered by Sections 15.1 through 15.4, the Board of Adjustment shall interpret the district boundaries.

ARTICLE XII.

AMENDMENTS

<u>Section 16. County Commissioners to amend ordinance</u> - This ordinance, including the zoning map, may be amended by action of the Transylvania County Commissioners in accordance with the provisions of this article.

<u>Section 17. Initiation of amendments</u> - Proposed changes or amendments to this ordinance may be initiated by the Transylvania County Commissioners, Planning Board, Board of Adjustment, one or more owners of property within the area proposed to be changed or by any third party. Notifications shall be made in accordance with G.S. 153A-343.

Section 18. Application for amendment

18.1 Before any action on a proposed change or amendment, an application shall be submitted to the office of the Zoning Administrator at least 45 days prior to the Planning Board's meeting at which the application is to be considered. The application shall contain name(s) and address(es) of the owner(s) of the property in question, the location and description of

Page 20 of 48

- the property, and a description and/or statement of the present and proposed zoning regulation or district.
- 18.2 The Zoning Administrator shall mail notices to the Planning Board, the applicant(s), and all adjoining property owners at least ten days in advance of the Planning Board's meeting at which the application is to be heard and place public notice of the meeting in a newspaper having general circulation in Transylvania County. The notice shall be published at least five (5) days prior to the date of the meeting.
- 18.3 Neither the Planning Board nor the County Commissioners will consider an application denied within the preceding 12 months.

Section 19. Planning Board action - Before taking any action on a proposed amendment(s) to this ordinance, the County Commissioners shall consider the Planning Board's recommendation. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Transylvania County Comprehensive Plan and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the County Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board. Any comment by the Planning Board that a proposed amendment is inconsistent with the Transylvania County Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the County Commissioners. If no written report is received from the Planning Board within 30 days of consideration of the amendment by the Planning Board, the County Commissioners may proceed in its consideration of the amendment without the Planning Board report.

Section 20. Public hearing, notices and postings - Before enacting any amendment to this ordinance, the County Commissioners shall hold a public hearing. The notice shall include the time, place, and date of the hearing and include a description of the property or the nature of the change or amendment to the article and/or map. The County Commissioners shall mail notices to the Planning Board, adjoining property owners, and to other such persons as the Planning Board may direct at least ten days and no more then 25 days in advance of the hearing. When a zoning map amendment is proposed, the county shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public road or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons. (G.S. 153A-343)

<u>Section 21. Decision</u> - The County Commissioners shall make a decision on the proposed amendment within 30 days after the public hearing. Prior to adopting or rejecting any zoning amendment, the County Commissioners shall adopt a statement describing whether its action is consistent with the Transylvania County Comprehensive Plan and explaining why the County Commissioners considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

ARTICLE XIII.

OPEN USE DISTRICT

Section 22. Open Use District (OU) and Special Uses - The OU District is established as a district in which all uses (excluding hazardous waste disposal facilities, radioactive waste disposal facilities and adult entertainment establishments) including Planned Unit Developments (see Section 34) are allowed but certain uses called special uses are regulated so as to ensure that community impact is mitigated. The community impact from the uses listed below will be mitigated through the use of minimum specific site standards combined with general standards that provide the flexibility to impose a higher level of specific site standards dependent upon the degree of community impact. The applicable properties are included in the Open Use (OU) District as shown on the Official Zoning Map of Transylvania County, North Carolina.

- 22.1 <u>Uses allowed by right</u> Unless otherwise stated herein all uses are allowed by right in the Open Use District and no zoning permit shall be required.
- 22.2 Other Transylvania County ordinances apply Any other ordinance adopted by the Transylvania County Commissioners applies to the zoned area of the County. Where there is a stricter requirement imposed by the zoning ordinance, the zoning ordinance will take precedence.
- 22.3 Special uses The following special uses shall be permitted in the Open Use District, subject to the Board of County Commissioners finding that both the general site standards stated in Section 23.4 and those specific site standards listed in section 23.7, if any, shall be met:
 - 22.3.1 Airfields/Airstrips
 - 22.3.2 Amusement parks
 - 22.3.3 Asphalt plants
 - 22.3.4 Bulk inflammables, chemicals, and explosives manufacturers or Storage facilities
 - 22.3.5 Chip mills
 - 22.3.6 Commercial incinerators
 - 22.3.7 Concrete plants
 - 22.3.8 Electricity generating facilities
 - 22.3.9 Helicopter sightseeing operations
 - 22.3.10 Incinerator
 - 22.3.11 Industry
 - 22.3.12 Junkyards or salvage yards
 - 22.3.13 Mining and extraction operations
 - 22.3.14 Motor sports facilities
 - 22.3.15 Sawmills
 - 22.3.16 Slaughtering and processing plants
 - 22.3.17 Solid waste management facilities
- 22.4 Prohibited uses The following uses shall be prohibited in the Open Use District:

- 22.4.1 Hazardous waste disposal facilities, unless preempted pursuant to G.S. 130A-293.
- 22.4.2 Radioactive Waste Disposal Facilities, unless preempted pursuant to G.S. 104E-6.2.
- 22.4.3 Adult entertainment establishments (G.S. 14-202.10).
- 22.5 Expansion and alteration of certain uses in the Open Use District
 - 22.5.1 <u>Permitted Special Uses</u> The following requirements apply to those uses listed in Section 22.3 that received a zoning permit.
 - 22.5.1.1 <u>Alteration of a use (without physical expansion)</u> Alterations of a use shall be allowed as long as such alterations do not violate any standards of this ordinance (see Sections 23.4 and 23.7) or conditions of the zoning permit. If an alteration would result in the violation of any standards or conditions, an amendment to the zoning permit shall be required. An alteration that creates a different use shall require a new zoning permit.
 - 22,5.1.2 Physical expansion of a use A use may expand its facilities without any additional restrictions and without securing an amendment to the zoning permit if the general standards of this chapter (see Section 23.4), specific standards of this chapter (see Section 23.7) or the conditions of the permit are not violated and if the total size of the structures or areas devoted to the principal uses after the proposed expansion would not be increased by more than 10%. No use may expand in accordance with the terms of this exception on more than two occasions without securing an amendment to the zoning permit.
 - 22.5.2 <u>Uses for which a zoning permit was not required when established</u> If alterations or expansions of a use not requiring a zoning permit bring the use within the definition of a special use as shown in Section 22.3, then a zoning permit shall be required for the altered use. The entire use, including but not limited to the expansion or alteration, shall be required to comply with all applicable standards.
 - 22.5.3 <u>Pre-existing uses</u> Uses listed in Section 22.3 (Special Uses), established before the effective date of inclusion in an Open Use District shall comply with the following requirements:
 - 22.5.3.1 Alteration of a pre-existing use (without physical expansion) If alterations of a use bring the use within the definition of a special use listed in Section 22.3, then a zoning permit shall be required. Once a zoning permit is obtained for a pre-existing use, however, further alterations shall be governed by Section 22.5.1.2

- 22.5.3.2 <u>Physical expansion of a pre-existing use</u> If expansion of a use will bring the use within the definition of a special use listed in Section 22.3, then a zoning permit shall be required. Once a zoning permit is obtained for a pre-existing use, further expansions shall be governed by Section 22.5.1.2.
- 22.6 <u>Subsequent events</u> Events occurring after approval of a zoning permit including, but not limited to, the location of a health-care facility or school within the stated separation, shall not invalidate the permit or affect the ability of the use to alter or expand its facilities or operations.

Section 23. Permitting Procedures

- 23.1 Application When a zoning permit for a special use is required by the terms of this ordinance or a vested right per Section 35 is requested, a completed application shall be submitted to the Zoning Administrator at least 45 days prior to the Planning Board meeting at which the application is to be considered. The Zoning Administrator shall then transmit a copy of the completed application to the County Commissioners and the Planning Board. The Planning Board shall review the application and forward recommendations to the County Commissioners within 45 days. The County Commissioners shall schedule a public hearing on the application within 30 days of receipt of the Planning Board's recommendations and shall make a decision to approve, approve with conditions or deny the application within 30 days after the public hearing.
- 23.2 Notification The Zoning Administrator shall post a notice of public hearing on the property for which the zoning permit or a vested right is sought and in a local newspaper at least 10 days and no more than 25 days prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two consecutive weeks. All owners of adjacent property shall be notified by first class mail of the zoning permit application and public hearing date. (G.S. 153A-343)
- 23.3 Fee The Board of County Commissioners may establish and maintain a fee schedule to recover costs of legal notices, posting the property and notifying the adjacent property owners. These fees shall be paid by the applicant at the time the application is submitted. The fee schedule is posted in the Planning and Economic Development Department.
- 23.4 General site standards All uses requiring a zoning permit or a vested right must meet the general site standards listed below. In evaluating whether the general site standards have been met, the Board of County Commissioners may consider the type and size of the principal use, size of the property and other relevant factors and its effect on community character and welfare.
 - 23.4.1 Uses requiring a zoning permit shall be located or developed in a manner that will:
 - 23.4.1.1 minimize the adverse effects on the health or safety of the persons residing or working in the areas surrounding the proposed use.

- 23.4.1.2 minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the areas surrounding the proposed use.
- 23.4.1.3 minimize traffic congestion so as not to endanger the public safety.
- 23.4.1.4 comply with all applicable federal, state and local laws, rules and regulations.
- 23.4.1.5 be consistent with the goals and objectives as outlined in the Transylvania County Comprehensive Plan.
- 23.4.1.6 be consistent with any approved Official Thoroughfare Plans of Transylvania County.
- 23.4.1.7 minimize the environmental impacts on the surrounding areas including the following: groundwater, surface water, wetlands, endangered and threatened species, archeological sites, historical preservation sites and unique natural areas.
- 23.4.2 In the event that the County Commissioners determine that a proposed use would be in violation of one or more of the general site standards, then the County Commissioners may deny the application or may impose additional condition(s) on the issuance of the zoning permit when such condition(s) will avoid a violation of any general site standards. Conditions may only be based on evidence presented at the hearing that one or more general site standards would not be met. The County Commissioners must make specific findings of fact based upon the evidence presented.
- 23.5 <u>Termination</u> If at any time after a zoning permit has been issued for any special use, the County Commissioners finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a zoning permit, the permit may be terminated and the operation of such use discontinued after notification and sufficient time for corrective action.
- 23.6 <u>Reinstatement</u> If a zoning permit is terminated for any reason, a reapplication is required for reinstatement.
- 23.7 Special Uses Minimum Standards Table (See Table page 21)

No high-impact use of a parcel or parcels of land shall be permitted, constructed, operated, or maintained except in accordance with the following standards:

			Sp	ecial Us	es Minin	num Stand	dards Table	e			
	Industry	Solid Waste Management Facility	Mining and Extraction Operation	Concrete Plant	Asphalt Plant	Incinerator	Junkyard Salvage yard	Motor Sports Facility	Slaughtering Plant	Amusement Park	Chip Mill
Hours of Operation	No stated minimum	7:00 cm 11:00 nm		No stated minimum	7:00 am 11:00 pm			7 am-11 pm weekdays; 7 a.m. 2a.m. Fri. & Sat.	7 am 11 pm		
Screening			Plan Requ	ired			Full Plan Requ			uired	
Fencing		·				Secured	1				
Buffer (feet)	100	500	500	100	100	100	50	100	100	100	100
Setback (feet)	300	1,500 (landfill) 500 (other)	1,000	200	500	300	300 (from public road)	500 (minor) 1,500 (major)	1,000	500	200
Parking		See Section 32									
Loading						See Section	1-33				
Min. Number Access Road(s)/RW/ Travelway Width	One 50/25 ft	Two 50/25-ft	One 50/25-ft	One 50/25-ft	One 50/25 ft	One 50/25 ft	One 50/25 ft	One (minor) Two (major) 50/25-ft	One 50/25-ft	Two 50/25 ft	One 50/25
Fire Protection	Per Code										
Noise Mitigation		Plan Required									
Lighting		Plan Required									
Separation- Schools / Healthcare	1/2 mile / 1/2 mile /						½ mile / 2 miles	4/2	mile / ½ mile		

23.7.1 Special Use Minimum Standards Table with Separation Distances, Setbacks, Buffers, Hours of Operation, and Minimum Road/ROWs/Travelways

HIGH-IMPACT USE	Separation Distance – Protected Facilities	Separation Distance – Dwelling Units	<u>Stream</u> <u>Setback</u>	Principal Use Setback	Vegetative Buffer Width (side and rear) – See 23.7.2.A	Hours of Operation	Minimum Access Roads/ROW/T ravelway width
Airfields/Airstrips	1500 ft.		<u>150 ft.</u>	100 ft. from center of runway	<u>100 ft.</u>	7 am – 10 pm	1/50'/25'
Amusement Park							2/50′/25′
Asphalt Plants	<u>1500 ft.</u>		<u>150 ft.</u>	<u>300 ft.</u>	<u>100 ft.</u>	7 am – 10 pm	<u>1/50'/25'</u>
Bulk Inflammables, Chemicals, and Explosives Manufacturers or Storage Facilities	<u>2500 ft.</u>		150 ft.	<u>500 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	<u>1/50'/25'</u>
Chipmills (Wood Grinding Operations)	<u>1000 ft.</u>		<u>100 ft.</u>	<u>200 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	1/50'/25'
Commercial Incinerators	1000 ft.		<u>150 ft.</u>	<u>200 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	1/50′/25′
Concrete Suppliers Plants	<u>500 ft.</u>		<u>150 ft.</u>	<u>100 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	1/50'/25'
Electricity Generating Facilities	1500 ft.		<u>100 ft.</u>	300 ft.	<u>100 ft.</u>	7 am - 10 pm	1/50'/25'
Helicopter Sightseeing Operations	<u>1500 ft.</u>		<u>150 ft.</u>	100 ft. from center of	<u>100 ft.</u>	<u>Daylight</u> <u>Hours</u>	1/50′/25′

			runway			1
Industry	1000 ft.	<u>150 ft.</u>	<u>200 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	1/50′/25′
Junkyard Salvage Yard	<u>500 ft.</u>	<u>100 ft.</u>	100 ft.	100 ft.	7 am - 10 pm	1/50′/25′
Medical Waste Facilities	1500 ft.	<u>100 ft.</u>	300 ft.	<u>100 ft.</u>	7 am - 10 pm	1/50′/25′
Mining and Extraction Operations and Quarries	2500 ft.	<u>150 ft.</u>	<u>500 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	<u>1/50'/25'</u>
Motor Sports Activities	1500 ft.	<u>100 ft.</u>	300 ft.	<u>100 ft.</u>	7 am - 10 pm	1 (minor) 2 (major)/50'/25'
<u>Sawmills</u>	500 ft.	<u>100 ft.</u>	<u>100-ft.</u>	<u>100 ft.</u>	7 am - 10 pm	1/50′/25′
Slaughtering and Processing Plants	1500 ft.	<u>150 ft.</u>	<u>300 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	1/50′/25′
Solid Waste Management Facilities	2500 ft.	<u>150 ft.</u>	<u>500 ft.</u>	<u>100 ft.</u>	7 am - 10 pm	<u>1/50'/25'</u>

23.7.2 Additional Special Use Minimum Standards- Screening and Vegetation

- 23.7.2.1 Screening. All high-impact uses other than aviation activities shall be screened. The screening may be located within any required buffer or buffer yard or setback. The screening may consist of the required continuous vegetative buffer described in subsection (C) or this section or, upon approval of the Ordinance Administrator, a combination of the vegetative buffer and opaque wooden fences, masonry walls, or landscaped earthen berms.
- 23.7.2.2 Safety Fencing. Safety fencing shall be installed around the principal use or building containing the principal use of all high-impact uses.

 The safety fencing shall be chain link or equivalent, at least six feet in height, and gated in order that it can be secured at all times the high-impact use is not conducting operations.

23.7.2.3 Vegetative Buffer. A continuous vegetative buffer shall be maintained along any property line of a high-impact use which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use. The vegetative buffer strip shall not be less than fifteen (15) feet in width at maturity and shall be composed of evergreen trees or shrubs of a type which at planting shall be a minimum of five (5) feet in height and which at maturity shall not be less than ten (10) feet in height. The buffer strip should consist of three (3) rows of evergreen trees or shrubs planted in a staggered pattern. In each row the trees or shrubs should be spaced no more than ten (10) feet apart (from base of tree to base of tree) and the rows should be no more than five (5) feet apart. Alternative spacing of trees or shrubs is acceptable to improve the growth of vegetation so long as the buffer strip is a minimum of fifteen (15) feet in width and the density of the buffer is sufficient to provide adequate screening. Existing vegetation may be used in lieu of or in addition to the required screening. Plans for buffering shall be provided submitted and approved at the time of with the permit application. Plants required in the buffer shall be carefully planted and shall be maintained in good condition. Failure to maintain the buffer in good condition shall constitute a violation of this ordinance. This planting requirement may be modified by the ordinance administrator where adequate buffering exists in the form of natural vegetation and or terrain.

23.7.3 Additional Special Use Minimum Standards- Mitigations

- 23.7.3.1 <u>Dust Mitigation. Permanent roads used continuously (for vehicular traffic once per any 72 hour period of time excluding Saturdays, Sundays, or holidays) in excess of 6 months within the property site shall be surfaced with a dust-free material (i.e. soil cement, portland cement, bituminous concrete)</u>
- 23.7.3.2 Noise Mitigation. No high-impact use shall commence operations prior to submitting a Noise Mitigation Plan which demonstrates that the methods for reducing or containing noise generated by the use meet commonly recognized industry standards for that particular use.

 Mitigation plan should include and not limited to whether factor is recurrent, intermittent, or constant; the volume and intensity of factor; whether factor is enhanced in volume or range by any type of electronic

- or mechanical means; hours of operation; proximity to protected uses; and whether the factor is subject to being controlled without unreasonable effort or expense to the creator thereof.
- 23.7.3.3 Light Mitigation. No high-impact use shall commence operations prior to submitting a Light Mitigation Plan which demonstrates that the methods for reducing or containing light generated by the use meet commonly recognized industry standards for that particular use. All lighting, unless otherwise required by specific industry practice, shall be pointed downwards with the primary cone of illumination being entirely contained on the subject property. Exterior lighting fixtures shall be overhead full cut-off fixtures. Mitigation plan should include and not limited to whether factor is recurrent, intermittent, or constant; the volume and intensity of factor; whether factor is enhanced in volume or range by any type of electronic or mechanical means; hours of operation; proximity to protected uses; and whether the factor is subject to being controlled without unreasonable effort or expense to the creator thereof.

23.7.4 Special Uses Incentives and Waivers

- 23.7.4.1 <u>High-Impact Use Clusters. To encourage the clustering of high-impact uses, no minimum building setbacks, buffer yards or vegetative buffers shall apply to the common property lines shared by different high-impact uses.</u>
- 23.7.4.2 Separation Waiver. A protected facility, as listed in ARTICLE V, may for itself but not on behalf of another protected facility, waive all or any portion of the spacing requirements set forth therein. Said waiver shall be in writing and shall be in the form of an easement. The waiver shall be signed by a duly authorized officer or officers of the protected facility, or, in the case of an occupied dwelling unit or a North Carolina licensed child day care home located in a dwelling unit, by all of the owners of the dwelling unit. Where the dwelling unit is the subject of a current lease agreement, the waiver shall further be signed by the person(s) named as tenant(s) thereunder. The waiver shall further be signed by the owner of the high impact land use / polluting industry, and, if different, by all of the owners of the property on which the high impact land use / polluting industry is situated. The waiver shall further be signed by the County Attorney, whose signature shall serve as a certification that the requirements of this subsection have been met. All

of the said signatures shall be notarized, whereupon the waiver shall be recorded in the Transylvania County Register of Deeds Office at the expense of the high impact land use / polluting industry. Following such recording, the spacing requirements of subsection A as between said protected facility and said high impact land use / polluting industry shall be deemed amended to conform to the provisions of the waiver. The easement granted by said waiver shall be appurtenant to and run with the land and shall be binding on the parties, their heirs, successors, and assigns; provided, that the same shall by its express provisions terminate at such time as the high impact land use / polluting industry ceases to have a valid HILU/PI Permit under Article XI hereunder for the operations and/or facility which is/are the subject of the waiver.

23.7.4.3 <u>Setback Uses. Any commercial uses may be located within the building</u> setbacks of any high-impact use located on the same parcel of land.

<u>Section 24. Application requirements for zoning permits in the open use district</u> - All applicants for those uses listed in Section 22.3 shall provide the following information by completing an application form and providing supporting documentation as required:

- 24.1 Name, address and telephone numbers of applicant and property owner(s).
- 24.2 Permit fee(s) as set forth by the County Commissioners.
- 24.3 Site plan prepared by a professional land surveyor, professional engineer or professional landscape architect licensed in North Carolina and containing the following information:
 - 24.3.1 Names, addresses and telephone numbers of the applicant and the property owner.
 - 24.3.2 Plan scale, a North arrow and a vicinity map.
 - 24.3.3 Tax parcel identification number for all parcels of land containing the proposed use.
 - 24.3.4 Name, address, signature and seal of the site plan preparer.
 - 24.3.5 Surveyed boundary lines of any parcel, or portion thereof, that will contain the proposed use, and surveyed points of building finished grades to the nearest foot. Boundary lines and points shall be surveyed by a professional land surveyor currently licensed in North Carolina.
 - 24.3.6 Proposed location, use and dimensions of all structures and areas not within structures devoted to principal uses. All such structures and areas shall be appropriately labeled, including a description of each sufficient to give the County Commissioners a reasonable understanding of each.

- 24.3.7 Proposed location(s) and dimensions of the stated minimum buffer(s) and the stated minimum setback(s).
- 24.3.8 Existing site conditions, including structures, watercourses, flood hazard areas, existing utilities, roads and rights-of-way.
- 24.3.9 Proposed locations, dimensions and arrangement of all off road parking and loading areas.
- 24.3.10 Proposed locations (including line and grade) of access road travelway(s) and service road(s).
- 24.3.11 Proposed location and description of facilities to be used for sewage disposal, water supply, stormwater drainage and any other utilities.
- 24.3.12 Proposed location and description of fencing and screening.
- 24.3.13 Proposed location and description of outdoor lighting.
- 24.3.14 Owners of adjoining parcels of land.
- 24.4 Names, mailing addresses and tax parcel identification numbers for all property owners of parcels adjoining the proposed use.
- 24.5 Schedule of proposed hours of operation.
- 24.6 Statement of potential noise generation and proposed mitigation plan.
- 24.7 Outdoor lighting plan designed to control light spillage and glare as not to adversely affect motorists, pedestrians, and adjacent properties.
- 24.8 A detailed plan describing or showing the proposed method(s) of fencing and screening.
- 24.9 Written narrative which provides a description and details regarding the proposed use including, but not limited to:
 - 24.9.1 A description of the operations, including whether indoor or outdoor, associated with the proposed use.
 - 24. 9.2 Proposed number of employees.
 - 24. 9.3 Maximum anticipated patron capacity for which application is being made.
 - 24. 9.4 A listing of the federal and state permits that must be acquired for the proposed use.
 - 24. 9.5 Type(s) and approximate quantity(ies) of units to be produced, extracted, disposed of, processed and/or stored as applicable for the proposed use.
 - 24. 9.6 Any other information necessary to fully convey the intended scope, intensity, capacity and/or size of the proposed use.

24.10 Material Safety Data Sheets for extremely hazardous substances to be used, stored, handled, processed or manufactured.

ARTICLE XIV.

CORRIDOR MIXED USE DISTRICT

Section 25. Applicability

- 25.1 The following sections in this article <u>shall apply to non-residential uses</u> in the Corridor Mixed Use (CMX) District as shown on the Official Zoning Map of Transylvania County, North Carolina.
- 25.2 The following uses shall be prohibited in the Corridor Mixed Use District:
 - 25.2.1 Hazardous waste disposal facilities, unless preempted pursuant to G.S. 130A-293.
 - 25.2.2 Radioactive Waste Disposal Facilities, unless preempted pursuant to G.S. 104E-6.2.
 - 25.2.3 Adult entertainment establishments. (G.S. 14-202.10).

<u>Section 26. Zoning permit and final zoning approval required</u> - The Zoning Administrator shall be the approving authority for zoning permits and approvals under this article.

- 26.1 Zoning permits A zoning permit shall be required for all new non-residential development and for expansions of existing non-residential uses exceeding 50% of the pre-expansion floor area or structural renovations exceeding 50% of the assessed value of the building. Rebuilding a structure damaged by fire, flood, wind or other natural damage shall not be considered a structural renovation.
- 26.2 Zoning permit application requirements
 - 26.2.1 A site plan as described in section 24.3
 - 26.2.2 Contours of 5 (five) foot intervals or less and designation of portions of the site with 25% slope or greater shall be shown on the site plan.
- 26.3 Preliminary zoning approval when the location for any new or expanded structure has been located on the permitted site as evidenced by survey stakes, footer or pier trenches or other preparation for building, the Zoning Administrator shall be notified and shall make an inspection to ensure the site plan and its requirements are being followed. Building foundation inspections shall not be made before preliminary zoning approval is obtained.

26.4 <u>Final zoning approval</u> - No structure shall be used or occupied until Final Zoning Approval has been issued by the Zoning Administrator and a Certificate of Occupancy has been issued by the Transylvania County Building Permitting and Enforcement Department. A Certificate of Occupancy shall not be issued before a Final Zoning Approval has been issued.

<u>Section 27. Access management</u> - All roads and driveways connecting to a public road require a permit from the NC Department of Transportation (NCDOT) and are subject to their design standards. Where NCDOT requirements conflict with the standards in this section, the stricter of the two standards shall take precedence.

- 27.1 All existing parcels are allowed one driveway.
- 27.2 Distance between existing driveways and new curb cuts shall be at least 400 feet.
- 27.3 Distance between new curb cuts and road intersections shall be at least 500 feet.
- 27.4 Parcels and development projects shall be permitted a maximum of two curb cuts or driveways regardless of frontage.
- 27.5 Additional Provisions:
 - 27.5.1 The Zoning Administrator may waive these requirements only in situations where these requirements cannot be met due to pre-existing conditions of insufficient lot width and with NCDOT agreement.
 - 27.5.2 The applicant shall first exhaust all other alternatives to waiving these requirements, including but not limited to: shared driveways, rear service roads and others.
 - 27.5.3 The Zoning Administrator shall not waive these requirements and shall require that access be provided through an adjacent parcel when such adjacent parcel is under the same ownership or management as the parcel in question.
 - 27.5.4 The Zoning Administrator may require the closure of any non-conforming driveway or curb cut as a condition of approval of any zoning permit application.

Section 28. Setbacks and Other Building Requirements

- 28.1 Front setbacks from the edge of the Right of Way shall be 10 feet.
- 28.2 Side and rear setbacks from property lines shall be 10 feet.
- 28.3 The Zoning Administrator may approve reductions from setback requirements up to 20% in order to protect the right of way or in deference to floodplain, surface water protection or other requirements of this ordinance.
- 28.4 No building or structure shall exceed 50 feet in height as measured from the highest ground elevation of the building or structure to the highest point of the roof.

<u>Section 29. Buffers</u> - A buffer shall be established and maintained along the side and rear lot lines of any non-residential use adjoining a residential use or a vacant lot.

- 29.1 Width of buffer A buffer shall be not less than 20 feet where the lot with the nonresidential use is one acre or greater and not less than 15 feet where the lot with the nonresidential use is less than one acre. The Zoning Administrator may approve reductions from buffer width requirements up to 20% in order to protect right of way or in deference to floodplain, surface water protection or other requirements of this ordinance.
- 29.2 <u>Use of buffer</u> Required buffers shall not be disturbed except for approved driveway openings, designated trails or greenways, utilities, drainage ways, walls, fences or other passive and minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Permanent buildings and sheds shall not be allowed in a buffer. Utility easements may be included in the width of the buffer.
- 29.3 Placement of buffer plantings - The selection and exact placement of the required plants shall be the decision of the developer or designer, but shall be approved by the Zoning Administrator. The use of plants that are indigenous to the region and are readily available from local nursuries is encouraged. Plants shall meet the requirements of American Standards for Nursury Stock (ANSI 260.1) and shall be healthy, well branched and free from disease and insect infestation. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from an area accessible to the public or from adjacent properties. Trees and shrubs should be planted at least five (5) feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property. If the season or weather conditions are not suitable for successful planting, the developer may provide a performance or surety bond, an irrevocable letter of credit or funds placed in an attorney's escrow account in the amount of 150% of the cost of installing the required plantings. The cost estimate shall be documented in a landscaping contractor's bid or contract, a nurseryman's bid, or a similar document. The financial guarantee so provided shall be released upon completion of the required landscaping.
- 29.4 <u>Maintenance of buffers</u> The owner of the property on which a buffer is required shall be responsible for the maintenance and protection of all plants required by this section. Failure to maintain the required plantings or to replace dead or diseased plants or to repair or replace a broken fence or wall shall be a violation of this ordinance. Corrective action shall be taken within 30 days of notification or within 120 days of a catastrophic event that destroys a majority of the plantings.

29.5 <u>Buffer description table</u>

Minimum buffer width (see Section 29.1)	15'	20'
Total number plants per 100 linear feet	18	26
Number of evergreen trees	6	8
Number of large deciduous trees	2	2
Number of small deciduous trees	2	3
Number of shrubs (at least 75% must be evergreen)	8	12

- 29.6. Minimum plant size requirements:
 - 29.6.1 <u>Large deciduous tree</u> Greater than 35 feet in height at maturity. Minimum size at planting shall be 2 inches caliper with a 12 to 14 foot height.
 - 29.6.2 <u>Small deciduous tree</u> Less than 35 feet in height at maturity. Minimum size at planting shall be 1.5 inches caliper with an 8 to 10 foot height.
 - 29.6.3 Evergreen tree Minimum height at planting shall be six (6) feet.
 - 29.6.4 Shrub Minimum size at planting shall be a three (3) gallon container or 10 inch root ball with a height of 18 inches.
- 29.7 <u>Existing vegetation in the buffer</u> Existing vegetation in the buffer area may be counted toward the required plantings. The Zoning Administrator must approve the use of existing vegetation to meet the buffer requirement.
- 29.8 <u>Buffer reductions</u> The width of the buffer may be reduced up to five (5) feet with the use of a fence or wall. Fences and walls must meet the following standards:
 - 29.8.1 Fences or walls shall be constructed of wood, fauxwood, vinyl, vinyl coated and slatted chain link, brick, stone, or other masonry (except unfinished concrete block) and be architecturally compatible with the proposed structure. Seventy-five percent (75%) of the fence or wall shall be opaque with any spaces evenly distributed. The fence or wall shall be constructed as a permanent structure with fence posts secured in concrete and walls placed upon a concrete footing. A detailed drawing of the fence or wall must be shown on the site or landscape plan and approved by the Zoning Administrator.
 - 29.8.2 Fences and walls shall be a minimum of six (6) feet tall and a maximum of eight (8) feet tall;
 - 29.8.3 The finished side of the fence or wall shall face the abutting property; and
 - 29.8.4 A planting strip with a minimum width of five (5) feet shall be located between the fence or wall and the property line. The strip shall be planted with trees and/or shrubs on the side that faces the abutting property. The trees and/or shrubs shall be spaced no further than eight (8) feet apart in order to screen at least 50% of the fence or wall at maturity.
- <u>Section 30. Stormwater run-off provisions</u> The purpose of this section is to minimize runoff and flooding generated by impervious surface areas and to protect water quality and natural ecosystems.
- 30.1 Affected property The requirements of this section shall apply to the following activities:
 - 30.1.1 Any Planned Unit Development, any new non-residential or mixed-use development, or any existing non-residential or mixed-use development undergoing expansion of impervious surface area of 25% or more.

- 30.1.2 Any project for which stormwater management is required as a condition of approval by the County Commissioners or Board of Adjustment.
- 30.2 <u>Exempt activities</u> The following activities are exempt from the stormwater management provisions of this section:
 - 30.2.1 Bona fide farm structures used exclusively for farm purposes.
 - 30.2.2 The placement of small accessory buildings or structures or small amounts of other built-upon area provided that the total additional built-upon area shall be no greater than four hundred (400) square feet.
- 30.3 <u>Stormwater management requirements</u> The following requirements shall apply to the entire parcel of land or project area.
 - 30.3.1 The property owner and developer of all affected property shall be required to comply with the following stormwater design standards:
 - 30.3.1.1 The stormwater run-off generated by a 1-year, 24 hour rain event, shall be captured and contained.
 - 30.3.1.2 At a minimum, stormwater measures shall be designed to remove 85% of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event.
 - 30.3.1.3 Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.
 - 30.3.2 Stormwater measures shall be designed by an engineer, landscape architect or other appropriately qualified professional licensed in North Carolina. Innovative designs that utilize "low impact" and non-structural control and treatment measures such as rain gardens are encouraged.
 - 30.3.3 Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected property or within a common area under the management of a property owners' association or similar entity. When stormwater measures are located off-site, deeds of both the affected property and the property containing the stormwater measure shall be provided and shall clearly reference an access easement.
 - 30.3.4 Stormwater measures shall be designed to minimize potential threats to public health or safety. If ponds or lakes are used, such areas shall be landscaped as amenities or hidden from view.
- 30.4 <u>Permit requirements</u> The Zoning Administrator shall review all stormwater plans required by this Ordinance to ensure compliance. In making this determination, the Zoning Administrator shall use the Stormwater Best Management Practices Design Manual published by the North

Carolina Department of Environment and Natural Resources or other commonly accepted information and engineering data. If the Zoning Administrator deems it necessary, the County may retain, at the permit applicant's expense, a professional engineer for assistance in the review of a stormwater plan.

- 30.4.1 Stormwater management system plan When required as part of any project, a plan of the proposed stormwater management system shall be submitted along with other application materials.
- 30.4.2 <u>As-built plans and final approval</u> Upon project completion, and before final zoning approval or a certificate of occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management system plans and designs. The applicant shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed. Submittal of plans in digital format shall be required.
 - 30.4.2.1 The plans shall show the final design and locations for all stormwater management facilities, practices, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater facilities, practices, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance.
 - 30.4.2.2 A final inspection and approval by the Zoning Administrator is necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.
- 30.5 <u>Inspection of stormwater management systems</u> The Zoning Administrator may, with cause, inspect approved stormwater management systems for compliance with this section and approved plans. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater measures; and evaluating the condition of stormwater measures. If the Zoning Administrator deems it necessary, the County may retain, at the permit applicant's expense, a professional engineer for assistance in the inspection of a stormwater plan.
- 30.6 <u>Maintenance of stormwater management systems</u> The owner of any stormwater management system installed pursuant to this section shall maintain and operate such system so as to preserve and continue its function.
- 30.7 Prohibited discharges No person shall cause or allow the discharge, emission, disposal, pouring, or pumping, whether directly or indirectly, of any liquid, solid, gas, or other substance as described below, other than stormwater, into any surface water, ground water, or stormwater conveyance. This prohibition includes any substance deposited upon the land in manner and amount that the substance is likely to reach a stormwater conveyance, surface or ground water.
 - 30.7.1 Prohibited discharges include but are not limited to the following:

- 30.7.1.1 Discharges of oil, grease, fuels, anti-freeze, chemicals, paints, garbage, litter;
- 30.7.1.2 Raw sewage discharges or overflows;
- 30.7.1.3 Discharges of wash water resulting from the hosing or cleaning of gasoline stations, auto repair garages, or other types of automotive service facilities;
- 30.7.1.4 Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility (including motor vehicles, cement-related construction equipment, port-a-potty servicing, etc.) except that such discharges in small quantities from home occupations are allowed;
- 30.7.1.5 Discharges of water containing chlorine, biocides or other chemicals.
- 30.7.1,6 Discharges of water containing sediment or construction related wastes;
- 30.7.1.7 Discharges of commercial food-related wastes such as grease, oil, fish processing water, kitchen mat wash water, trash bin wash water, discharges from garbage dumpsters; and
- 30.7.1.8 Discharges from manufacturing or processing facilities.
- 30.8 <u>Prohibited connections</u> It shall be unlawful to cause or permit any connection to a surface water or stormwater conveyance or stormwater conveyance system that allows the discharge of anything other than stormwater.
 - 30.8.1 Prohibited connections include, but are not limited to the following: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
 - 30.8.2 Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision, the property owner or the person using said connection shall remove the connection within one year following the effective date of this Ordinance or notification by the Zoning Administrator. The one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges that pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
 - 30.8.3 Upon determining that an illicit connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat the Zoning Administrator shall designate the time limit within which the connection shall be removed. In setting the time limit for compliance, the Zoning Administrator shall take these matters into consideration:
 - 30.8.3.1 The quantity and complexity of the work;

- 30.8.3.2 The consequences of delay;
- 30.8.3.3 The potential harm to the environment, to the public health, and to public and private property; and
- 30.8.3.4 The cost of remedying the damage.

Section 31. Surface water protection

- 31.1 Purpose and intent The purpose of this section is to protect streams and their drainage basins.
- 31.2 <u>Applicability</u> This section shall apply to all surface waters and all non-encroachment areas and regulatory floodways within the zoned areas of Transylvania County.
- 31.3 <u>Surface water protection area delineation</u> Surface water protection area requirements apply to the regulatory floodway and non-encroachment areas, as well as lands within 20 feet from the top of each bank of a stream or other surface water body.
 - 31.3.1 For streams and other surface waters with defined channels, protection area widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the channel.
 - 31.3.2 "Top of bank" shall be determined by the Zoning Administrator by considering factors such as the break in slope for a watercourse and the presence of streamside vegetation.
 - 31.3.3 For wetlands, as defined in this Ordinance, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.
 - 31.3.4 For ponds, lakes, and other impounded surface waters, protection areas widths are measured horizontally, landward from the ordinary high water line. Protection areas requirements do not apply to wet ponds used as structural stormwater control and treatment measures for stormwater.

31.4 Surface water protection area requirements

- 31.4.1 Protection areas shall be left in a naturally vegetated state, unless a disturbance of the vegetated area is approved as part of a site plan. When re-vegetation of a protection area is required, it shall be done in accordance with a planting plan approved by the Zoning Administrator.
- 31.4.2 Concentrated run-off from ditches or other manmade conveyances shall be diverted to diffuse water flow before the run-off enters the protection area.
- 31.4.3 Periodic corrective action to maintain diffuse water flow shall be taken by the property owner as necessary to avoid the formation of erosion gullies.

- 31.4.4 Surface water protection areas shall be delineated upon any site plan and shall be noted as protection areas.
- 31.4.5 The following impacts are not allowed in surface water protection areas unless included as part of an approved plan of development:
 - 31.4.5.1 The placement of fill or the deposition of any natural or manmade material or substance;
 - 31.4.5.2 New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities;
 - 31.4.5.3 Grading, excavation, the removal of vegetation, or any disturbance of any kind; except excavation and fill required to plant any new trees or vegetation;
 - 31.4.5.4 The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds, ditches, and lakes;
 - 31.4.5.5 The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, driveways, greenways, and other transportation facilities;
 - 31.4.5.6 The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments); and
 - 31.4.5.7 Any other type of encroachment, disturbance, or modification to floodways, non-encroachment areas, or other surface water protection areas or associated surface waters.
- 31.4.6 The following protection area impacts are permitted; however, design and construction shall comply with applicable County standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters and shall be approved by the Zoning Administrator.
 - 31.4.6.1 Road crossings for connectivity or transportation links and required utilities including public and private roads, driveways, and bridges, where the Zoning Administrator has granted site plan approval.
 - 31.4.6.2 Parallel utility installation as approved by the Zoning Administrator.
 - 31.4.6.3 Incidental drainage improvements/repairs for maintenance provided that such maintenance does not result in channelization, straightening, or modification of the natural course of a stream channel or the deforestation of the regulatory floodway or protection areas.

- 31.4.6.4 Mitigation approved by a local, state, or federal agency acting pursuant to Sections 401 or 404 of the Federal Clean Water Act.
- 31.4.6.5 Stream bank or stream channel restoration or soil stabilization activities of the North Carolina Cooperative Extension Service, Transylvania County Soil and Water Conservation Service, USDA Natural Resources Conservation Service, Transylvania County, the North Carolina Forest Service, or a cooperating organization or entity. This exception does not include the straightening or channelization any watercourse.
- 31.4.6.6 The removal of invasive exotic plant and tree species or trees posing a hazard to life or property.
- 31.4.7 The Zoning Administrator may reduce the required setbacks by up to 20% of the required distance in order to facilitate compliance with this section. Additional setback deviations shall be considered as variances by the Board of Adjustment in accordance with the procedures set forth in this Ordinance.

<u>Section 32. Parking</u> - Parking spaces with minimum dimensions of 9 feet by 18 feet shall be provided for all listed uses in accordance with the following minimum ratios:

- 32.1 Retail Uses: One (1) per 500 square feet
- 32.2 Office Uses: One (1) per 500 square feet
- 32.3 Theaters: One (1) per three (3) seats
- 32.4 Restaurants: One (1) per four (4) seats
- 32.5 Manufacturing/Warehousing/Light Assembly: One (1) per 4,000 square feet of non-office space
- 32.6 Bed & Breakfast Inns/Hotels/Motels: One (1) per room or suite
- 32.7 Civic Uses (Assembly Uses Only): One (1) per four (4) seats (If benches or pews are used then the standard shall be measured as 1 per 6 feet)
- 32.8 Handicap spaces shall be provided in accordance with applicable N.C. building and accessibility codes.

<u>Section 33. Loading</u> - Off street loading facilities with minimum loading space dimensions of 12 feet by 40 feet shall be provided for listed uses as follows:

- 33.1 Retail businesses: 1 space per business location
- 33.2 Wholesale, industrial, governmental and institutional uses:

0 - 24,999 s.f.	1 space
25,000 - 99,000 s.f.	2 spaces
100,000 – 159,999 s.f.	3 spaces
160,000 - 239,000 s.f.	4 spaces
239,000 – 349,000 s.f.	5 spaces

Additional 100,000 s.f. (or fraction) 1 additional space

Section 34. Steep Slope Development

- 34.1 <u>Definition</u> Steep slope areas are defined as those areas with a slope of 25% or greater. Slope shall be computed by dividing the change in height for any 100 feet of horizontal distance over the entire parcel of land.
- 34.2 <u>Applicability</u> Provisions in this section shall apply to development, including new subdivisions, driveways or access roads, on any portion of a lot or tract of land with slopes of 25% or greater.
- 34.3 <u>Exclusions</u> Single family homes constructed on pre-existing lots shall be excluded from the requirements of this section.
- 34.4 <u>Topography data required</u> Contours of five foot intervals or less and designation of portions of the site with 25% slope or greater shall be shown on the site plan.
- 34.5 Steep Slope Development Standards
 - 34.5.1 Cut or fill slopes shall not exceed 1.5:1 unless designed and certified by a geotechnical engineer, licensed in North Carolina.
 - 34.5.2 Maximum gross site area disturbed shall be:
 - 34.4.2.1 Thirty percent (30%) for areas with 25-35% slope.
 - 34.4.2.2 Fifteen percent (15%) for areas with greater than 35% slope.
 - 34.5.3 Maximum gross site area with impervious surfaces shall be:
 - 34.4.3.1 Fifteen percent (15%) for areas with 25-35% slope.
 - 34.4.3.2 Eight percent (8%) for areas greater than 35% slope.
 - 34.5.4 Land not approved for disturbance shall remain in a natural state. Plans for removal of any tree with a diameter of twelve (12) inches or more at one (1) foot above the ground shall be approved by the Zoning Administrator.
 - 34.5.5 Revegetation shall be required on all disturbed areas that remain after construction. Approval of the revegetation plan shall be required for zoning permit approval.
 - 34.5.6 Minimum lot sizes for single family residences are shown on the following table:

SLOPE %	MINIMUM LOT SIZE (1 dwelling per lot)	
25 - 30	1.5 acres	

31-35	2.0 acres
36-40	2.5 acres
SLOPE %	MINIMUM LOT SIZE (1 dwelling per lot)
41-45	3.0 acres
46-50	3.5 acres
51-55	4.0 acres
56-60	7.0 acres
61-65	10.0 acres

ARTICLE XV.

PLANNED UNIT DEVELOPMENTS

<u>Section 35. Standards for Planned Unit Developments</u> - A planned unit development (PUD) may be located in any zoned area, subject to a finding by the Transylvania County Commissioners, on the advice and recommendation of the Transylvania County Planning Board, that certain conditions be met.

- 35.1 <u>Land development standards</u> The following land development standards shall apply for all planned unit developments.
 - 35.1.1 Ownership control At the time an application is submitted, the land in a PUD shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development is under ownership and control by the applicant.
 - 35.1.2 Frontage requirements PUDs shall be prohibited except on parcels of land having a minimum frontage of 45 feet on a paved, public, state-maintained road or highway. The frontage shall be sufficient to accommodate the appropriate access for the development.

35.1.3 Building requirements

- 35.1.3.1 <u>Height limitations</u> No building or structure shall exceed 50 feet in height as measured from the highest ground elevation of the building or structure to the highest point of the roof.
- 35.1.3.2 Access Every dwelling unit shall have access to a street, walkway, or other area dedicated to common use; and there shall be provision for adequate

- vehicular circulation to all PUD properties in order to insure acceptable levels of access for emergency vehicles.
- 35.1.4 <u>Perimeter requirements</u> If topographical or other barriers do not provide reasonable privacy for existing uses adjacent to the PUD, the County Commissioners may impose additional requirements.
- 35.1.5 Documentation to ensure that the water and wastewater systems proposed for the PUD are approved by the appropriate local and state agencies, shall be submitted as a part of the application.
- 35.1.6 Plans shall include parking provisions for all proposed uses within the PUD in accordance with Section 32 of this ordinance. In addition, residential uses shall be provided with two parking spaces for each unit.
- 35.1.7 Non-residential PUD Plans shall include off street loading facilities with minimum loading space in accordance with Section 33 of this ordinance.
- 35.1.8 Any PUD area with a slope of 25% or greater shall comply with the requirements of Section 34.
- 35.2 <u>Timing</u> If no development has begun pursuant to the issuance of a zoning permit one year after the date of the zoning permit for the PUD the zoning permit shall become null and void. A six (6) month extension may be granted by the Zoning Administrator when reasonable cause is shown.
- 35.3 Conveyance of open space, recreational areas and communally owned facilities.
 - 35.3.1 Common open space, recreational areas and communally owned facilities shall be guaranteed by a restrictive covenant describing the areas and facilities and the plan for maintenance and improvement.
 - 35.3.2 The applicant must submit the legal documents which will produce the aforesaid guaranties and, in particular, will provide for restricting the use of and maintenance of common areas and facilities for the designated purposes. The open space restrictions shall be permanent.
- 35.4. Maintenance PUDs shall be approved subject to the submission of an instrument or instruments setting forth a plan for permanent care and maintenance of permanent open spaces, recreational areas, easements, rights-of-way and communally owned facilities which would be legally enforceable. No such instrument shall be acceptable until approved by the County Attorney as to legal form and effect and the County Commissioners as to suitability for the proposed uses.
- 35.5. Procedures for PUD application and review

- 35.5.1 <u>Preapplication conference</u> Prior to submission of an application for a zoning permit to the County Commissioners, the applicant shall arrange a preapplication conference with the Zoning Administrator.
 - 35.5.1.1 The applicant shall submit a sketch development plan and a brief description of the proposed development strategy to the Zoning Administrator. The Zoning Administrator may schedule a review with the Planning Board. The sketch plan and development strategy shall show and describe the layout of the PUD, depicting proposed areas and types of development, open spaces and recreation areas and roads.
- 35.5.2 Zoning permit Upon completion of the preapplication conference the applicant may submit an application for a zoning permit in accordance with Sections 23 and 24 of this ordinance.
- 35.5.3 The application for a zoning permit for a PUD shall comply with the land development standards of this section in addition to the requirements of Sections 23 and 24 and shall include the following information and supporting documentation:
 - 35.5.3.1 Written documents.
 - 35.5.3.1.1 A legal description of the total site proposed for development, including a statement of present and proposed ownership.
 - 35.5.3.1.2 The zoning district or districts in which the project is to be located.
 - 35.5.3.1.3 A general statement of objectives to be achieved by the PUD through the approach proposed by the applicant.
 - 35.5.3.1.4 A development schedule indicating approximate beginning and completion dates of the development, including any proposed phases.
 - 35.5.3.1.5 Quantitative data for the following: proposed total number and type of units, parcel sizes, total amount of open space and recreation areas, utilities, and vehicular circulation facilities.
 - 35.5.3.1.6 Documentation from the County Fire Marshal confirming the adequacy of the PUDs accessability and facilities for fire protection.
 - 35.5.3.1.7 Listing of permits required from any local, state or federal agency.
 - 35.5.3.2 <u>Site plan and supporting maps</u> A map or maps drawn to an appropriate scale, with the date of preparation and North point, shall include the information in Section 24.3 and additionally the following information:

- 35.5.3.2.1 Location and size of all areas to be conveyed, dedicated or reserved as common open space, parks, recreational areas, school sites and similar public and semipublic uses and utility facilities.
- 35.5.3.2.2 The existing and proposed street and/or vehicular circulation facilities, easements or rights-of-way, and notations of proposed ownership of street and/or vehicular circulation facilities (public or private).
- 35.5.3.2.3 Contours of five (5) foot intervals or less and designation of portions of the site with 25% slope or greater.
- 35.5.4 Additional information Any additional information required by the Zoning Administrator in order to fully evaluate the impact of the proposed planned unit development.
- 35.6 Amendments to the development plan. Minor changes in the location, siting or character of buildings and structures may be authorized by the Zoning Administrator. Change(s) authorized by the Zoning Administrator under this section shall not increase the size of any building or structure by more than 10%, nor change the location of any building or structure by more than 10 feet in any direction, nor make any changes beyond the minimum or maximum requirements set forth in this chapter. All other changes, including changes listed below, shall require resubmission of the development plan.
 - 35.6.1 A change in the use or character of the development.
 - 35.6.2 An increase in overall density.
 - 35.6.3 An increase in intensity of use.
 - 35.6.4 Alteration of the traffic circulation system.
 - 35.6.5 A reduction in approved open space.
 - 35.6.6 A reduction of parking and loading space.

ARTICLE XVI.

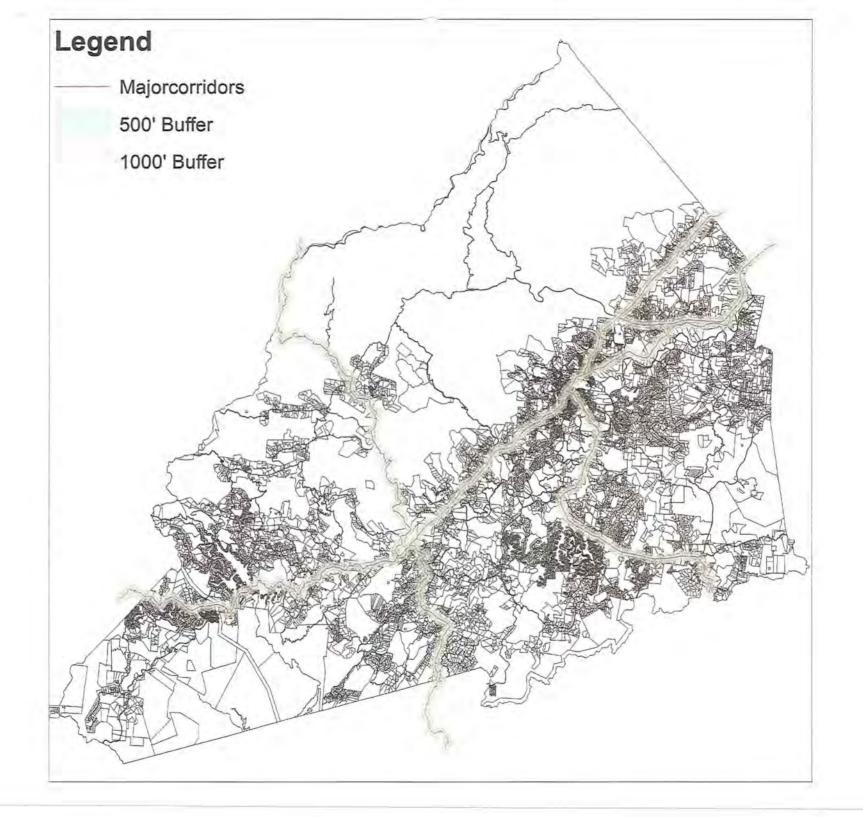
VESTED RIGHTS

<u>Section 36. Statutory vested rights provisions</u> - The purpose of this section is to implement the provisions of G.S. 153A-344.1 as amended for establishment, duration and termination of a site specific development plan vested right.

36.1 Approval procedures and approval authority

- 36.1.1 An application for site specific development plan approval shall be processed in accordance with the permitting procedures in Section 23 and application requirements in Section 24 of this ordinance.
- 36.1.2 In order for a statutory vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the county, that a zoning vested right is being sought.
- 36.1.3 Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 153A-344.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
- 36.1.4 Following approval or conditional approval of a site specific development plan, nothing in this ordinance shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are consistent with the original approval.
- 36.1.5 Nothing in this article shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this ordinance.
- 36.2 <u>Limitation</u> Nothing in this ordinance is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 153A-344.1.
- 36.3 Repealer In the event that G.S. 153A-344.1 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.

Passed and adopted by the Transylvania County Commissioners this 10th day of May, 2010 to become effective August 1, 2010.



HIGH-IMPACT/ POLLUTING INDUSTRY ORDINANCE

TRANSYLVANIA COUNTY

DRAFT

TRANSYLVANIA COUNTY HIGH-IMPACT LAND USES / POLLUTING INDUSTRIES ORDINANCE

ARTICLE I TITLE.	N.
This chapter shall be known and may be cited as the Ordinance Regulating High- Impact Land Uses / Polluting Industries in Transylvania County.	ousgest outside
ARTICLE II AUTHORITY AND JURISDICTION. (A) Authority. This Chapter is established by the Transylvania County Board of Commissioners pursuant to the authority conferred in G.S. §§153A-121 (general ordinance-making power), 153A-122 (territorial jurisdiction), 153A-123 (enforcement), 153A-128 (regulation of explosive, corrosive, inflammable, or radioactive substances), 153A-133 (noise regulation), 153A-134 (regulation of businesses), and 153A-136	Leaves ETJ under City ordinance and follows Transylvania County Noise Ordinance.
(regulation of solid wastes). (B) Jurisdiction. The provisions of this chapter shall apply to all unincorporated areas of Transylvania County lying located outside of the planning jurisdiction of any incorporated city or town or its extraterritorial jurisdictions. corporate limits of any municipality. The provisions of this chapter shall apply within the extraterritorial jurisdiction of any municipality, to the extent that the provisions of this chapter impose higher standards than any municipal ordinance applicable in the extraterritorial jurisdiction, otherwise, municipal ordinance shall control.	
The purpose of this ordinance is to promote the health, safety and general welfare of the citizens of Transylvania County by diminishing the impacts of certain land uses which, by their nature, produce objectionable noise, odors, vibrations, fumes, light, smoke, dust and other impacts which interfere with the quiet enjoyment of adjacent lands and disturb the peace and dignity of the county. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential, agricultural and commercial areas of Transylvania County.	Adds specificity to high impact uses; adds "objectionable" to define more than just noise, but what is considered excessive and violates noise ordinance. Last sentence repeats intent, invites growth and establishment of these industries, while protecting existing property owners.
ARTICLE IV APPLICABILITY.	OWITETS
(A) The provisions of this Chapter shall apply to the following high-impact uses of any land as further defined in Article V of this Chapter:	
(1) Airfields/Airstrips	
(2) Asphalt Plants	
3) Bulk Inflammables, Chemicals and Explosives Manufacturers or Storage Facilities	
4) Chipmills (Wood Grinding Operations)	
5) Commercial Incinerators	
(6) Concrete Suppliers - <u>Plants</u>	Stays consistent with Pisgah Forest Ordinance
(7) Electricity Generating Facilities	
(0) (1) (1) (1) (1) (1)	

(8)

Helicopter Sightseeing Operations

(9) Junkyards	Adds Junkyards
(10) Medical Waste Facilities	
(11) Mining and Extraction Operations and Quarries	
(12) Motor Sports Activities	
(13) Sawmills	
(14) Slaughtering and Processing Plants	
(15) Solid Waste Management Facilities	
(B) The effect of this Chapter, as more specifically set forth herein, is:	
(1) To prohibit the high-impact uses of land, as defined herein, except in	
conformance with the provisions of this Chapter; and	
(2) To provide for the enforcement of the provisions of this Chapter.	
(C) The provisions of this Chapter shall not apply to any use of land arising out of or	
incident to bona fide agricultural or forestry operations as defined in G. S. § 106-701.	- 4
ARTICLE V INTERPRETATIONS AND DEFINITIONS.	
(A) For the purposes of this Ordinance, certain words shall be interpreted as follows:	Į.
(1) The word "County" shall mean Transylvania County, North Carolina.	
(2) The words "County Commissioners" shall mean the Board of Commissioners of Transylvania County, North Carolina.	
(3) The words "Board of Adjustment" shall mean the body composed of those members appointed by the Board of Commissioners, created under the authority of G. S. § 153A-345.	
(4) The word "ordinance" shall mean the Ordinance Regulating High Impact Land Uses / Polluting Industries in Transylvania County, North Carolina.	
(5) The words "high impact land uses" shall mean the uses defined as "High Impact Land Uses / Polluting Industries."	Allows ordinances to refer to "high impact land uses" without stating "polluting
(5) (6) Words importing the masculine gender include the feminine and neuter.	industries"
(6) (7) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.	
(7) (8) Words used in the present tense include future tense.	
(8) (9) The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.	
(9) (10) The words "may" and "should" are permissive.	
(10) (11) The words "shall" and "will" are always mandatory and not merely directive.	

	DIA
(11) (12) The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied." (12) (13) The word "lot" shall include the words "plot," "parcel," "site," "acreage" "tract," "camp" and "premises." (13) (14) The word "structure" shall include the word "building." (14) (15) The word "includes" shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.	"tract" and "camp" are synonymous with Pisgah Forest Ordinance, "acreage" is not used in either document – kept "site" and "premises" even though they are not in Pisgah Forest Ordinance, they do fit the context of this ordinance.
(B) The following words shall be specifically defined as follows: Airfield/Airstrip - Any runway, land area, or other facility designed or used either publicly or privately by any person for landing and takeoff of aircraft, including all necessary taxiways. "Airfield/Airstrip" is further defined as aircraft storage and tiedown areas, hangars, and other necessary buildings appurtenant to an public airport. Aircraft storage and tiedown areas, hangars, and other necessary buildings or uses appurtenant to a private airport are deemed accessory buildings or uses.	Treats all airports the same.
Asphalt Plant – The equipment necessary to produce petroleum bitumen, which when mixed with proper amounts of sand or gravel (or both) results in or may be used in producing material suitable for paving and/or roofing.	
Buffer – A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building), where in which no development or principal use may occur, but which may contain vegetative screening, fencing, a wall or a combination of these items. interior service roads not intended for patron use, principal use signs, business signs, and gate or security houses. Access road corridors may cross the buffer at entrance and exit points.	Consistent with Pisgah Forest Zoning Ordinance
Bulk Inflammables (Fuel Oil, Propane, Gasoline), Chemicals, or Explosives Manufacturer and/or Storage Facility of Bulk Inflammables (Fuel Oil, Propane, Gasoline), Chemicals, or Explosives A facility whose primary purpose is one of the following:	
(1) Manufacturing and/or storage of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. This term includes but is not limited to dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks, but does not include hand-loaded small arms ammunition.	
(2) The production, synthesis, formation, processing, refining, manufacturing, distribution, and/or storage of chemical products in bulk.	
(3) The storage, distribution, mixing or transfer of flammable or combustible liquids or gases received by or transferred by tank vessel, pipelines, tank car, piping, or portable tank or container except such storage, distribution, mixing or transfer of	

	DKA
flammable or combustible liquids or gasses shall not include filling stations or	
convenience centers used solely for retail distribution to individual customers.	
Child Care Facility Day Care Home A child care facility where supervision or care is	Consistent with Pisgah
provided on a regular basis, as an accessory use within a principle residential dwelling	Forest Zoning Ordinance
unit, by a resident of the dwelling for less than six children who are not related by blood	
or marriage to, and who are not the legal wards or foster children of, the supervising	100
adult, as defined in G.S.§110-86 or any successor statute thereto.	
Chip Mill – Any non-portable wood-chipping facility that stands alone and apart from a	
sawmill or a pulp mill, and whose purpose is to provide wood chips to an off-site	
fabricating facility including but not limited to a paper mill or oriented strand board	
mill.	
Church – A building used on a regular basis for the primary purpose of serving as a	
place of public worship.	
Commercial Incinerators - Any enclosed device that burns or converts more than 250	
pounds of any material per hour other than the classical boiler fossil fuels, such as	
natural gas, propane, coal or fuel oil, which is a principal use on any lot or parcel.	
Concrete Supplier Plant - An establishment, whether portable or non-portable,	Consistent with Pisgah
primarily engaged in manufacturing hydraulic cement, including Portland, natural, and	Forest Zoning Ordinance
masonry cements delivered to a purchaser in a plastic and unhardened state. This	
industry includes production and sale of central-mixed concrete, shrink mixed	
concrete, and truck mixed concrete. Also included are the manufacture of concrete	
products from a combination of cement and aggregate.	
Dwelling Unit (single and multi-family) - A building, or portion thereof, manufactured	Consistent with Pisgah
home, or modular home providing complete and permanent independent living	Forest Zoning Ordinance
facilities for a single family. or multi-family, including permanent provisions for living,	
sleeping, eating, cooking, and sanitation. Two or more manufactured homes which are	
combined on one lot or parcel shall be considered as a single dwelling unit if they are	
joined together in one living unit for the use of a single family.	
Educational Facility – An elementary school, secondary school, charter school, private	
school, community college, college, university, or any other similar institution or facility	
for the education of persons, including any property owned by such facility used for	
education purposes.	
Electricity Generating Facility — A stand-alone plant not ancillary to another land use	
which generates electricity to be distributed to consumers, including but not limited to	1
fossil fuel burning facilities and wind power farms and solar power farms. This	
definition shall not include electricity produced at or on an agricultural farm, residence,	
business, or other facility where use of the electricity so produced is limited primarily	
to on-site consumption.	
Helicopter Sightseeing Operation – Any individual, corporation or commercial	
enterprise that carries passengers by helicopter for compensation for the purpose of	
aerial observation of landmarks and other manmade or natural sites, touring, pleasure	
이 그는 사람들은 사람들은 아이들이 다른 사람들이 되었다면 하는 사람들이 되었다. 그는 사람들이 그리고 하는 사람들이 가장하는 것이 되었다면 하는 것이다.	
flying or amusement or for the purpose of transporting passengers for tourist-related activities.	
2473574	Towns #Dallottes Industrian
High-Impact Use / Polluting Industries — Any and each of the uses of land to which the	Term "Polluting Industries"
provisions of this Chapter are applied and as are specifically defined in this section.	defines "High-Impact Use"

Hours of Operation – The times of day during which an establishment may conduct its principal operations.		
'unkyard – an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or maintenance or operation of an automobile graveyard.	Pisgah Forest definition	
Light Mitigation – A good faith effort to Meeting commonly recognized industry standards for controlling light in order to reduce the emission of light or diminish the effects that emitted light has on adjacent parcels or the neighborhood.	Clarifies vague terminology and ties into how Mitigation plan will be reviewed – as seen later in the ordinance.	
Manufacturer and/or Storage Facility of Bulk Inflammables (Fuel Oil, Propune, Gasoline), Chemicals, or Explosives - A facility whose primary purpose is one of the following:	Moved to "Bulk Inflammables"	
(1) Manufacturing and/or storage of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. This term includes but is not limited to dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks, but does not include hand-loaded small arms ammunition. (2) The production, synthesis, formation, processing, refining, manufacturing, distribution, and/or storage of chemical products in bulk. (3) The storage, distribution, mixing or transfer of flammable or combustible liquids or gases received by or transferred by tank vessel, pipelines, tank car, piping, or portable tank or container except such storage, distribution, mixing or transfer of flammable or combustible liquids or gasses shall not include filling stations or		
convenience centers used solely for retail distribution to individual customers. Medical Waste Facility – A facility that generates, stores or treats medical waste as		
defined by G.S. §130A-309.26a. Mining & Extraction Operation – Any establishment or business primarily engaged in dressing and beneficiating of ores; the breaking, washing, and grading of coal; the crushing and breaking of stone; and the crushing, grinding, or otherwise preparing of sand, gravel and nonmetallic chemical and fertilizer minerals. This definition specifically excludes gem mines and other recreational mining operations.		
Motor Sports Activities <u>Facility</u> – The use of any parcel for the operation, for more than two hours during any eight hour time period, of more than three motor propelled conveyances powered by internal combustion engines including but not limed to automobiles, motorcycles, and All Terrain Vehicles. <u>Any facility, track, or course upon which racing or motor sporting events are conducted for commercial purposes including, but not limited to vehicles, motorcycles, all-terrain vehicles, motor scooters, and the second control of the second control</u>	This modification parallels the definition used in Pisgah Forest Ordinance and includes emphasis of "commercial" facilities.	
Noise Mitigation – A good faith effort Meeting commonly recognized industry standards for controlling noise in order to reduce the emission of noise or diminish the effects that emitted noise has on adjacent parcels or the neighborhood.	Clarifies vague terminology and ties into how Mitigation plan will be reviewed – as seen later in the ordinance.	
Nursing <u>Care</u> Home — A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the operator.	Stays consistent with "protected facilities"	

	DRAF
Ordinance Administrator – The Transylvania County employee holding the position of employment that is designated by the Board of Commissioners as the county official with responsibility for administration and enforcement of this Ordinance.	
Perennial Stream - A constantly flowing, drought-resistant stream that is typically depicted by a thin continuous blue line on the most recent version of the USGS 1:24,000 (7.5 minute) scale topographic maps (or as determined by local government studies), unless other provisions have been made.	
Primary Public Airport – An airport operated by a municipal government, county government, or public airport authority and regulated by the Federal Aviation Administration.	
Principal Use - A primary purpose for which land, buildings or other improvements is arranged, designed, intended or used, including the storage or use of supplies, inventory, materials, equipment or products associated therewith.	
Protected Facilities – an existing school, child day care home, child care institution, day care center, hospital, nursing care home, rural medical center, a church or a dwelling unit.	
Rural-Medical Center – A facility staffed on a regular basis by one (1) or more physicians licensed to practice medicine in the State of North Carolina, which facility is located outside the boundaries of a municipality and is established and maintained for the purpose of providing medical care to members of the community in which it is situated.	
Sawmill - Any commercial operation <u>employing three (3) or more full-time employees</u> established for a period of six months or more where timber is customarily processed into raw lumber, finished wood products or other wood products, regardless of whether the products are sold on premises or transferred to another facility for storage and sale. This definition includes the reprocessing of lumber and wood planing operations, <u>and excludes carpentry operations including but not limited to furniture</u> building and wood carving.	Delineates industrial use from small mom and pop woodworking operations
Gereening – The use of any device or natural growth including but not limited to fencing, walls, berms, vegetation, or any combination thereof that serves as a barrier of vision between adjoining properties. Screening may be partial or full as may be required by the Ordinance Administrator.	
Separation – Where separation restrictions are required, no portion of the property on which the regulated use is located shall be situated within the stated distance from the protected use(s) whether such protected uses(s) are located within or outside Transylvania County.	
Setback – The distance from the road right of way or property line to the closest edge (drip edge) of a structure or sign. A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building) in which no principal use is permitted. Limited development, including buffers and related development, parking lots and accessory structures and buildings, access road corridors, and interior service roads, may occur within the setback.	Consistent with Pisgah Forest Zoning Ordinance
Slaughtering and Processing Plant – An establishment primarily engaged in slaughtering, dressing, packing, freezing, canning, cooking and/or curing animals or poultry or their by-products or processing or manufacturing products from such	

	DKA
animals or poultry or their by-products; and establishments primarily engaged in the collection and/or processing of the inedible portion(s) of animals or poultry or their carcasses. This definition specifically excludes: slaughtering and processing activities performed for personal use only and those slaughtering and processing plants	
processing less than 100 animals per month for other than personal use.	
Solid-Waste Management Facility – Land, personnel, and equipment in the management of waste including a transfer station, landfill, or materials recovery facility. Land and equipment, other than incinerators, used in the management of solid waste, including transfer stations, landfills, and recycling facilities which are not owned or operated by a unit of local government.	Consistent with Pisgah Forest Zoning Ordinance
ARTICLE VI MINIMUM STANDARDS FOR CONSTRUCTION AND OPERATION OF AIRPORTS/AIRSTRIPS	Removes additional requirements as previously stated – this is not a
No airport/airstrip shall be permitted, constructed, maintained or operated except in accordance with the following standards:	conditional use permit.
(A) All Federal Aviation Administration regulations shall be met and indicated to the department responsible for the permitting of this use. The center of the area used as the runway shall be a minimum of 100 feet from any exterior property line.	
(B) The minimum length of the landing strip shall be 2,000 feet. Each end of the landing strip shall be at least 600 feet from any exterior property line of the parcel of land on which the airport/airstrip is located.	
(C) The Ordinance Administrator may require other reasonable conditions that would protect the property values and living standards of properties in the area, including but not limited to sound barriers, hours of operation, size and type of aircraft and the like.	
ARTICLE VII HELICOPTER SIGHTSEEING BUSINESSES.	
Helicopter sightseeing businesses shall not be permitted to operate except in accordance with the following:	
(A) Helicopter sightseeing business shall only be operated out of a primary public airport with the written consent or by contract with the appropriate owner or lessee of the airport.	
(B) Helicopter sightseeing operation hours of operation shall be limited to daylight hours.	
(C) This Ordinance shall not apply to helicopter sightseeing operations conducted as special non-profit or fundraising events operated no more than two consecutive days in any given six month period.	
ARTICLE VIII REGULATIONS APPLICABLE TO OTHER HIGH-IMPACT USES LOCATIONAL, SCREENING AND MITIGATION REQUIREMENTS.	
No high-impact use of a parcel or parcels of land shall be permitted,	

constructed, operated, or maintained except in accordance with the following standards:

(A)Separation. The location of the closest point of a building, structure or outdoor storage of a high-impact use shall be the minimum distance specified in Article IX of this Chapter from the nearest property line for of "protected facilities" - an existing school, child day care home, child care institution, day care center, hospital, nursing care home, rural medical center, a church or a dwelling unit.

(A) adds protected facilities as an umbrella term for purposes of this ordinance

In order to establish permitted locations, measurement shall be made in a straight line from the closest or nearest portion of the building, structure, or outdoor storage of the high-impact use to the nearest property line of the premises of the above listed protected facilities. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the spacing requirements of this Section.

- (B) Dust Mitigation. Permanent roads used continuously (for vehicular traffic once per any 72 hour period of time excluding Saturdays, Sundays, or holidays) in excess of 6 months within the property site shall be surfaced with a dust-free material (i.e. soil cement, portland cement, bituminous concrete).
- (C) Vegetative Buffer. A continuous vegetative buffer shall be maintained along any property line of a high-impact use which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use. The vegetative buffer strip shall not be less than fifteen (15) feet in width at maturity and shall be composed of evergreen trees or shrubs of a type which at planting shall be a minimum of five (5) feet in height and which at maturity shall not be less than ten (10) feet in height. The buffer strip should consist of three (3) rows of evergreen trees or shrubs planted in a staggered pattern. In each row the trees or shrubs should be spaced no more than ten (10) feet apart (from base of tree to base of tree) and the rows should be no more than five (5) feet apart. Alternative spacing of trees or shrubs is acceptable to improve the growth of vegetation so long as the buffer strip is a minimum of fifteen (15) feet in width and the density of the buffer is sufficient to provide adequate screening. Existing vegetation may be used in lieu of or in addition to the required screening. Plans for buffering shall be provided submitted and approved at the time of with the permit application. Plants required in the buffer shall be carefully planted and shall be maintained in good condition. Failure to maintain the buffer in good condition shall constitute a violation of this ordinance. This planting requirement may be modified by the ordinance administrator where adequate buffering exists in the form of natural vegetation and or terrain.
- (C) Clarifies that a vegetative buffer plan must be submitted and approved before a permit is issued.

- (D) Stream Setback. The closest point of <u>to principle use</u> building, structure, or outdoor storage of a high-impact use shall be set back from all perennial waters the minimum distance specified in Article IX of this Chapter. Perennial waters are indicated by blue lines on the most recent versions of the USGS 1: 24,000 (7.5 minute) scale topographic maps.
- (D) "principle use" includes all areas designed for operation of facility
- (E) Principal Use Setback. All buildings, structures, or other improvements

constituting the principal use for any high-impact use shall be set back from the property lines of the high-impact uses the minimum distances specified in Article IX of this Chapter.

(F) Buffer or Buffer Yard. All high-impact uses shall maintain a screening buffer or buffer yard along all adjoining property lines of the minimum width specified in Article IX of this Chapter-herein. Have or plant a one hundred (100) foot screening bufferyard along side and rear property lines not adjoining a state maintained road, and have or plant a fifty (50) foot screening bufferyard along all other property lines, excluding any driveways or entranceways to the premises.

(F) Gives variation in buffer yards – protects adjacent properties with 100' and roads with 50' buffer.

(G) Screening. All high-impact uses other than aviation activities shall be screened. The screening may be located within any required buffer or buffer yard or setback. The screening may consist of the required continuous vegetative buffer described in subsection (C) or this section or, upon approval of the Ordinance Administrator, a combination of the vegetative buffer and opaque wooden fences, masonry walls, or landscaped earthen berms.

(H/I) Includes specific means of measuring noise/light.

- (H) Noise Mitigation. No high-impact use shall commence operations prior to submitting a Noise Mitigation Plan which demonstrates that the methods for reducing or containing noise generated by the use meet commonly recognized industry standards for that particular use. Mitigation plan should include and not limited to whether factor is recurrent, intermittent, or constant; the volume and intensity of factor; whether factor is enhanced in volume or range by any type of electronic or mechanical means; hours of operation; proximity to protected uses; and whether the factor is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (I) Light Mitigation. No high-impact use shall commence operations prior to submitting a Light Mitigation Plan which demonstrates that the methods for reducing or containing light generated by the use meet commonly recognized industry standards for that particular use. All lighting, unless otherwise required by specific industry practice, shall be pointed downwards with the primary cone of illumination being entirely contained on the subject property. Exterior lighting fixtures shall be overhead full cut-off fixtures. Mitigation plan should include and not limited to whether factor is recurrent, intermittent, or constant; the volume and intensity of factor; whether factor is enhanced in volume or range by any type of electronic or mechanical means; hours of operation; proximity to protected uses; and whether the factor is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (J) Hours of Operation. High-impact uses shall conduct operations only between the hours of six o'clock a.m. and ten o'clock p.m.
- (K) High-Impact Use Clusters. To encourage the clustering of high-impact uses, no minimum building setbacks, buffer yards or vegetative buffers shall apply to the common property lines shared by different high-impact uses.

(L) Separation Waiver. A protected facility, as listed in ARTICLE V, may for itself but not on behalf of another protected facility, waive all or any portion of the spacing

(L) Gives adjacent land owners right to waive HILU

requirements set forth therein. Said waiver shall be in writing and shall be in the form of an easement. The waiver shall be signed by a duly authorized officer or officers of the protected facility, or, in the case of an occupied dwelling unit or a North Carolina licensed child day care home located in a dwelling unit, by all of the owners of the dwelling unit. Where the dwelling unit is the subject of a current lease agreement, the waiver shall further be signed by the person(s) named as tenant(s) thereunder. The waiver shall further be signed by the owner of the high impact land use / polluting industry, and, if different, by all of the owners of the property on which the high impact land use / polluting industry is situated. The waiver shall further be signed by the County Attorney, whose signature shall serve as a certification that the requirements of this subsection have been met. All of the said signatures shall be notarized, whereupon the waiver shall be recorded in the Transylvania County Register of Deeds Office at the expense of the high impact land use / polluting industry. Following such recording, the spacing requirements of subsection A as between said protected facility and said high impact land use / polluting industry shall be deemed amended to conform to the provisions of the waiver. The easement granted by said waiver shall be appurtenant to and run with the land and shall be binding on the parties, their heirs, successors, and assigns; provided, that the same shall by its express provisions terminate at such time as the high impact land use / polluting industry ceases to have a valid HILU/PI Permit under Article XI hereunder for the operations and/or facility which is/are the subject of the waiver.

ordinance requirements.
Requires signatures of land
owner, HILU owner, County
Attorney and must be
notarized and recorded at
register of deeds office.
Waiver must be granted by
way of an easement.

- (L) Setback Uses. Any commercial uses may be located within the building setbacks of any high-impact use located on the same parcel of land.
- (M) Safety Fencing. Safety fencing shall be installed around the principal use or building containing the principal use of all high-impact uses. The safety fencing shall be chain link or equivalent, at least six feet in height, and gated in order that it can be secured at all times the high-impact use is not conducting operations.

ARTICLE IX SPECIFICATIONS FOR SEPARATIONS, SETBACKS AND BUFFERS.

Specifications for the separation distances prescribed in Article VIII(A), the stream setbacks prescribed in Article VIII(D), the principal use setbacks prescribed in Article VIII(E), and the buffer widths prescribed in Article VIII(F) for each high-impact use are set forth in the following table:

HIGH-IMPACT USE	Separation Distance	Stream Setback	Principal Use Setback	Buffer Width
Asphalt Plants	2000 -1500 ft.	150 ft.	250 300 ft.	100 ft.
Bulk Inflammables, Chemicals, and Explosives Manufacturers or Storage Facilities	2000-2500 ft.	100 150 ft.	500 ft.	100 ft.
Chipmills (Wood Grinding Operations)	2000 -1000 ft.	100 ft.	750 200 ft.	100 ft.
Commercial Incinerators	2000 -1000 ft.	150 ft.	750 200 ft.	100 ft.
Concrete Suppliers - <u>Plants</u>	2000-500 ft.	100 150 ft.	100 ft.	100 ft.
Electricity Generating Facilities	2000 -1500 ft.	100 ft.	750 300 ft.	100 ft.
Junkyards	500 ft.	100 ft.	100 ft.	100 ft.
Medical Waste Facilities	2000 -1500 ft.	100 ft.	750 300 ft.	100 ft.
Mining and Extraction Operations and Quarries	2000 -2500 ft.	150 ft.	400 500 ft.	100 ft.
Motor Sports Activities	2000- 1500 ft.	100 ft.	750 300 ft.	100 ft.
Sawmills	2000 -500 ft.	100 ft.	500 100 ft.	100 ft.
Slaughtering and Processing Plants	2000 -1500 ft.	100 150 ft.	250 300 ft.	100 ft.
Solid Waste Management Facilities	2000-2500 ft.	100 150 ft.	750 <i>500</i> ft.	100 ft.

Separation Distances, Stream Setbacks, Principle Use Setbacks, and Buffer Widths are based on classifications set by precedent HILU ordinances.

Includes Junkyards

ARTICLE X EXISTING NONCONFORMING HIGH-IMPACT USES APPLICATION TO EXISTING NONCONFORMING HIGH-IMPACT USES.

(A) Any high-impact use legally in existence on the effective date of this Chapter, or any amendment thereto, which does not conform to the requirements of this Chapter, or as amended, is declared non-conforming.

- (B) Any non-conforming high-impact use as described above may continue so long as the use is not discontinued for more than six months. In cases where repair or renovation is necessary to re-occupy a vacant building that is part of a high-impact use facility, such construction must commence within six months of last occupancy and proceed continuously to completion.
- (C) Expansion of non-conforming high-impact uses shall only be allowed to the extent that the degree of nonconformity is not increased. In addition, the expansion shall comply with the standards set forth in this ordinance, and the non-conforming high-impact use shall comply with the standards of this Chapter to the extent physically practicable as determined by the Ordinance Administrator. A non-conforming high-impact use may expand its facilities without securing a zoning permit if the general standards of this ordinance are not violated and if the total size of the structures or areas devoted to the principle uses after the proposed expansion would not be increased by more than 10%. No use may expand in accordance with the terms of the above exception on more than two occasions without securing a zoning permit. Property must also be owned by or leased to the high impact land use / polluting industry as the date of or subsequent to the adoption of this ordinance. In order to qualify for the above, the following requirements must be met
- (C) Allows non-conforming high impact uses to expand 10% (2X) without having to acquire a permit.

- 1. Owned by or leased to the high impact land use / polluting industry subsequent to the date of adoption of this ordinance; or
- 2. Acquired by or leased to the high impact land use / polluting industry subsequent to the date of this Ordinance, provided that such property is contiquous to property which meets the requirements of subsection 1. Above.

In all other cases, a non-conforming high impact land use / polluting industry may not be altered, added to, expanded or enlarged unless permits are obtained for the entire facility pursuant to this article and said facility meets all of the requirements of this ordinance.

(D) In cases of damage to nonconforming buildings to the extent of seventy-five-one-hundred percent or less of the replacement value, repairs may be made, provided the original foundation footprint is maintained If such damage exceeds seventy five percent of the replacement value, repairs may be made only if the original foundation footprint is maintained and the standards of this ordinance are met to the extent physically practicable as determined by the Ordinance Administrator. Compliance with a requirement of this ordinance is not physically practicable if compliance cannot be achieved without adding additional land to the lot where the nonconforming high-impact use is maintained or requires the movement of a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting requirements does not constitute grounds for finding that compliance is not physically practicable.

(D) Includes 100% value of building as long as foundation is in-tact and is physically practicable (defined).

ARTICLE XI ADMINISTRATION AND PERMITTING ENFORCEMENT; PERMITTING.

(A) After the effective date of this Chapter, all new high-impact uses as well as any nonconforming high-impact uses which are moved, altered or enlarged shall conform to the provisions contained in this Chapter except as set forth in the

provisions of Article X.

- (B) The provisions of this Chapter shall be administered and enforced by the Ordinance Administrator. The Ordinance Administrator shall have full authority to enter any building or structure or premises, as provided by law, to perform any duty imposed on him or her by this Chapter, and to use all procedures established in this Chapter for the enforcement of its provisions.
- (C) No building or other structure subject to this ordinance shall be erected, moved, added to, or structurally altered without a Development Permit having been issued by the Ordinance Administrator. No building permit shall be issued except in conformity with the provisions of this ordinance.
- (D) An application fee of \$500.00 shall be paid at the time of the application submission. No High Impact Land Use / Polluting Industry (HILU/PI) Permit shall be issued until this payment is made and all materials are submitted. If an application is incomplete, as deemed by the Ordinance Administrator, the applicant has fifteen (15) days from the receipt of a written notice from the Ordinance Administrator to correct the deficiencies. Application fees are non-refundable.
- (E) (D) Applications for Development Permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of any buildings already existing; the location and dimensions of the proposed building or alteration; and compliance with the standards established by this Chapter. The application shall include such other information as may reasonably be required by the Ordinance Administrator, including a description of all existing or proposed buildings or alterations; existing and proposed uses of the buildings and land; conditions existing on the land or parcel; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Chapter. One copy of the plans shall be returned to the applicant by the Ordinance Administrator, marked either as approved or disapproved and attested to by his signature on such copy. The second copy of the plans, also so marked, shall be retained by the Ordinance Administrator.
- (F) (E) The Ordinance Administrator shall maintain a record of all Development Permits and copies shall be furnished upon request to any interested person.
- (G) (F) Any order, requirement, decision or determination of the Ordinance Administrator adverse to the interest of an applicant for a Development Permit shall be provided to the applicant in writing by certified mail, return receipt requested.
- (H) (G). The failure to obtain any required Development Permit shall be a violation of this Chapter. Further, Development Permits shall issue on the basis of applications approved by the Ordinance Administrator and shall authorize only the use, arrangement, and construction applied for and approved. Any use, arrangement or construction not in compliance with that authorized shall be a violation of this Chapter.

ARTICLE XII VARIANCES, APPEALS AND PENALTIES APPEAL FROM A DECISION OF THE ORDINANCE ADMINISTRATOR.

Adds application fee

- (A) Any order, requirement, decision or determination made by the Ordinance Administrator adverse to the interest of an applicant for a Development Permit may be appealed to and decided by the Transylvania County Board of Adjustment.
- (B) Notice of an appeal to the Board of Adjustment shall be in writing, shall state the grounds for the appeal with specificity, and shall be submitted to the Clerk to Secretary to the Board of County Commissioners Board of Adjustment, on behalf of the Board of Adjustment within thirty (30) days of the receipt of the written decision by the Ordinance Administrator.

(C) The Chairman of the Board of Adjustment shall fix a reasonable time for hearing hear the appeal within sixty (60) days, give notice thereof to the parties, and shall hear and decide the matter within a reasonable time thirty (30) days from the date of a public hearing. At the hearing, any party may appear in person, by agent or by attorney. The Board of Adjustment shall give written notice of its decision, stating the basis of its decision with specificity, to the Ordinance Administrator and to the applicant for a Development Permit by certified mail, return receipt requested.

"Secretary to the Board of Adjustment" stays congruent with Pisgah Forest Ordinance.

ARTICLE XIII REQUEST FOR VARIANCE.

- (A) A request for a variance must be submitted to the Clerk to the Board of County Commissioners on behalf of the Board of Adjustment within thirty (30) days of the receipt of a decision by the Ordinance Administrator denying an application for a Development Permit. The request for a variance must be in writing and shall state the reason for the request with specificity.
- (B) The Chairman of the Board of Adjustment shall fix a reasonable time for hearing the request for a variance, give notice thereof to the parties, and shall hear and decide the matter within sixty (60) days of receiving the variance request a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. The Board of Adjustment shall give written notice of its decision, stating the basis of its decision with specificity, to the Ordinance Administrator and to the applicant for a Development Permit by certified mail, return receipt requested.
- (C) A variance shall only be granted by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships in which authorizing a variance will not circumvent the intent of this Chapter. A hardship, as used in the context of this section, shall be considered to be some unique or unusual characteristic of the proposed site, including but not limited to unique size, shape, contour, or topography. An economic hardship to the applicant shall not be considered grounds for approving a variance.
- (D) The Board of Adjustment may grant a variance upon finding that each of the following conditions exist:
- (1) Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.
 - (2) The variance will not confer upon the applicant any special

60 days to hear variance

privileges that are, or would be, denied to other operators or owners of high-impact uses. (3) A literal interpretation of this Chapter would deprive the applicant of rights commonly enjoyed by other operators or owners of high-impact uses. (4) The requested variance would not seriously deter from the purpose and intent of the provisions of this Chapter. (5) The requested variance would not be injurious to the neighborhood or to the general welfare of the citizens of Transylvania County. (6) The special circumstances causing the need for the variance are not the fault of the applicant. Takes "reasonable" out and (E) The Board of Adjustment may impose reasonable conditions upon the only gives authority to granting of any variance, in congruence with this ordinance, in order to protect the require what is in this public interest or the interests of neighboring property owners. ordinance. ARTICLE XIV PROCEEDINGS OF THE BOARD OF ADJUSTMENT. All proceedings of the Board of Adjustment shall be conducted in accordance with the provisions of G.S. § 153A-345. ARTICLE XV APPEAL FROM THE BOARD OF ADJUSTMENT. Stays consistent with County procedures: Board of (A) Any order, requirement, decision or determination made by the Board of Adjustment hears appeal first, then County Adjustment may be appealed to first, the County Commissioners by directing a letter to the chairman of the board within (30) days after the decision has been rendered by the Commissioners, then Board of Adjustment. After notification has been received, the Board of Commissioners Superior Court. shall hear the appeal within sixty (60) days. A second appeal can be sent to the Superior Court of Transvlvania County by proceedings in the nature of certiorari. The notice of this appeal shall be in writing and shall be served upon the County Manager in the same manner as is prescribed by the North Carolina Rules of Civil Procedure for service of civil process. (B) The appeal shall be taken, and the notice of appeal served, within thirty (30) days that notice of the decision by the Board of Adjustment is received by the appealing party. ARTICLE XVI PENALTIES, REMEDIES AND ENFORCEMENT. (A) A violation of any of the provisions of this Chapter shall be a misdemeanor subject to the penalties and enforcement provisions of G.S. § 153A-123. (B) Each day's continuing violation of any of the provisions of this Chapter shall constitute a separate and distinct offense. (C) The provisions of this Chapter may be enforced by any one or more of the remedies authorized by G.S. § 153A-123.

Option 4. Consider County-wide Zoning Ordinance

Option 4 would require a land use planning process and public input. In keeping the zoning option simple, the Planning and Economic Development Department would recommend that the total number of land use classifications be kept to a minimum. Below are seven (7) general land use classifications that could be considered.

- 1. Open Use
- 2. Agriculture
- 3. Commercial
- 4. Corridor
- 5. Light Manufacturing/Industrial
- 6. Residential
- 7. Public Lands

The specifics will be determined by a thorough investigation of the current land uses, projected highest and best use, and public input.

As a comparative, attached is the Madison County Land Use or Zoning Ordinance.

.

LAND USE ORDINANCE of MADISON COUNTY, NORTH CAROLINA



AN ORDINANCE PROVIDING FOR THE ZONING OF MADISON COUNTY, NORTH CAROLINA

MADISON COUNTY LAND USE ORDINANCE TABLE OF CONTENTS

CHAPTER 1 - AUTHORITY AND JURISDICTION	
CHAPTER 2 – DEFINITIONS	3
CHAPTER 3 – ESTABLISHMENT OF DISTRICTS 2	1
CHAPTER 4 - GENERAL PROVISIONS	60
CHAPTER 5 – SIGNS AND SIGN STRUCTURES	3
CHAPTER 6 - PARKING	8
CHAPTER 7 – RESERVED 6	1
CHAPTER 8 – SPECIAL REQUIREMENTS 6	2
CHAPTER 9 – RESERVED	5
CHAPTER 10 – ADMINISTRATION AND ENFORCEMNT 9	6
CHAPTER 11 – BOARD OF ADJUSTMENT	8
CHAPTER 12 – PLANNING BOARD	2
CHAPTER 13 – AMENDMENTS 105	5
CHAPTER 14 - LEGAL PROVISIONS	3

CHAPTER 1

AUTHORITY AND ENACTMENT CLAUSE

In pursuance of authority conferred by Article 18, Part 3 of Chapter 153A of the General Statutes of North Carolina, and for the purpose of promoting the public health, safety, morals and general welfare; promoting the orderly development of the county; lessening congestion in the roads and streets; securing safety from fire, panic, and other dangers; providing adequate light and air; preventing the overcrowding of land, avoiding undue concentration of population; and facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, all in accordance with a well considered comprehensive plan.

NOW, THEREFORE, the Board of Commissioners of Madison County, North Carolina, does hereby ordain and enact into law these articles and sections.

SHORT TITLE

This ordinance shall be known as "The Zoning Ordinance of Madison County, North Carolina," and the map referred to, which is identified by the title, "Official Zoning Map, Madison County, North Carolina," shall be known as the "Zoning Map."

JURISDICTION

This ordinance shall apply to all lands within areas designated as "official zone areas" by the Board of Commissioners of Madison County. This ordinance may also regulate territory within the zoning regulations jurisdiction of any municipality whose governing body by resolution agrees to such regulations; provided, however, that any such municipal governing body may, upon one year's written notice, withdraw from the jurisdiction of the county zoning regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

1.1 Bona Fide Farms Exempt

The provisions of this ordinance shall not apply to bona fide farms. This ordinance does not exercise any controls over croplands, timberlands, pasture lands, apple orchards, idle or other farmlands, nor over any farm house, barn, poultry house, or other farm buildings including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this ordinance without the need for regulation. Residences for other than farm use or occupancy and other than farm uses shall be subject to the provisions of this ordinance.

CHAPTER 2 DEFINITIONS

For the purpose of interpreting this ordinance certain words or terms are herein defined. The following words shall, for the purpose of this ordinance, have the meaning herein indicated.

2.1 Interpretation of Commonly Used Terms and Words

- 1. Words used in the present tense include the future tense.
- Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.
- 4. The words "used for" shall include the meaning "designed for."
- 5. The word "structure" shall include the word "building."
- 6. The word "lot" shall include the words "plot," "parcel," or "tract."
- 7. The word "shall" is always mandatory and not merely directory.

2.2 Definitions of Specific Terms and Words

Accessory Dwelling -A residential single-family dwelling unit that is detached from the principal structure but located on the same lot as a single-family dwelling unit.

Accessory Structure- A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith.

Accessory Use- A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

Adult Establishment- Any structure or use of land which is an adult establishment as defined in NCGS Section 14-202.10 (or any successor thereto).

Agricultural Use- Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced along with riding stables, trail rides, and hay rides.

Agricultural Packaging Facility- Facility in which the primary purpose is the packaging of agricultural products for the purpose of resale and human consumption.

Agronomic Rate of Sludge Application- A mass of sludge per unit area per year which contains less of the plant nutrients nitrogen, phosphorus and potassium than plants being grown on the land can use in a single growing season. Any sludge application which reduces the productivity of the soil where it is applied because of high concentrations of metals, salts or organics shall be defined as exceeding the agronomic rate. Any sludge application which results in plant tissue concentrations of any substance that is harmful to people or animals shall also be defined as exceeding the agronomic rate.

Airport- Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley- A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Animal hospital- An establishment for the care and treatment of animals, including household pets and farm animals.

Animal Kennel- Any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the law.

Animal Rendering Plant- A factory or plant that renders and processes livestock - carcasses into tallow, hides, fertilizer, etc.

Apartment- A part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family and not to exceed 8 per acre.

Armory- A storehouse for arms; an arsenal. To include arms factories and sales of arms.

Artificial Obstruction- Means any obstruction which is not a natural obstruction, including any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the storm.

Assembly Hall- A meeting place at which the public or membership groups are assembled regularly or occasionally, including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

Asphalt Plant - An industrial facility used for the production of asphalt.

Auction- Any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof. Not to include livestock and vehicles.

Auction Yard- A place where vehicles, operable or inoperable, or live stock that is offered for sale to persons who bid in competition with each other.

Automobile sales- Premises on which new or used passenger automobiles, trailers, or trucks in operating condition are displayed in the open for sale or trade.

Automobile service- Premises on which automobiles are serviced or repaired. Not to include storage of wrecked vehicles.

Backyard Workshops- Area for building tradesmen, welding shops, small appliance repair shops, small engine repair shops, and auto and farm-equipment repair shops, are permitted as an accessory use to the owner's residence. No more than nine hundred (900) square feet can be devoted to said activity. However, the square feet limitation shall not apply if the accessory building is being used solely for the personal, non-commercial use, of the owner. No outside storage is permitted.

Bakery (Retail) - A place for preparing, cooking, baking, and selling of products on the premises.

Bakery (wholesale) - A place for preparing, cooking, and baking of products intended for off premise distribution.

Banks and Financial Institutions- A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

Bar- A commercial establishment open to the general public which sells and serves alcoholic beverages for consumption on the premises.

Barber- A fixed establishment or place where one or more persons engage in the practice of barbering.

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

Bed and Breakfast Inn- A business of not more than 12 guest rooms that offers bed and breakfast accommodations to at least nine (9) but not more than 23 persons per night for a period of less than one (1) week, and that: does not serve food or drink to the general public for pay; serves only the breakfast meal to overnight guests of the business; includes the price of breakfast in the room rate; and is the permanent residence of the owner/manager of the business (NCGS §130A-247(6)).

Big Box Store- A singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area, typically requires high parking to building area ratios, and has a regional sales market. Regional retail/wholesale sales can include but are not limited to membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

Billiard and Pool Halls- Establishments that provide billiard tables for customer's use.

Boat sales/Service- A marine retail sales and service use in which boats are serviced, repaired, or sold.

Book Store- A retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any "adult establishment," theater," or "studio theater."

Brick, Tile, and Pottery Yards- Area where brick, tile, or pottery can be produced, stored, and/or sold.

Buffer Strip- A buffer strip shall consist of a planted strip at least twenty (20) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than twenty (20) feet apart and not less than one row of dense shrubs, spaced not more than five (5) feet apart.

Building- Any structure having a roof supported by columns or by walls, and intended for housing or enclosure of persons, animals or chattels.

Building Material Sales and Storage- Area where materials that are used for the building of all types of buildings and structures are stored or sold. May be but not limited to, residential dwelling, out buildings, barns, fences.

Building Setback Line- A line establishing the minimum allowable distance between the nearest portion of any building (excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters and similar fixtures), and the street or highway right-of-way line when measured perpendicularly thereto.

Bus Station- Any premises for the transient housing or parking of motor driven buses, and the loading and unloading of passengers.

Campgrounds (family) - Area used or designated for camping by family members only.

Campgrounds (group) - Area used or designated for recreation and camping by groups or individuals having 10 or more persons.

Cemetery -Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, and maintenance facilities used for the upkeep of the cemetery.

Cemetery (Family)- Cemetery used exclusively for the burial of family members only at no charge and being no larger than 1 acre.

Cemetery (Public)- Cemetery where plots are sold for burial.

Cement Plant- A plant for the manufacture or mixing of concrete, cement, and concrete and cement products, including any apparatus and uses incident to such manufacturing

and mixing. Not to include a concrete batch plant and considered to be "Heavy Manufacturing" as described in this ordinance.

Certificate of Completion- A document issued by the Zoning Department to a manufactured home park developer upon completion of the park, or phase thereof, that certifies that the park conforms to the standards that apply.

Church and Religious Institutions- A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a legally established religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes accessory buildings used for worship and religious activities.

Clinic- A facility operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

Club- An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes that are conducted for profit; includes lodge.

Club (Nonprofit) - An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes that are <u>not</u> conducted for profit; includes lodge. The burden of proof of non profit will be on the owner, and must be provided to the zoning office.

College/University- An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

Communication Facility- A communication facility is a structure, tower and any other transmission or receiving device operation for the purpose of broadcasting or receiving verbal, visual, or any other communication signals.

Community Center- A meeting place where people living in the same community may carry on cultural, recreational, or social activities.

Community Sewer System- Any sewage system serving ten (10) or more connections.

Community or Public Water System- A system for the provision to the public of piped water for human consumption if the system serves fifteen (15) or more service connections or which regularly serves twenty-five (25) or more individuals.

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

Concrete Batch Plant- An industrial facility used for the production of concrete or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process of finished products manufactured and/or sold on the premises and the storage and maintenance of required equipment.

Condominium- Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Convenience Store/Gas Station- Any retail establishment offering for sale a limited line of groceries, gasoline, and household items intended for the convenience of the neighborhood. All gasoline pumps and other stationary equipment shall be located at least twelve (12) feet behind the property line, provided further, that on all sides where such stations abut residential districts, a six (6) foot high fence and suitable landscaping shall be provided. No such fence, however, is required upon any yard which abuts a public street.

Craft/Curio Retail Store- Any business establishment that produces on or off premises, articles for sale of artistic quality or effect or handmade workmanship. Examples include but not limited to candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other associated activities.

Cul-de-sac- Local road with one (1) end open for vehicular access and the other end terminating in a vehicular turnaround. The length of the cul-de-sac shall be measured along the center line of the road from which it runs to the center of the cul-de-sac turnaround.

Day Care Facilities- Any facility operated for the purpose of providing care, protection and guidance to 4 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24- hour period.

Department Store- A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished. Under 75000 square feet.

Developer- That person who is improving a parcel of land within the county and who may or may not be the owner of the property.

Dry Cleaning/Laundry Services- An establishment which launders or dry cleans articles dropped off on the premises directly by the customer or by delivery service.

Duplex (Two Family Dwelling) - A structure containing two dwelling units, each of which has direct access to the outside.

Easement- A grant by the property owner for the use by the public, a corporation or person(s) of a strip of land for specified reasons.

Electrical Repair Shop- Building designated for the use of repairing electrical devices such as but not limited to, TV, Appliances, Ect.

Environmental Assessment- A detailed examination of the applicant's proposal and its local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

Existing Manufactured Home Park- A manufactured home park shall be considered existing if, on the effective date of this Ordinance, there are spaces containing an occupied manufactured home, or are defined on the ground by the present of water and sewer service connections and electric service equipment.

Family Care Home- A care facility for rest and convalescents, not used primarily for the treatment of contagious diseases, alcoholics, drug addicts and psychotics.

Farmers Market/Produce Stand (Commercial) - The offering for sale (by the land owner and/or other people) of fresh agricultural products directly to the consumer.

Farmers Market/Produce Stand (On Site) - The offering for sale of fresh agricultural products directly to the consumer on the property in which the products were grown.

Farm Machinery Sales/Service- Establishments selling, renting or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Feed and Seed Store- An establishment engaged in retail sale of supplies directly related to the day-to-day activities of agricultural production.

Flea Market- An outdoor commercial activity, not including shopping centers, individual retail operations, or sales conducted by a nonprofit or charitable organization, that is open to the general public and composed of two or more semi-enclosed or outdoor stalls, rooms, stands, spaces, or open space used for the purpose of display and sale, exchange, or barter of merchandise.

Flood Plain- See Madison County Flood Damage Prevention Ordinance.

Florist- Retail business whose principal activity is the selling of plants which are not grown on the site and conducting business within an enclosed building. Excluding commercial green houses.

Grocery Store- Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

Group Development- A group of two or more principal structures built on a single lot, tract or parcel of land not subdivided into the customary blocks and lots and which will not be subdivided, and designed for occupancy by separate families, businesses or other enterprises. Such developments shall be fully subject to applicable provisions of county subdivision regulations. Examples would be: row houses, apartment courts, housing projects, school and hospital campuses, shopping centers, and industrial parks.

Golf Course- A lot or portion of a lot used for the playing of golf and shall include pitchand putt courses but shall not include driving ranges, miniature golf courses, or other similar commercial enterprises.

Golf Driving Range- A limited area on which golf players drive golf balls from a central driving tee, such area to include the driving tee and other incidental activities pertaining to this activity.

Golf Miniature- A novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Greenhouse - A building used for the growing of plants, all or part of which are sold at retail or wholesale. Not to include a florist.

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

Hazardous Waste Disposal Facility- All structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste, including all operations or storage areas, overflow dykes, or emergency spillway areas. A hazardous waste disposal facility may consist of several treatment, storage, or disposal operational units; it includes all areas where hazardous waste may be received, stored, handled, or processed.

Health Club/Spa- A place or building where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the

purpose of physical fitness. Also, a place or building that provides massage, exercise, and related activities with or without such equipment or apparatus.

Home Occupation- Customary home occupations, including dressmaking, cooking and baking, hairdressing, music instruction, the renting of not more than one room, and the practice of such professions as insurance and accounting shall be permitted as accessory uses in a residence. The Board of Adjustment shall decide whether other home occupations not listed here are within the spirit of this category of accessory uses.

Hospital- An establishment providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured. To include sanitariums.

Hotel- Any building containing six or more guest rooms which are used, rented, or hired for sleeping purposes by transient guests and with access to units primarily from interior lobbies, courts, or halls.

Industrial Sales and Service- Area or building used for the sale and service of supplies and equipment. To include but not limited to metal, machine, and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication and repair. All open storage must be fenced by a solid fence not less than six (6) feet in height.

Industrial Trade School- A school or establishment designed to train in the field of industrial trades, to include but not limited to metal, machine, and welding; cabinetry and woodworking; furniture upholstery; and similar business engagements in custom fabrication and repair.

Junk Yard- Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, or disposal of junk. To include the storage of wrecked, abandoned or vehicles that does not run.

Laboratory- A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products.

Landfill- A lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic waste material of any kind.

Library- A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Lodge- A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or

engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities.

Lodge (Resort) - A building or area with facilities to accommodate the needs and desires primarily of visitors, tourists, and transient guests.

Lot- A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Lot (Corner)- A lot which occupied the interior angle at the intersection of two street lines which make an angle of more than forty-five (45) degrees and less than one hundred and thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front lot except where the two street lines are equal, in which case the owner shall be required to specify which side is the front when requesting a zoning compliance permit.

Lot Depth- The depth of a lot is the mean distance of the side lines of the lot measured from the midpoint of the front line to the midpoint of the rear lot line.

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 of Madison County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width- The distance between side lot lines measured at the building setback line,

Machine and Welding Shop- Shops where lathes, presses, grinders, shapers, and other metal-working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

Mall- A shopping center where stores front on both sides of a pedestrian way that may be enclosed or open. To include outlets.

Manufacturing (Heavy)- The manufacture or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.

Manufacturing (Light)- The processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

Manufacturing (Medium)- The processing and manufacturing of materials or products predominately from extracted or raw materials. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing.

Meat Processing Facility- An establishment that processes and or packages meat for human consumption. Such establishment must meet all State, County and Environmental Health regulations. Not to include the slaughter of animals on premise.

Mining- Surface and subsurface mining operations for aggregates (sand and gravel), or other mineral extraction operations.

Manufactured (Mobile) Home- A single-family dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal and utility conveniences as immobile housing, and designed to be transported on its own chassis and wheels.

Manufactured (Mobile) Home Park- A parcel or contiguous parcels of land owned and/or managed as part of the same business operation that is designed to accommodate three (3) or more manufactured homes, unless each manufactured home is separated by more than 500 feet.

Manufactured Home Park Construction Permit- A permit issued by the Zoning Officer to a manufactured home park developer upon application and site development plan approval.

Manufactured Home Park Plan- A proposed manufactured home park plan prepared by the developer in accordance with guidelines set forth in this Ordinance.

Manufactured Home Space- A parcel of land within a manufactured home park designed for the exclusive use of one (1) manufactured home and associated accessory buildings.

Modular Structure- A structure not built on-site, but which is placed on a permanent foundation and meets the state building code standards.

Motel- A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door.

Multifamily Dwelling- A dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances but connected in some way.

Natural Obstruction- Includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

Night Club- A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing, musical entertainment and Comedians are permitted.

Nonconformity- A lot, structure, or land use that is inconsistent with current zoning requirements, but which was entirely lawful when it was originally established

Nonconforming Structure- A structure lawfully constructed prior to the effective date of this ordinance, which does not conform to the height, bulk, yard or lot requirements, and other requirements except use, for the district in which it is located.

Nonconforming Use- A lawful use of land, building or structure existing on the effective date of this ordinance, which does not conform to the use regulations of the district in which it is located.

Nursery- An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Open Storage- Unroofed storage area, whether fenced or not.

Packaging Facility- Facility whose primary purpose is packaging of merchandise for resale.

Park (Private)-A tract of land presently owned or controlled and used by private or semi-public persons, entities, groups, etc. for active and/or passive recreational purposes.

Park (Public)- A land use designed principally to offer recreation, passive or active, to the public.

Parking Space- A storage space for one car not less than ten (10) feet by twenty (20) feet for one automobile, plus the necessary access space. It shall always be located outside the dedicated street or highway right-of-way.

Petroleum (Wholesale)- A facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers, regardless of ownership.

Phase- A portion of a manufactured home park development delineated on a site plan.

Planned Unit Development - A single tract, or multiple parcels of land, under single ownership or management, that is planned and developed as an integrated unit characterized by groups of detached, semi-detached, or attached structures and a mixture of compatible land uses.

Principle Dwelling- A dwelling in which the property owner lives year round or more than 7 months out of the year.

Printing Shop- An establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.

Professional Offices- Offices where work is done for others, predominately on the premises of the office, by someone trained and engaged in such work for a career; included but not limited to, doctors, lawyers, and accountants.

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

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

Public Water Supply System- Any water supply system serving two or more connections, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions in part or totally.

Quarrying-The process of removing or extracting stone, rock, or similar materials from an open excavation for financial gain.

Race Track- A course where admission is taken, entry fees, or memberships are taken for the entry to or for the use of the course for the purpose of racing, practicing, or entertainment. To include asphalt, gravel or dirt surfaces as well as animals and machinery.

Recreation Facility (Outdoor) - Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity out doors and where tickets are sold or fees are collected for the activity. Does not include areas used for racing or the use of machinery as part of the activities.

Recreation Facility- Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Includes, but not limited to, skating rinks, water slides, arcades, bowling alleys, and billiard halls, but not movie theaters.

Recycling Center- A building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

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

Residential Vacation Rental- The lease, sublease, or other rental of a residential property for the purpose of vacation, leisure, or recreation purposes on a temporary basis of 30 days or less.

Restaurant- A structure in which the principal use is the preparation and sale of food and beverages.

Riding Stable- Commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, and riding schools. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

Road- A dedicated public or private right-of-way for routine vehicular traffic.

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

School- An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

Shadow Flicker- The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Shooting Range (Indoor)-The use of a structure for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

Shooting Range (Outdoor) - The use of land for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as turkey shoots. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

Sign- Any form of publicity, visible from any public highway directing attention to an individual activity, business, service, commodity or product, and conveyed by means of words, figures, numerals, lettering, emblems, devices, trademarks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports.

Sign (Area) - Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which encompasses the entire advertising copy area including architectural trim and structural members. In computing area only one side of a double-faced sign shall be considered.

Sign (Directly Illuminated) - A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

Sign (Exempt) - Any sign which is specifically listed as exempt from this ordinance. Said listed exempt signs are not regulated by the terms of this ordinance and shall not require a permit.

Sign (Height) - The height of a sign shall not exceed the maximum height set forth in this ordinance. The height of a sign shall be measured from the existing adjacent street grade to the uppermost point of the sign or sign structure, whichever is higher.

Sign(Indirectly Illuminated)- A sign designed to have illumination from a detached light source, shielded so that no direct rays from that light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is inoperative, such sign shall be deemed to be a directly illuminated sign.

Sign (Maintenance) - For the purpose of this ordinance, maintenance shall include those activities and procedures listed in Section 71 of this ordinance. Work done to restore or repair a sign which is damaged or destroyed shall be considered repairs in accordance with the provisions in Section 71.

Sign(Noncommercial)- Any sign which is not by definition an off-premise advertising sign, or off-premise directional sign, an on-premise advertising sign, or an on-premise directional or information sign, and which sign displays a substantive message, statement or expression that is protected by the First Amendment to the U.S. Constitution. Noncommercial signs shall not contain any reference to a business or product.

Sign(Nonconforming)- Signs that are erected and is place prior to the adoption of this ordinance and which do not conform to the provisions of this ordinance and which do not conform to the provisions of this ordinance are declared nonconforming signs. A sign that is erected and that is in place and which conforms to the provisions of the sign ordinance at the time it is erected, but which does not conform to an amendment of this ordinance enacted subsequent to the erection of said sign is declared a nonconforming sign.

Sign (Non-illuminated) - A sign which has neither direct nor indirect illumination.

Sign(Off-Premise Advertising)- Any sign advertising a product, service, business or activity sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally, if at all.

Sign (Off-Premise Directional) - Any off premise sign indicating the location of or directions to a business, office or other activity. The sign shall not include any information or message except the name of the business or activity or symbols or logos of

the business, and must have directions or symbols indicating directions and/or distances. If a sign exceeds the maximum area it shall be constructed as an off-premise advertising sign. (Off-Premise Yard sale directional signs and Off-Premises real estate directional signs are herein included as examples but such yard sale signs and real estate signs are exempted from the terms and conditions of this Ordinance.)

Sign(On-Premise Advertising)- Any sign advertising or identifying a product, service, business or activity sold, located or conducted on the premises where the sign is located.

Sign (On-Premise Directional) - On-premise signs which provide directions or information for persons on the premises including, but not limited to, entrance and exit signs, parking information, and handicapped access.

Sign (Prohibited) - Any sign, or element of a sign, which is specifically listed as prohibited shall not be permitted within the jurisdiction of this ordinance.

Sign (Snipe)- A temporary sign which is not permitted or authorized under any provision of this ordinance, and which is tacked, nailed, posted, pasted, glazed, or otherwise affixed to a tree, pole, stake, fence, traffic control device, or any other object, or the ground.

Site Number- A permanent number identifying a manufactured home site.

Single Family Dwelling- A building designed exclusively for and occupied exclusively by one family.

Slaughter House- An establishment that slaughters animals on premise for the purpose of packaging for human consumption. Such establishment must meet all State, County and Environmental Health regulations.

Sludge- Any solid, liquid or semi-solid residual resulting from the treatment of municipal, industrial or domestic wastewater. Sludge does not include sewage removed from individual subsurface disposal systems.

Solid Waste Collection Center- A solid waste facility at which solid waste collected and is temporarily deposited to await transportation to another solid waste facility or landfill.

Stadium- A large building or outdoor area with tiers of seats for spectators at sporting or other recreational events.

Storage (Commercial) - Any structure that is used for storage and is rented or used in exchange for goods or services. To include self storage/mini storage units and no time limit on rental.

Stream- Means a water course that collects surface runoff from an area of one square mile or greater.

Street (Road) - A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Strip Mall- A group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access.

Structure- Anything constructed or erected that requires location on the ground (excluding swimming pools, fences, and freestanding walls used as fences).

Theatre (Indoor) - A structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received.

Theatre (Outdoor)- An establishment for the performing arts with open-air seating for audiences and used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received.

Town Home- A structure designed for or used exclusively for purposes of one family from the ground to the roof. The structure is attached to similar structures forming groups of 3 but not more than 4 dwellings separated vertically by party walls.

Treatment Facility- A care facility used primarily for but not limited to the treatment of contagious diseases, alcoholics, drug addicts and psychotics.

Upholstery Shop- A business that repairs and replaces upholstery to household and office furnishings; does not include motor vehicle upholstering or repair.

Waste Water Treatment Plant- The facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters.

Wind Energy Facility- An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures & facilities. For the purpose of this ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems.

a. Wind Energy Facility, (Small)- A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less.

- b. Wind Energy Facility, (Medium)- A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 10 kW but not greater than 50 kW.
- c. Wind Energy Facility, (Large)- A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 50 kW.

Windmill- See Wind Turbine.

Wind Power- The conversion of wind energy into another form of energy.

Wind Turbine (Windmill)- A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires and pad transformer.

Wind Turbine Height- The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Woodworking Shop- A business that works with wood to produce products for retail sale.

Yard- An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

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

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

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

CHAPTER 3 ESTABLISHMENT OF DISTRICTS AND USE REQUIREMENTS BY DISTRICT

3.1 Use Districts Named

For the purpose of this ordinance, the County of Madison is hereby divided into use districts with the designations and purposes listed below:

70 .	TYP	
Primary	1)101	ricts.
T TILLICIT Y	1010	LILLU.

- M. C.	
AO	Agriculture-Open Space District
RA	Residential-Agricultural District
R-1	Residential District
R-2	Residential-Resort District
N-C	Neighborhood Commercial
CMU	Commercial Mixed Use
C	Commercial District
I-D	Industrial District
	Overlay Districts
F-P	Flood Plain District
PR	Protected Ridge
WS-II	Watershed District

Within the districts indicated on the zoning map, no building or land shall be used, and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any use other than those listed as permitted for that district in this article.

3.2 District Boundaries Shown on Zoning Map

The boundaries of the above designated use districts shall be shown on a map of Madison County accompanying this ordinance entitled "Official Zoning Map, Madison County, North Carolina", and made a part hereof; except that no district shall be designated as a manufactured home park district until such area has been so designated by the Madison County Planning Board as hereinafter provided. The zoning map with all amendments, notations and reference thereto, and other information shown thereon is hereby made a part of this ordinance the same as if such information set forth on said map were all fully described and set out herein. The official zoning map is to be filed at the Madison County Courthouse and is open for inspection to the public.

3.3 Due Consideration Given to District Boundaries

In the creation by this ordinance of the respective districts, careful consideration has been given to the suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well-constructed comprehensive plan for the physical development of the County.

3.4 Rules Governing Interpretation of District Boundaries

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

- here such district boundaries are indicated as approximately following a street, alley or highway lines, the center lines of the street, alley or highway shall be construed to be such boundaries.
- 2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- 3. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, alleys or highways, or the right-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance as indicated on the zoning map.
- 4. Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than thirty-five (35) feet beyond the district boundary line. The term "least restricted" shall refer to use restrictions, not lot or tract size.

3.5 Zoning Map Amendments

Whenever there is a zoning map amendment request, the owner of that parcel of land as shown on the County tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the County tax listing, shall be notified of the public hearing as required by NCGS 153A-323 and in accordance with the provisions of Article XII Section 124 of this ordinance.

3.6 ZONING DISTRICTS

3.6.1 AO Agriculture-Open Space District

The AO Agriculture-Open Space District is established as a district in which the principal use of the land is for Agriculture, low-density residential and open space purposes. These districts are intended to insure that residential development will not become too dense in areas which are more conducive to agriculture and where conservation/open space areas are located.

1. Permitted Uses: The following uses shall be permitted:

Accessory Structure
Accessory Use
Any form of agriculture or horticulture
Backyard Workshops
Campgrounds (family)
Cemetery (family)
Farmers Market (on site)
Home occupations
Nursery
Park (public or private)
Single-family Dwellings
Wind Energy System, Small

2. Conditional Uses:

Campgrounds (group)
Communication Facility
Meat Processing Facility
Wind Energy System, Medium

3. Dimensional Requirements:

Within the AO district all dimensional requirements shall be the same as those listed in the RA district with the exception of lot size.

Lot Size: 2 acres minimum

3.6.2 RA Residential-Agricultural District

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. These districts are intended to insure the residential developments 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.

1. Permitted Uses. The following uses shall be permitted:

Accessory Dwelling

Accessory Structure

Accessory Use

Any form of agriculture or horticulture

Assembly Hall

Backyard Workshops

Barber Shop

Beauty Shop

Bed and Breakfast Inn

Bus Station

Campgrounds (family)

Cemetery (Family)

Churches and Religious Institutions

Clinic

Club (non-profit)

Community Centers

Daycares

Duplex (two family dwelling)

Farmers Market/Produce Stand (on site)

Golf Courses

Home Occupations

Library

Lodge

Mobile Home

Nursery

Park (private)

Park (public)

Professional Offices

Public Safety Facilities

Residential Vacation Rentals

Riding Stables

Schools

Single-family dwellings

Wind Energy System, Small

Conditional Uses. The following uses shall be permitted subject to a finding by the Board of Adjustment that the additional conditions listed below are met.

Agricultural Packaging Facility

Animal Hospital

Automobile Sales

Communication Facility

Contractors Office/Storage Yards

Convenience Store/Gas Station

Family Care Home

Farmers Market/Produce Stand (Commercial)

Flea Market

Greenhouse

Health Club/Spa

Landfills

Meat Processing Facility

Mobile Home Park

Public Utilities

Recreation Facility

Recycling Center

Restaurant

Sawmills

Shooting Range (outdoor)

Solid Waste Collection Center

Town Home

Treatment Facility

Wastewater Treatment Plant

Wind Energy System, Medium

Wind Energy System, Large

3. Special Uses.

Planned Unit Developments Group Developments Cemetery (Public) Campground (Group) 4. <u>Dimensional Requirements</u>. Within the RA Residential-Agricultural District as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a, Lot Size: 1 acre

4 units/acre multifamily*

b. Lot width: 100 feet

c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 15' Rear: 20'

d. Lot Coverage: 20% total area

e. Height: 35'

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line. This district is intended to be a quiet, low-density neighborhood consisting of single-family residences along with limited home occupations and limited private and public community uses.

1. Permitted Uses. The following uses shall be permitted.

Any form of agriculture or horticulture

Accessory Dwelling

Accessory Structure

Accessory Use

Bed and Breakfast Inn

Cemeteries (Family)

Churches and Religious Organizations

Duplex (two family dwelling)

Family Care Home

Farmers Market/Produce Stand (on site)

Golf Courses

Home Occupations

Mobile Home

Multifamily Dwelling

Park (private)

Park (public)

Professional Offices

Public Safety Facilities

Residential Vacation Rentals

Schools

Single-family dwellings

Conditional Uses. The following uses shall be permitted subject to a finding by the Board of Adjustment that the additional conditions listed below are met. Apartment
Bus Station
Communication Facility
Community Center
Condominium
Public Utilities
Town Home
Wastewater Treatment Plant
Wind Energy System, Small

3. Special Uses.

Cemetery (Public) Planned Unit Developments Group Development

4. <u>Dimensional Requirements</u>. Within the R-1 Residential District as shown on the zoning map, the following dimensional requirements shall be complied

with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: 1 acre

6 units/acre multifamily*

b. Lot width: 100 feet

c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 15' Rear: 20'

d. Lot Coverage: 30% total area for single-family 40% total area for multifamily

e. Height: 35'

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

The Residential-Resort District is established as a district in which the principal use of the land is for residential purposes, with the provision of commercial services and group residential and recreational areas for resort users as well as the permanent residents.

1. Permitted Uses. The following uses are permitted:

Accessory Structure

Accessory Use

Any form of agriculture or horticulture

Assembly Hall

Bed and Breakfast Inn

Campgrounds (family)

Church and Religious Institutions

Community Center

Condominium

Duplex (two family dwelling)

Golf Course

Golf Driving Range

Multifamily Dwelling

Park (private)

Park (public)

Recreation Facility (outdoor)

Recreation Facility (indoor)

Residential Vacation Rental

Riding Stable

Single-family Dwelling

 Conditional Uses. The following uses shall be permitted subject to finding by the Board of Adjustment that the conditions under Section 11.3.2 of this Ordinance will be met:

Apartment

Bakery (retail)

Campgrounds (group)

Club

Communication Facility

Craft/Curio Retail Store

Grocery Store

Golf Miniature

Hotel

Lodge (resort)

Restaurant Town Home Wastewater Treatment Plant Wind Energy System, Small

3. Special Uses.

Planned Unit Developments Group Development

- 4. <u>Dimensional Requirements</u>. Within the R-2 Residential-Resort District as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.
 - a. Lot Size: .75 acre single-family 10 units/acre – multifamily*
 - b. Lot width: 90 feet single-family 130 feet multifamily
 - c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 15' Rear: 20'

- d. Lot Coverage: 30% total area for single-family 60% total area for multi-family
- e. Height: 40
- f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.5 N-C Neighborhood Commercial District

The Neighborhood Commercial District is established as the district in which low impact retail and consumer service uses would be permitted. It would allow for these types to be permitted within certain areas of the communities.

1. Permitted Uses.

Agricultural Packaging Facility Assembly Hall Automobile Sales Barber Bed and Breakfast Inn Beauty Shop Book Store Bus Station Church and Religious Institution Clinic Convenience Store/Gas Station Craft/Curio Retail Store Feed and Seed Store Health Club/Spa Library **Professional Offices** Public Safety Facilities School

2. Conditional Uses.

Campgrounds (group)
Contractors Office/Storage Yards
Communication Facility
Family Care Home
Flea Market
Greenhouse
Public Utilities
Recreation Facility
Recycling Center
Restaurant
Solid Waste Collection Center
Strip Mall
Town Home
Treatment Facility

- 3. <u>Dimensional Requirements.</u> Within the N-C Neighborhood Commercial District as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.
 - a. Lot Size: 1/2 acre 8 units/acre multifamily

b. Lot width: 100 feet

c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 15' Rear: 20'

d. Lot Coverage: 40% total area

e. Height: 50'

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line. The Commercial Mixed Use District is established as the district in which a mixture of retail, consumer service, residential and light to medium industrial uses would be permitted. It would allow for these types to be permitted along the main corridors of the County.

1. Permitted Uses.

Agricultural Packaging Facility

Animal Hospital

Armory/Gun Shop

Assembly halls

Auction

Automobile sales

Bakeries (retail)

Bakeries (wholesale)

Banks and other financial institutions

Boat Sales/Service

Book Store

Brick, Tile, and Pottery Yards

Building Materials Sales and Storage

Bus stations

Clinic

College/University

Convenience Store/Gas Station

Contractors office and storage yards

Dry cleaning/laundry services

Electrical repair shops

Farmers Market/Produce Stand (commercial)

Farm Machinery Sales/Service

Feed and seed stores

Greenhouse

Health Club/Spa

Hospital

Hotels

Industrial Sales and Service

Library

Machine and Welding Shop

Manufacturing (light)

Motel

Open Storage

Packaging Facility

Park (private)

Park (public)

Printing Shop

Professional Offices

Public Safety Facilities
Recycling Center
Repair Shop
Restaurants
Shooting Range (indoor)
Shooting Range (outdoor)
Storage (commercial)
Strip Mall
Theaters, indoor
Theaters, outdoor
Treatment Facility
Upholstery Shop
Wind Energy Facility, Small
Woodworking Shop

2. Conditional Uses.

Adult Establishment Auction Yard Bar Big Box Store Campgrounds (group) Communication Facility Department Store Industrial Trade School Junk Yard Laboratory Landfill Mall Manufacturing (heavy) Manufacturing (medium) Meat Processing Facility Night Club Public Utilities Race Track Solid Waste Collection Center Stadium Waste Water Treatment Plan Wind Energy Facility, (medium)

3. Special Uses

Group Development Cemetery (Public)

4. <u>Dimensional Requirements-</u> Within the CMU Commercial Mixed Use district as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: 1/2 acre

b. Lot width: 100 feet

c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 15' Rear: 20'

d. Lot Coverage: 50% total area

e. Height: 50

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line. The Commercial District is established as the district in which retail trade and consumer service uses will expand as the community's and the region's population increases.

1. Permitted Uses. The following uses are permitted:

Agricultural Packaging Facilities

Animal hospitals

Armory/Gun shop

Assembly halls

Auction

Automobile sales

Bakeries (retail)

Bakeries (wholesale)

Banks and other financial institutions

Barber

Beauty shops

Billiard and pool halls

Boat Sales/Service

Book Store

Building Material Sales and Storage

Bus stations

Clinic

Club

Club (non profit)

College/University

Convenience Store/Gas Station

Contractors Offices/Storage Yards

Craft/Curio Retail Stores

Dry cleaning/laundry services

Electrical repair shops

Farmers Market/Produce Stand (commercial)

Farm Machinery Sales/Service

Feed and Seed stores

Flea Market

Florist

Grocery Stores

Greenhouses

Health Club/Spa

Hospital

Hotels

Industrial Sales/Service

Library

Machine and Welding Shop

Motels

Packaging Facility Park (private) Park (public) Printing Shop Professional offices Public Safety Facilities Recreation Facility (outdoor) Recreation Facility (indoor) Recycling Center Repair shops Restaurants Shooting Range (indoor) Single-family residences as accessory uses Storage (commercial) Strip Mall Theaters, indoor Theaters, outdoor Treatment Facility Upholstery Shop Woodworking Shop Wind Energy System, Small

2. Conditional Uses.

Adult Establishment Auction Yard Bar Big Box Store Campgrounds (group) Communication Facility Department Store Industrial Trade School Junk Yard Laboratory Mall Manufacturing (light) Meat Processing Facility Mobile Home Park Night Club Public Utilities Race Track Shooting Range (outdoor) Solid Waste Collection Center Stadium Waste Water Treatment Plan Wind Energy System, Medium Wind Energy System, Large

3. Special Uses.

Group Development Cemetery (public)

- 4. <u>Dimensional Requirements</u>. Within the C Commercial as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.
 - a. Lot Size: 1/2 acre
 - b. Lot width: 100 feet
 - c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 15' Rear: 20'

- d. Lot Coverage: 50% total area
- e. Height: 50
- f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.8 I-D Industrial District

The Industrial District is established as a district in which the principal use of land is for industrial and warehouse uses which normally seek locations of large tracts of land.

1. Permitted Uses. The following uses are permitted:

Agricultural use

Agricultural Packaging Facility

Airports

Animal Hospital

Armory/Gun Shop

Auction

Auction Yard

Boat Sales/Service

Brick, Tile, and Pottery Yards

Building Materials Sales and Storage

Contractors office and storage yards

Concrete Batch Plant

Farm machinery sales and service

Feed and seed stores

Golf Course

Golf Driving Range

Golf Miniature

Greenhouse

Industrial Sales and Service

Industrial Trade School

Machine and Welding Shop

Manufacturing (light)

Open Storage

Packaging Facility

Park (private)

Park (public)

Public Safety Facilities

Recycling Center

Repair Shop

Shooting Range (indoor)

Shooting Range (outdoor)

Wind Energy System, Small

Wind Energy System, Medium

2. Conditional Uses. The following uses shall be permitted subject to a finding by the Board of Adjustment that additional conditions be provided and met which will prevent or abate the potential detrimental effects which would have an injurious effect on adjacent properties and the general welfare of the community:

Asphalt Plant Cement Factory Communication Facility Hazardous Waste Disposal Facility Laboratory Landfill Manufacturing (heavy) Manufacturing (medium) Meat Processing Facility Mining Petroleum (wholesale) Quarrying Race Track Recreation Facility (outdoor) Recreation Facility Sawmill Slaughter House Solid Waste Collection Center Waste Water Treatment Plant Wind Energy System, Large

3. Special Uses.

Group Development Cemetery (public) 4. <u>Dimensional Requirements</u>. Within the I-D Industrial District as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the above setback distances are available, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may like wise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: 1 acre

b. Lot width: 200 feet

c. Setback requirements:

Front: 50' from DOT or 40' private road

Side: 40' to residential 10' to all others

Rear: 30' to residential 10' to all others

d. Lot Coverage: 40% total area

e. Height: 50

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.7.1. F-P Floodplain District

The Floodplain District is established to meet the needs of the rivers of the county to carry abnormal flows of water in time of flood to prevent encroachments into the district which will unduly increase flood heights and damage, and to prevent the loss of life and excessive damage to property in the area of greatest flood hazard. The Floodplain District as delineated on June 2, 2009 FEMA FIRM Maps.

Permitted Uses. The following uses are permitted:

It is generally accepted that in each zoning district all permitted uses would be allowed in the floodplain provided that all requirements of the Madison County Flood Damage Prevention ordinance are met.

Floodways:

The following uses may be made of floodways as a matter of right provided that all requirements of the Madison County Flood Damage Prevention ordinance are met. It also does not do away with building codes and other requirements applicable to the area:

General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.

Loading areas, parking areas, and rotary-wing aircraft.

Lawns, gardens, parking and play areas.

Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space, and other similar private and public recreational uses.

Streets, bridges, overhead utility lines, creek and storm drainage facilities, sewage or waste treatment plant outlets, water supply intake structures, and other similar public, community or utility uses.

Temporary facilities (not to exceed 30 days during a one year period), such as Displays, circuses, carnivals, or other similar transient amusement enterprises.

Boar docks, ramps, piers, or similar structures.

<u>Artificial Obstructions Prohibited</u>. The placement of any artificial obstruction in any floodway established by this ordinance is hereby prohibited, unless a permit has been ordained for such artificial obstruction from the Enforcement Officer. No damageable portion of a structure located outside the floodway,

but within the floodplain may be below the flood protection elevation, as defined in the Madison County Flood Damage Prevention Ordinance.

Existing Artificial Obstructions. Artificial obstructions existing in a floodway on the effective date of this ordinance shall not be considered to be in violation of the ordinance. However, they may not be enlarged or replaced in part or in whole without obtaining proper approval as described in the Madison County Flood Damage Prevention ordinance.

3.7.2 PR Protected Ridges

The purpose of the Protected Ridges is to regulate the height of tall buildings or structures on mountain ridges, providing for the method of administration and enforcement, defining certain terms used herein, and providing for the imposition of penalties for violation of provisions of this ordinance. These ridges are defined and shown on the Madison County Protected Ridges Map.

1. Permitted Uses.

It is generally accepted that in each zoning district all permitted uses would be allowed on a protected ridge provided that all requirements of the Madison County Mountain Ridge Protection Ordinance are met.

3.7.3 Watershed District

The purpose of the WS-B and WS-CA Watersheds are established to protect the water supply which is taken from the Ivy River. The rules and regulations for this have been set in place to see that proper measures are taken to ensure that development does not adversely affect the health, safety or welfare of the citizens. The watershed area is shown on the Madison County Watershed Map.

1. Permitted Uses.

It is generally accepted that in each zoning district all permitted uses would be allowed with respect to that district provided the rules and regulations of the Watershed Protection Ordinance are met.

In the WS-B Watershed area as defined by the Watershed Protection Map the minimum lot size shall be a minimum 1 acre. If it is located in the WS-CA (critical area) it shall be a 2 acre minimum.

Table 1. Summary of Permitted Uses

Use Type			Zon	Special Restrictions					
	NC	CMU	AO	RA	R-1	R-2	C	ID	
Accessory Dwelling				P	P	1	-0		
Accessory Structure			P	P	P	P			
Accessory Use	ES CASCINAL	Say of all the say of	P	P	P	P	20,120	A SHOULD AND	Province Contract State Contract Sta
Adult		C	基膜線形	音等沙漠	建工程	HEAD	C	THE	PROPERTY OF THE PROPERTY OF TH
Establishment				1.0 March	September 1			h Bo	
Agricultural Use	155000000	Between Walance	P	P	P	P	1111	P	
Agricultural	P	P		C		Mark Control	P	P	
Packaging Facility			5.0				201		上海外的 相对的,但是一个人
Airport	V					and the state of t	1	P	
Animal hospital	TO HOUSE	P		C	STORE TO		P	P	See 8.1.1
Apartment	Statementon	Topical Sea Colonia Personalia	No book and one (in	9-018-48-05-1	C	C	1,7	40 AS-30.24F	
Armory/Gun Shop		P	1000		其作文明(数) 20 20	500000500	P	P	TO SHOULD BE WATER TO SHEET TO SHEET SHEET
Assembly Hall	P	P.	23,44,60	P		P	P	and an April 1	A THE COURT OF THE PARTY OF THE
Asphalt Plant	TO STATE OF THE PARTY OF THE PA		MATTERNATION OF THE SECOND	- A C D T - (A P	TOWNS AT	S OF CO. S CHILD		C	RETURN FOR THE PROPERTY OF THE
Auction	33444 60003	P		THE PERSON NAMED IN COLUMN			P	P	Section Control of the Control of th
Auction Yard		C		5395213		2000000000	C	P	
Automobile sales	P	P	PER MINISTER SERVICE	C	O SICE SEXUAL	C 1444.71.00	- 45500	Titlanca Britis	CO. HICKORY STORES STORES AND STORES CONTRACTOR OF CONTRACTOR
		/ 3u	0.01	1.2			P		
Backyard	of party of		P	P	便随道	The same			
Workshops		100	300	E 1700					(A)
Bakery (Retail)	Min Service 2	P	MANUSCON MINIST	III INANAMATANA	E PARINACES DEN	C	P	hansoyat.	Company (Associated State Company of the Company of
Bakery (wholesale)		P		GEORGIA DE	是海绵	Alexandrian	P	VALUE OF	
Banks and	herope stor	P	SCHOOL STREET	V MODERNI SHI	11/25/25/25	a spectad etc	P	Charles and the	Distriction of the Association
Financial		11.2					1021		
Institutions				To A					
Bar	南	C	4 2000000	The large		i masamatan	C		が、自動を検えり、2時では、2000年 を開発したが、2000年で、2000年の日本の第二十二十二十二十二十二十二十二十二十二十二十二十二十二十二十二十二十二十二十
Barber	P		TAXABLE COL	P	J. ACTION PROCESS	TA ATTENDED	P	C TABLE OF THE SE	Bell Strong Charles (Strain Charles Company)
Bed and Breakfast	P		1.15	P	P	P		2000	See 8.6.2
Inn	STEELS.		Mark State			e littrage gar		in the last	
Beauty Shop	P	Attornot Honoson	Shoonsteam	·P	20 20 20 20 20 EVEN EVEN EVEN EVEN EVEN EVEN EVEN EVE	er attractions	P	NATIONAL A	a extraction management and provide the state of the stat
Big Box Store		C	1000				C	To the	
Billiard and Pool	THE MENT OF	Manage Calendary	ASSESSED NO.	E ARSASHRIDS	O SPHINKS BUILD	S FREENSKER	P	1 328 W 192	Some find a self-through the first property and the self-through
Halls		11	-			10.00	1		**
Boat sales/Service	2000	P	100000	Ten your			P	P	
Book Store	P	P	ARREST OF	nanchenia.	D. SERVERSEE	30 SUCKO 2012	P	S SPORTS OF	THE STATE OF THE PROPERTY OF THE PARTY OF TH
Brick, Tile, and		P				1 2322201		P	
Pottery Yards	57.	14,000	127644	i gun h				246	The second second second
Building Material		P	199235000	のないののの場合	96669389	新教育	P	E PASSAGES	See 8.1.2
Sales and Storage							1	1	500 0.1.2
Bus Station	P	P	THE TOTAL	P	C	TO SECOND	P		
Dua Blaudi	A STORE OF	multiposis	STATE STATES	O IS ARCHES	0	35 25 ASVILL	S9 312	i kladici di	and the above the state of the
Permitted Use	NC	CMU	AO	RA,	R-1	R-2		ID	
1 ci initicu Use	110	CIVIU	AU	(ILA	1/21	11.72		2 3110	NEW PROPERTY OF STREET STREET,

Campgrounds	:		P	P	P	P			See 8.1.3
(family) Campgrounds	C	C	C	S	C	C	100		See 8.1.5 and 8.1.6
(group)									5 014
Cemetery(Family)	1990年1990	S	P	P S	P S	E PROFESSION	S	S	See 8.1.4
Cemetery (Public)	ESTAL.		Conven	S	D Comment		32	C	
Cement Factory Church and Religious	P			P	P	Por	0.000		Service and the service and th
Institutions					1		180 E		所表 :
Clinic	P	P		P			P		
Club	**************************************					C	P		
Club (Nonprofit)		-		P			P		
College/University	Sec.	, P				41 1	P		这是特别的 是是一种的
Community Center	homos/maces	****************		P	C	P .	C DOWNE	KERTIFICAL	CARLES TO STATE OF THE PROPERTY OF THE PARTY
Communication Facility	C	C	C	C	C	C	C	C	See 8.7
Contractors	C	· P		C	71 - 1		P	P	See 8.1.2
Offices/Storage									
Yards	Benzel	1011-2209-25 F	in suspension	SS SWITCH CASE OF ST	4	ficuosofie in	F 2565	AL SOUR	CONTRACTOR OF STREET
Concrete Batch Plant						en de la companya de La companya de la co		P	
Condominium	EPPER SANCE		DET CONTROL STATE		C	P	NE CONTRACTOR OF THE CONTRACTO	THE SHOWING	
Convenience Store/Gas Station	P	P		C			Р		
Craft/Curio Retail	P					С	P		
Store			4						
Day Care Facilities	机性型			P	Landra Dane				
Department Store		C					C		* A
Dry Cleaning /Laundry Services		P					P		
Duplex (Two			11	P	P	P			
Family Dwelling)							1		
Electrical Repair Shop		P		1 11			P		
Family Care Home	C			C	P				
Farmers Market /Produce Stand		P		C			P		
(Commercial)									
Farmers Market			P	P	P				
/Produce Stand (On Site)	M.		6						
Farm Machinery Sales/Service		P					P	P	
	ASSESSED SE	WHITE CONTROL		0.00		024 A	nai Minist	SECTION STATE	
Permitted Use	NC	CMU	AO	RA	R-1	R-2	C	ID	

Feed and Seed	P	P					P	P	
Store Flea Market	C			C	No. of the last	格別語のTri	P	50000 B	
Florist	Carr	and the little and				Market III	P		(4) 300公司等位共同的原金。(6)等金统管部队
Grocery Store	SERVE SE	智能的例 基	图3.25 化等	核性質時	et est pert	C	P		
Group	2002 Ldcs	S	医生物的性性性	S	S	S	S	S	Accombination and approximate the second
Development		J							
Golf Course			PENE	P	P	P		P	
Golf Driving Range	ESCHERIST AND	pych podalaganopi	Manual Control of the	SHOW SHAPE	STATE STREET	P	MAGRICE	P	製造等本面を使用する。 はは、本面を使用する。 は、は、は、は、は、は、は、は、は、は、は、は、は、は、は、は、は、は、は、
Golf Miniature	源圖					C		P	Production of the second
Greenhouse	С	P	J. M. Sandel	C	BIOLUGICA SILE	Dict Carlotte	P	P	See the constitution of the said and applications and
Hazardous Waste	(A) (B)	resemble to	V TEN	Giorgia Cy.		THE TOTAL	鐵鹽	C	See 8.2.6
Disposal Facility					1 a 0 x01				美国教育的基本基本的基本的
Health Club/Spa	P	P		С	-5000000000	10,400,000	P	STATE OF THE STATE	The state of the s
Home Occupation	在		·P	P	P	TAPPEN CO	100 ST	赞洁	
Hospital		P					P		
Hotel		P		管理		C	P	問題	
Industrial Sales and		P						P	
Service							P	1.0	¥.
Industrial Trade	100	C				動物主旨	C	P	《中华》中华的一个中华的
School					基础			11,6400	
Junk Yard		C					C		
Laboratory		C	Sala Va			W. 100	C	C	北京,在中国大学中的
Landfill		C		C	-			C	See 8.2.3
Library	P	P		P		MISS	P		ASSAULT OF THE SECOND STATE OF THE SECOND STAT
Lodge	1			P					
Lodge (Resort)						C			
Machine and		P					P	P	
Welding Shop									
Mall		C					C		
Manufacturing		C						C	
(Heavy)	A Salvering and		IVERDAR PROPERTY.	The second secon	- And address of the	- MANAGEMENT STREET	ta i mamb	Constant plan	
Manufacturing		P						P	
(Light)		发热 克勒拉	28.9(3)				C	C CREW CHILD	。 一种,这种种的,是一种种的。 一种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种种
Manufacturing		C				-		C	
(Medium)	S Internation S	Section 224 delice	0000722000	5 5/562/22/00/5	O STREET	1 1000000000000	ar mean	x (55/15/22/16)	
Meat Processing	100	C	C	C			C	C	
Facility	1000000		E CONTRACTOR	新数数据					一种是加加,于国际的 国际企业方式。
Mining	o lawrence	ON VALUE OF THE OWNER.	Tribe protection	- more - smitte	District to	Margatorics es	10K 25X7700	C	See 8.2.5
Mobile Home				P	P				and the world was are a first country and the
Mobile Home Park	N HESSELLE	MIN (IO CHINCEN)	C BOSON NEWSCO	C	T AMORDISCOUNT	o everywaren	C		See 8.4
Motel	h ()	P					P	115013	
Permitted Use	NC	CMU	10	Diversi	R=1	Do	C	ID	THE CO. TO SERVICE ADDRESS OF SE
refillited Use	NG	GIVIO	AU	KA	V.T	11.2	U	LU.	DESCRIPTION OF THE PROPERTY OF

Multifamily			-		P	P	П		
Dwelling						2			
Night Club		C		()			C		SANTESSEE NO. OF THE SANTESSEE STATES
Nursery	toscanon 44	TRANSPORT CONTRACTOR	P	P	BOOK STORY OF THE PARTY OF THE	nassauraura-	204m-18 (4	D-DIAGONNE A	System (and the second
Open Storage	To Toka	P	AVI STORY	115-11		equarional.		P	
Packaging Facility	33-2-M)W	P				and the property of the control of		P	Park to the 27-3-cold by Columbia 9 of the dispute former's dispute on a 1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
	TROUGH STUDIES	bon were an are	W-22-578	THE PARKS IN	6300 C270 OC	GPC/PNone	P	China manager (Serious Broggers to Control Co
Park (Private)	i i	P	P	P	P	P	P	P	
Park (Public)		P	P	P	P	P	P	P	
Petroleum (Wholesale)								C	
Planned Unit		825/161135 Zej-114	Total Value of State	S	S	S	6 SAMBUR	au/so/stra	See 8.5
Development	- STEEN BENEFIT	N construction than	950496095093	enterestations	Andrew See	GOOGSSONS	naise i	OFFICE STATE OF THE PARTY OF TH	
Printing Shop		P					P		
Professional Offices	P	P		P	P		P		
Public Safety Facilities	P	P		P	P		P	P	
Public Utilities	C	C	No. of the Party o	С	С	I DOLENO HAR PLAN	C	100 100 100 100	and the state of t
Quarrying	#100 P			SCALE SHEAR				С	See 8.2.5
Race Track	LL-Q-CLSSS	С	- Constanting	THE PERSON NAMED IN COLUMN NAM	THE PROPERTY OF THE PARTY OF TH	120000000000000000000000000000000000000	C	C	
Recreation Facility (Outdoor)				С		P	P	C	
Recreation Facility	C	ESTRESPECIAL	PACES CALL CALL	С	Stopped Final	P	P	C	metallengen como contrato montenamo, di obdesen.
Recycling Center	C	P		С			P	P	
Repair Shop	2)12343656	P	E SERCERASE VICE	SHAREMARKAN	PERSONNESS		P	P	(1) (1) (1) (1) (1) (1) (1) (1) (1) (1)
Residential	THE WORLD		C Wall	P	P	P	の表現を表	SHOW THE	See 8.6
Vacation Rental									
Restaurant	C	P	N. Sell-Sell-Sell-Sell-Sell-Sell-Sell-Sell	C	- Any annual common	C	P	CHASANNE	Selection of a separate of the entire test operations are the selection of
Riding Stable			Part and the	P		P		1000	Annual Control of the State of
Sawmill	and a second	- Anne Affer		C	-			C	See 8.2.2
School	P		15000	P	P	2 27 1 4		(2) (4) (4)	
Shooting Range (Indoor)		P					P	P	
Shooting Range (Outdoor)	Shirt Control	P.		, C			C	P	
Single Family	e parabasia.	and the state of the	P	P	P	P	P	() Assemble (
Dwelling	on distribution	governodenenn	n management	r Sesaggeografi	()nossystem	DS BASSONETIN	Man Apple	100200	and control of the co
Slaughter House	C	Constant	1 景位家园		A SAME	136.50	調量器	C	
Solid Waste Collection Center	C	С		С			C		
Permitted Use	NC	CMU	AO	RA	R-1	R-2	C	ID	· 法法律的证据证据证据证据证据证据证据证据证据证据证据证据证据证据证据证据证据证据证据

Stadium		C	1				C		
Storage (Commercial)		P					P		
Strip Mall	C	P					P		
Theatre (Indoor)		P					P		
Theatre (Outdoor)		P					P		
Town Home	C			C	C	$-\mathbf{C}$			企业工程 2000年 1000年 1000
Treatment Facility	C	P		C			P		
Upholstery Shop		P		是全方元为2			P	を	
Waste Water		C		C	C	C	C	C	See 8.2.4
Treatment Plant					1422				
Wind Energy Facility, Large				C	100 (100) 100 (100) 100 (100)		C	С	
Wind Energy Facility, Medium		С	С	C			C	P	
Wind Energy Facility, Small		P	P	P	С	С	P	P	
Woodworking Shop		P					P		

GENERAL PROVISIONS

4.1 Zoning Affects Every Building and Use

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this ordinance.

4.2 Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this ordinance shall meet at least minimum requirements established by this ordinance.

4.3 Relationship of Building to Lot

Every building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a specially designed group or planned development of institution, residential, commercial or industrial buildings in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, industrial park, and so forth, as permitted by this ordinance.

4.4 Dimensional Modifications and Exceptions.

4.4.1 Front Yard

The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required yard depth. In such cases, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

4.4.2 Height

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles,

radio towers, television towers, masts, aerials and similar structures, except as otherwise provided in the vicinity of airports.

4.4.3 Lot Size

Where the owner of a lot of official record in any residential district at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance, such a lot may be used as a residential building site provided, however, that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance, and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot.

4.5 Nonconforming Uses

Nonconforming uses may be continued, provided they conform to the following provisions:

- Continuing the use of nonconforming land. The regulations set forth below provide the conditions under which the nonconforming use of land shall be continued:
 - a. <u>Extension of Use</u>. Nonconforming uses of land shall not hereafter be enlarged or extended in any way.
 - b. Change of Use. Any nonconforming use of land may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district, so long as the proposed change is not a prohibited use or a use that would otherwise be considered nonconforming in that district.
 - c. <u>Cessation of Use</u>. All nonconforming uses of land involving minor structures such as junk yards, auto sales yards, or any nonconforming uses similar to those enumerated, shall be eliminated within three hundred sixty-five (365) days from the date of adoption of this ordinance.

2. Continuing the Use of Nonconforming Buildings

a. Extension of Use. Nonconforming buildings and nonconforming uses of buildings shall not hereafter be enlarged.