



Pineville
ZONING ORDINANCE

Town of Pineville, North Carolina
Adopted June 28, 2021

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

1.3.2 Specific

This Ordinance is adopted for the following particular purposes:

Implement Policies of the Land Use Plan, and Overlay Districts

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

Protect Small-Town Character

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

Promote Good Planning Practice

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

Hazard Mitigation

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

Efficient Use of Land and Public Services

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

Discourage Sprawl

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

Encourage Well Planned Transportation Access and Development Interconnectivity

To encourage mixed-use development and interconnectivity between developments.

1.4

APPLICABILITY AND JURISDICTION

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

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

1.5.4 Changes to the Official Zoning Map

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

1.5.5 Mapping Disputes and Disparities

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

1.6 RELATIONSHIP TO OTHER REGULATIONS, CONFLICTING TEXT, AND INTERPRETATION

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

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

1.6.2 Meaning and Intent

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

1.6.3 Text Controls

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

1.6.4 Authority for Interpretation

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

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

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

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

1.6.12 Relationship to North Carolina General Statutes

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

1.7 OTHER REGULATIONS AND PRIVATE AGREEMENTS

1.7.1 Relationship with Private-Party Easements, Covenants or Agreements

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

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

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

1.8 LIABILITY FOR DAMAGES

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

1.9 SEVERABILITY

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

1.10.3 Complete Applications

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

1.10.4 Violations Continue

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

1.10.5 Legal Nonconformities Under Previous Ordinance

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

approve or disapprove:

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

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

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

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

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

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

B) **Membership**

1) **Number**

The Planning Board shall consist of five members.

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

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

3) **Appointment**

Members shall be appointed by Town Council.

4) **Initial establishment**

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

5) **Removal**

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

H) **Compensation**

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

2.1.3 **Board of Adjustment**

A) **Powers and Duties**

The Board of Adjustment shall have all the powers and duties as authorized by the General Statutes of North Carolina and as otherwise provided for in this Ordinance. Generally, such powers and duties shall include, but no be restricted to the following:

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

B) **Establishment of Board of Adjustment**

1) **Members**

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

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

2) **Jurisdiction**

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

C) **Officers**

F) Meetings

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

G) Compensation

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

H) Administration

1) Administrative Review

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

2) Appeal

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

3) Reverse or Affirm

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

4) Variances

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

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

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

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

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

2.2

CONFLICTS OF INTERESTS

Per NCGS 160D-109

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

- B) **Fees to be Paid**
No application shall be processed until the established fee has been paid.
- C) **Refund of Fees**
Application fees are not refundable except where the Planning Director determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.
- D) **Town Initiated Proposals**
Town fees are waived for Town sponsored proposals.

2.3.5 Pre-Submittal Meeting

- A) **Required**
A pre-submittal meeting required for applicants; other than the Town, seeking a text amendment, text interpretation, rezoning, conditional zoning developments and similar where approval is required from any Town board. The purpose of a pre-submittal meeting is to familiarize the applicant and the Town staff with the proposal, information needed, and process.
- B) **Initiation and Information Provided**
Any potential applicant shall provide to the Planning Director a description of the character, location, and magnitude of the proposed development and any other supporting documents such as maps, drawings, models, and the type of development permit sought
- C) **Pre-Submittal Meeting**
The Planning Director shall schedule a pre-application meeting after receipt of the written request from the applicant or after deciding for a conference. At the pre-application conference, the applicant, the Planning Director, and any other Town staff and/or County and/or State and/or Federal representatives the Planning Director deems is appropriate to attend the pre-application meeting, shall discuss the proposed development, and based upon the information provided by the applicant and the provisions of this Ordinance, discuss in general what provisions of this Ordinance apply to the proposed development.

2.3.6 Quorum

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

2.3.7 Re-Submission of Petition

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

2.4 TEXT AMENDMENTS

2.4.1 Amendments to Text

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

2.4.2 Text Amendment Application Requirements

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

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

2.4.3 Procedure

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

2.4.4 Procedure Detail

- A) Pre-submittal meeting per §2.3.5

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

2.4.6 Burden of Proof

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

2.4.7 Decision of Town Council

- A) Once the public hearing has been conducted and officially closed, the Town Council shall render a decision by simple majority vote concerning the proposal after discussion amongst Council members has been concluded.

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

2.5.4 Procedure Detail

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

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

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

2.5.5 Consistency with Adopted Plans

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

- (A) Plan Consistency. - When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- (B) Additional Reasonableness Statement for Rezonings. - When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.
- (C) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

2.5.6 Burden of Proof

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

2.5.7 Decision of Town Council

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

2.6

CONDITIONAL ZONING AND CONDITIONAL REZONING

2.6.1 General

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

2.6.2 Benefits

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

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

2.6.3 Designations

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

2.6.4 Application

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

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

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

2.6.6 Procedure Detail

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

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

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

2.6.7 Consistency with Adopted Plans

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

- (A) Plan Consistency. - When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- (B) Additional Reasonableness Statement for Rezonings. - When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.
- (C) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

2.6.8 Decision of Town Council

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

2.7 CONFLICT WITH OTHER LAWS

2.7.1 Conflict with Other Laws and Ordinances

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

This Ordinance is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the Town of Pineville (adopted by the Town Council on December 21, 1970, as amended) and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Pineville enacted in 1970, as amended, which are not re-enacted herein, are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any Zoning Ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality, the same as if this Ordinance had not been adopted, and any and all violations of the existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

2.7.2 Separability

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

2.8 ZONING ADMINISTRATION

2.8.1 Planning Director

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

2.8.2 Zoning Inspection: Duties Specified

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

C) Other corrective measures or appeals.

2.8.7 Penalties and Enforcement

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

A) Civil Penalty

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

The following penalties are hereby established:

Warning Citation Correct Violation Within 10 Days unless otherwise stated

First Citation \$50.00

Second Citation for Same Offense up to \$200.00

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

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

B) Separate Violations

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

C) Appeals

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

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

C) Equitable Remedy

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

D) Injunction

2.8.8 Repeat Violations

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

2.8.9 Flexibility in Administration Authorized

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

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

2.9

NONCONFORMITIES

2.9.1 General Intent

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

2.9.2 Nonconforming Zoning Uses

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

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

2.9.4 Nonconforming Lots of Record

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

2.9.5 Discontinuance of Non-Conforming Adult Oriented Businesses

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

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

VESTED RIGHTS

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

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

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

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

- d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the site-specific vesting plan or the phased development plan.
- e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.

G) Miscellaneous Provisions. -

(1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

DEFINITIONS OF SPECIFIC TERMS AND WORDS

Abandoned Sign

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

Accessory or Secondary Structures and Zoning Uses

A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located.

Addition (to an existing building)

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

Adult Establishments

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

Alley

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

Alteration

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

Amusement Park, Indoors

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

Amusement Park, Outdoors

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

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

Art Gallery

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

Auction House

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

Automobile Body and Repair

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

Automobile Parts Supply Store

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

Automobile Servicing and Installation

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

Automobile Salvage Yard

See "Junk Yard and Automobile Salvage Yard".

Automobile and Vehicle Storage

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

Automotive Towing and Wrecker Service

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

Awning

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

Banner

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

Basement

Building Wall

The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this Ordinance, the area of a wall will be calculated for only the first three (3) stories, or fifty (50) feet in height of a building, whichever is less.

Bulletin Board

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

Built-upon area

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

Business Support Services

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

Caliper

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

Campaign or Election Sign

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

Campus

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

Canopy

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

Canopy and Awning Signs

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

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

Conditional Use

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

Construction Sign

A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

Construction Trailer

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

Convenience Store

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

Corner lot

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

Correctional Facility

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

Country Club

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

Critical Root Zone (CRZ)

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

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

Display Area

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

Drip Line

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

Dry Cleaning and Laundry Plant

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

Dry Cleaning Retail Service Outlet

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

Dwelling, Apartment

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

Dwelling, Condominium

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

Dwelling, Duplex

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

Dwelling, Live/Work Unit

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

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

Evergreen

Those plants that retain foliage throughout the year.

Facade area

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

Face, Sign

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

Family

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

Family Care Home

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

Family Childcare Home

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

Farm Supply Store

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

Farmers' Market

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

Fence

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

Flood Prone Area

See Floodplain.

Floodplain

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

Floodplain Administrator

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

Floor

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

Florist, Retail

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

Food Catering Facility

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

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

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

Free-Standing Sign

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

Frontage, Road

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

Funeral Home

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

Garden Supply and Seed Store

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

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

Ground-Mounted Sign

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

Government Services

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

Handicapped Person

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

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

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

Homeowners Association

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

Hospital

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

Identification Sign

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

Illegal Sign

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

Illuminated Sign

A sign either internally or externally illuminated.

Landscape Area

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

Landscape Plan

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

Large Childcare Center

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

Large Maturing Tree

Any tree whose height exceeds 35 feet at maturity.

Loading Space, Off-Street

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

Logo

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

Long-Term Storage

Storage lasting longer than thirty (30) days.

Lot

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

A) Lot Area

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

B) Lot, Corner

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

C) Lot Depth

The horizontal distance between the front and rear lot lines.

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

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

Manufactured Goods, Class 2

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

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

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

Manufactured Home

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

Manufactured Home, Class A

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

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

Micro-Brewery

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

Mini-Warehouse

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

Mobile Storage Container

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

Modular Home

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

Monument Sign

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

Motel/Hotel

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

Multi-Family Development

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

Natural Amenities

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

Office

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

Office Building

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

On-premise Sign

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

Open-Air Storage

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

Outparcel

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

Parapet

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

Parking Bay

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

Parking Lot Plantings

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

Parking Space

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

Pawn Shop

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

Pharmacy

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