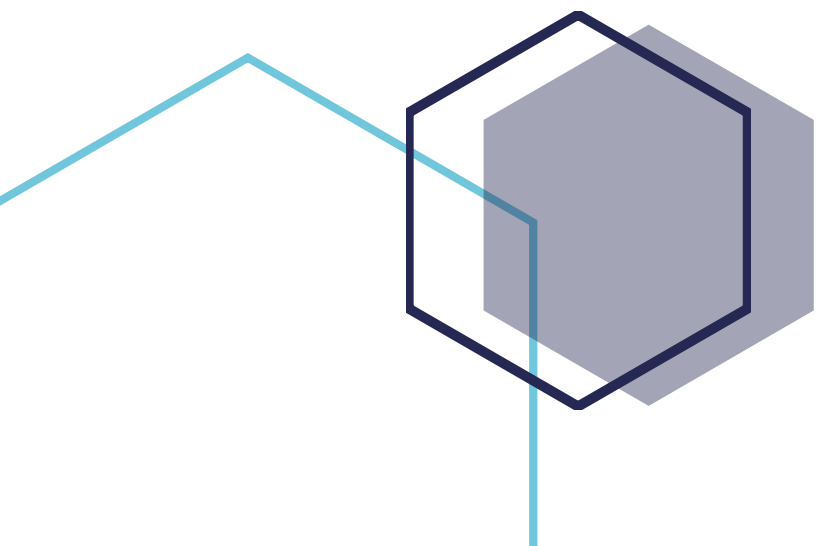




The Zoning and Subdivision Ordinance of the Town of Sylva, North Carolina

Effective: February 24, 2022

Planning Board Review and Recommendation: February 17, 2022
Approved by Board of Commissioners: February 24, 2022



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ACKNOWLEDGEMENTS

MAYOR AND BOARD OF COMMISSIONERS

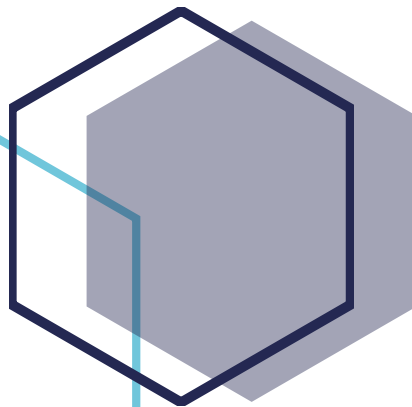
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ARTICLE 1 GENERAL

Section 1.1 Title

This Ordinance is officially titled, "The Zoning and Subdivision Ordinance of the Town of Sylva, North Carolina" and shall be known as the "Zoning and Subdivision Ordinance." Within this document, it may also be referred to as this "Ordinance". The official map, designating the various zoning districts in the Town, shall be titled, "Town of Sylva, NC Official Zoning Map" and shall be known as the "Zoning Map."

Section 1.2 Authority

The Legislature of the State of North Carolina has in the North Carolina General Statutes, Chapter 160A, Article 8, Section 174, General Ordinance Authority, and Section 175, Enforcement; G.S. 160D-201 and 702, delegated the responsibility of adopting regulations to promote the public health, safety and general welfare of its citizenry to local government. The Board of Commissioners of the Town of Sylva does hereby ordain and enact into law the development regulations contained within this Ordinance as, "The Zoning and Subdivision Ordinance of the Town of Sylva, North Carolina."

Section 1.3 Reenactment and Repeal of Existing Ordinances

This Ordinance is in part carried forward by a re-enactment of some of the provisions of the Town of Sylva Zoning Ordinance adopted by the Town Board of Commissioners on May 1, 1998, and Subdivision Ordinance adopted by the Town on November 5, 2009, 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 thereunder are preserved and may be enforced. All provisions of the Town of Sylva Zoning Ordinance and Subdivision Ordinance, as amended which are not re-enacted herein are hereby repealed. All suits in law or in equity and/or all prosecutions resulting from the violation of said Zoning Ordinance or Subdivision Ordinance heretofore in effect, which areas of the adoption date 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 Town of Sylva Zoning Ordinance and Subdivision Ordinance, prosecutions or suits 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.

Section 1.4 Jurisdiction

- A.** The provisions of this Ordinance shall apply within the entire corporate limits of the Town of Sylva ("the Town") and the entire extraterritorial jurisdiction area as may hereafter be brought within the purview of this Ordinance pursuant to law, which shall be defined and established on the map entitled, "Zoning Map of the Town of Sylva, North Carolina" ("the Zoning Map"), which is adopted simultaneously herewith. The Zoning Map and all explanatory matter thereon accompany and is hereby made a part of this Ordinance.
- B.** The current Zoning Map and all its prior versions shall be kept on file in digital or paper format with the Town Clerk. While the digital shall be accessible to view from the Town website at all times, the paper format is available for public viewing during normal business hours. The original official version of the map shall bear the seal of the Town. It shall be the final authority as to the status of the current zoning district classification of land within the Town's jurisdiction and shall only be amended in accordance with the provisions of this Ordinance.

Section 1.5 Purpose

The purpose of this Ordinance is to preserve the social, economic, cultural, historic, and aesthetic conditions that make up the Town of Sylva. The land use and development standards contained in this Ordinance are intended to promote and enhance the Town's unique community atmosphere. Given the geographic location and size of the Town, the controls contained in this Ordinance are necessary and will help to ensure that the Town of Sylva will continue to thrive and stand out as a desirable place to live and conduct business.

Section 1.6 Consistency with Adopted Plans

As a condition of adopting and applying zoning regulations under N.C.G.S. Chapter 160D, the Town shall adopt and reasonably maintain a land-use plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The development regulations contained herein should be consistent with the adopted plan, *The Plan for Sylva, 2040 Land Use Plan*, and its subsequent revisions.

Section 1.7 Required Conformance with the Ordinance

A. Required Conformance

No land, structure, or parts thereof shall be used, occupied, constructed, erected, altered, or moved, unless in conformity with all the regulations herein specified for the zoning district in which it is located and all other applicable local, state, and federal laws.

B. Subdivision of Property

From and after the effective date of the Zoning and Subdivision Ordinance, no real property lying within the jurisdiction of this Ordinance shall be subdivided except in conformance with all applicable provisions of the Zoning and Subdivision Ordinance, and no plat for the subdivision of land shall be certified for recording by the Zoning Administrator until it has been submitted and approved in accordance with the provisions of the Zoning and Subdivision Ordinance.

Section 1.8 Interpretations

In the event any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of this Ordinance, the Zoning Administrator shall be responsible for the interpretation and shall look to the Ordinance for guidance. Responsibility for interpretation by the Zoning Administrator shall be limited to standards, regulations, and requirements of the Ordinance, but shall not be construed to include interpretation of any technical codes adopted by reference in the Ordinance and shall not be construed as overriding the responsibilities given to any commission, board, building inspector, or town officials named in other sections or articles of the Ordinance.

Section 1.9 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning maps, the following rules shall be used to interpret the zoning maps:

- A. Where a district boundary is shown to coincide approximately with a property line or town limit line, the property line or town limit line shall be considered to be the district boundary, unless otherwise indicated.
- B. In cases where a district boundary line is located within a street or alley right-of-way or easement, railroad or utility line right-of-way or easement, river, or stream, it will be considered to be in the center of the street or alley right-of-way or easement, railroad or utility line right-of-way or easement, river, or stream. If the actual location of such right-of-way, easement, river, or stream varies slightly from the location as shown on the zoning map, then the actual location shall control.
- C. In cases where a district boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
- D. Where a boundary line is shown and its location is not fixed by any of the rules of this section, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the zoning maps unless there exists a metes and bounds description of the boundary line. If such a metes and bounds description exists, it shall control.

- E. Where the zoning map shows a district boundary dividing a lot, each part of the lot shall conform with the standards established by this Ordinance for the zoning use or overlay district in which that part is located.
- F. In circumstances not covered previously in this section, the Board of Adjustment shall interpret the district boundaries.

Section 1.10 Nonconformities

Any building, development, or use of property that was legally established prior to the effective date of this Ordinance, and which does not comply with the requirements of this Ordinance, shall be governed by the provisions below. Any violation of any previous Ordinance of the Town of Sylva shall continue to be a violation under this Ordinance and shall be subject to the penalties set forth at the time of the violation unless the use, development, construction, or other activity is clearly consistent with the expressed terms of this Ordinance.

- A. **Nonconforming Lots.** Any single, vacant, nonconforming lot may nevertheless be used as a building site without the need to appear before the Board of Adjustment, provided that the use is permitted in the zoning district it is located, it meets the design regulations of this Ordinance, and the lot was in existence at the time of the adoption of the Ordinance, as evidenced by a recorded plat or as described in a conveyance recorded among the public records of Jackson County. Subdivision of parcels after the effective date of the Ordinance must comply with minimum density and dimensional requirement of their respective district.
- B. **Nonconforming Uses.** The lawful use of any building or premises at the time of the enactment of the Ordinance, or immediately preceding any applicable amendment thereto, may be continued even though the user does not conform to the provisions of this Ordinance, as amended. However, the nonconforming use shall not be enlarged, changed to another nonconforming use, or reestablished after its discontinuance for a period of six (6) consecutive months.
- C. **Nonconforming Buildings and Premises.** Buildings and premises (including parking areas and other parts thereof) which existed at the time of the enactment of the Ordinance (from which this Ordinance is derived), or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith, except in the following cases:
 - 1. **Additions.** If an addition is made to any existing building or premises, such addition shall comply with the current provisions of this Ordinance.
 - 2. **Alterations or Repairs.** If alterations or repairs costing in excess of 50% of the physical value of an existing building are made to that building within any 12-month period, such building and premises shall be made to conform to the current requirements of this Ordinance.

3. **Suspension of Business Activities.** If the business ceases to operate for a period of fourteen (14) or more consecutive days during a repair, renovations, additions, or for any reason other than a normal seasonal shutdown or government mandate, then the property must come into compliance. Any existing signs must also be brought into compliance in accordance with Paragraph E below and Sign Standards in Article 8.
 4. **Change of Use.** If the use of a building changes so that the requirements for the new users are in any way more stringent than the requirements for the previous use of the building, such building and premises shall be made to conform to the current requirements of this Ordinance.
 5. **Discontinuance of Use of a Nonconforming Building.** If the use of any nonconforming building or premises has been discontinued for a period of fourteen (14) days other than a seasonal shutdown or government mandate, the user shall not be reestablished until said building and premises are made to conform as much as possible to the current requirements of this Ordinance.
- D. Nonconforming Manufactured Homes.** Manufactured homes in existence at the time of the enactment of this Ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith.
- E. Nonconforming Signs**
1. **General.** A permanent sign which does not comply with one or more of the requirements of this Ordinance shall be grandfathered until such sign is removed, physically altered beyond maintenance, relocated, damaged, or destroyed, after which it shall be brought into compliance with all requirements of this Ordinance. Nonconforming temporary signs shall not be grandfathered and shall be brought into compliance with all requirements of this Ordinance.
 2. **Preexisting Signs.** Any sign legally in existence prior to the effective date of this Ordinance, or any applicable amendment thereto, which does not satisfy the requirements of this Ordinance, is declared nonconforming. The eventual elimination, as expeditiously and fairly as possible, of nonconforming signs is as much a subject of health, safety, and welfare as is the regulation of new signs.
 3. **Alterations and Repairs to Nonconforming Signs.** With the exceptions of outdoor advertising (billboards), nonconforming signs shall not be moved, altered, enlarged, or changed in any manner to increase the degree of non-conformity. Nonconforming signs shall not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Ordinary maintenance, such as repainting or repairing, shall be allowed for

nonconforming signs. Additionally, no substantial change in the copy of the sign, such as a change of the business name or logo, shall be allowed. Moreover, if, within any twelve-month period, alterations or repairs are anticipated to cost in excess of fifty percent of the physical value of the existing sign, such sign shall be removed or made to conform with the current regulations of this Ordinance. Outdoor advertising (billboards) is subject to the alterations and repair regulations of NCGS Chapter 160D-912.

4. **Alterations and Repairs to Buildings or Property.** If alterations or repairs to the existing building or property cost in excess of 50% of the physical value of the building or property, such sign shall be removed or made to conform with the current regulations of Article 8.

F. **Non-Conformities Due to Right-of-Way Acquisition**

Any lot or building that becomes nonconforming after a right-of-way acquisition of any local or DOT-owned roadway shall be allowed to continue under the regulations contained in this Section. However, parking areas that have been disturbed shall be allowed to redesign or restripe the parking area in front of the building to allow for the same number of spaces (or less) as previously existed. However, all new or additional parking shall be provided on the side or rear of the building.

G. **Exceptions**

1. Normal repair and maintenance may be performed to allow the continuation of a non-conformity.
2. Required improvements to comply with building code and access requirements shall be permitted.
3. Repairs made as a part of recovery efforts following a natural disaster that was declared an emergency by the appropriate state or federal agency shall be exempt for the requirements of this Section except that the nonconforming condition may not be enlarged or increased when rebuilt or repaired.

Section 1.11 Extension of Extraterritorial Jurisdiction

When the Town of Sylva proposes to exercise extraterritorial jurisdiction under this Ordinance it shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowners right to participate in a legislative hearing prior to the adoption of any Ordinance extending the area of extraterritorial jurisdiction,

as provided in G.S. 160D-601, and the right of all residents of the area to apply to the Board of Commissioners to serve as a representative on the Planning Board and the Zoning Board of Adjustment, as provided in G.S. 160D-303. The notice shall be mailed at least 30 days prior to the date of the hearing. The person or persons mailing the notices shall certify to the Board of Commissioners that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

Section 1.12 Exemptions to Applicability

- A.** Nothing contained herein shall repeal, modify or amend any Federal or State law or regulation, or any County Ordinance or regulation pertaining thereto; nor shall any provision of this Ordinance amend, modify or restrict any provisions of the Code of Ordinances of the Town of Sylva, North Carolina; however, the adoption of the Ordinance (from which this Ordinance is derived) shall and does amend by substitution all previously enacted Zoning Ordinances for the Town and any amendments made thereto; and any and all Ordinances, resolutions, and regulations in effect in the Town as of the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with its provisions.
- B.** It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if this Ordinance imposes greater restrictions or higher standards for the use of a building or land, then the provisions of this Ordinance shall control.
- C.** These regulations shall not prevent the construction of any structure for which a building permit has been secured prior to the effective date of this Ordinance or any amendment thereto, so long as the building permit has not been revoked or allowed to expire. However, once constructed, any structure so erected will be subject to any and all regulations set forth in this Ordinance.
- D.** All suits at law or in equity and all prosecutions resulting from the violation of any Ordinance provisions which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this amended Ordinance, but shall be prosecuted to their finality the same as if this (Ordinance) had not been adopted; and any and all violations of this or the previously existing Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending or which may heretofore be instituted or prosecuted.
- E.** This Ordinance shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and its related uses within the extraterritorial jurisdiction; except that in case of conversion of the uses to nonagricultural or non-farm purposes, a zoning certificate shall be procured, and the new use must comply with all regulations for the district in which it is situated. Within the corporate limits, vegetative crop production shall be exempt from the provisions of this Ordinance.

Section 1.13 Effects of Other Regulations

- A.** Regulations set forth in this Ordinance are part of a system of regulations governing zoning, land development, subdivision, use, construction, and improvements on the land, supplementing and supplemented by health, drainage improvement, steep slope, flood hazard, and other land use regulations and controls.
- B.** Applications for subdivision and land development approval shall be considered in relation to all such regulations applicable in the particular case. Where there are conflicts between the regulations in this Ordinance and other lawfully adopted regulations involved in such considerations, those which establish the highest requirements or most stringent limitations shall govern except where specific exceptions are set forth in such regulations.
- C.** No lot shall be approved unless an adequate portion thereof is suitable for a use permitted by land development regulations or other applicable regulations of the town. In particular, no lot shall be platted for building purposes unless it contains an adequate building site, under applicable regulations.

Section 1.14 Severability

It is the legislative intent of the Board of Commissioners in adopting this Ordinance that all provisions shall be liberally construed to protect and preserve the health, safety, investment, and general welfare of the inhabitants of the Town. If any Article, section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and any Article, section, subsection, sentence, clause, and phrase, thereof, irrespective of the fact that anyone or more Articles, sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 1.15 Effective Date

These regulations are effective February 24, 2022. Upon adoption, these regulations shall supersede, repeal, and replace all prior Sylva Zoning and Subdivision Ordinances.

Section 1.16 Transitional Provisions

A. Conforming Uses and Structures

- 1.** Any use or structure existing prior to the effective date of this Ordinance that conforms to the regulations of this Ordinance for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any use,

structural, or other changes shall comply with the provisions of this Ordinance.

2. Any use or structure existing prior to the effective date of this Ordinance that would be permitted by this Ordinance as a special use (or previously as a conditional use) in the district in which it is located, may be continued as if a special use permit had been issued, provided that any use, structural, or other changes shall comply with the provisions of this Ordinance.

B. Effect of Amendment

If subsequent amendments to this Chapter or the zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Section, unless otherwise stated in the amendment.

C. Applications and Prior Approvals

1. Projects Under Construction Prior to Effective Date

Any building or development for which a permit was issued before the effective date of this Chapter may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this Chapter.

2. Applications Submitted Prior to Effective Date

Pursuant to G.S. §160D-108, any complete application submitted before the effective date of this Chapter or sections herein may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this Chapter.

3. Prior Approvals

- a. Where a planned unit development, special use district, special use, or conditional use was approved prior to the effective date of this Ordinance, the provisions of this Ordinance shall apply to the extent that they do not conflict with the original conditions of approval.
- b. Pursuant to state law, any Conditional Use Permit approved prior to the adoption of this subsection that is valid and legal as of the effective date of this Ordinance is hereby transformed into an identical Special Use Permit immediately, subject to all established conditions and applicable standards of this Ordinance.

- c.** Pursuant to state law, any property zoned as a Conditional Use District or developed as a portion of a Planned Unit Development that is valid and legal prior to the adoption of this Ordinance is hereby transformed into a Conditional Zoning District immediately, subject to all established conditions and applicable standards of this Ordinance.

ARTICLE 2

ADMINISTRATION

Section 2.1 Established Boards, Commissions, and Staff

The following elected and appointed bodies shall have the various powers and responsibilities in administering this Ordinance and for reviewing and making decisions on applications for development approval, appeals, and amendments to this Ordinance as stated herein:

- A. The Board of Commissioners
- B. Planning Board
- C. Zoning Board of Adjustment
- D. Zoning Administrator
- E. Jackson County Historic Preservation Committee

Section 2.2 Organization

The boards provided by this Ordinance may adopt rules and maintain records in conformance with the following:

A. Rules of Conduct

A Board may adopt rules necessary to conduct its affairs and to establish Board organization, procedures, and the conduct of its meetings.

B. Conformance of Rules

The rules adopted by a Board shall be in accordance with North Carolina State law and the provisions of this Ordinance.

C. Election and Terms of Officers

Each Board shall elect a Chairman and Vice-Chairman from its membership. These officers shall serve for a term of one year, or until the expiration of the term of their appointment to the Board on which they serve.

D. Record of Meetings

Each Board shall keep accurate minutes of its proceedings and the actions taken in its meetings. When holding quasi-judicial hearings, the Board of Commissioners and the Board of Adjustment shall keep a transcript of the meeting and maintain a record of the evidence presented in the course of the hearing.

Section 2.3 Board of Commissioners**A. Organization**

Unless specifically modified in this Ordinance, the Board of Commissioners must conform to the rules and procedures that it utilizes during the conduct of its regular business.

B. Powers and Duties

In the application and enforcement of this Ordinance, the Board of Commissioners has the following powers and duties:

1. Final Approval Authority. The Board of Commissioners is the approving authority for the following:
 - a. Zoning Map Amendments
 - b. Zoning and Subdivision Ordinance Text Amendments
 - c. Conditional Zoning District Classifications
 - d. Preliminary Plat – Major Subdivision
 - e. Establishment of Vested Rights
2. To take minutes of all proceedings.

C. Conflict of Interest

A member of the Board of Commissioners shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Article 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 Board member shall not vote on any zoning amendment if the landowner of the property is 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.

D. Board Statements Required**1. Consistency Statement**

In regard to a zoning text or map amendment, once the Board of Commissioners has made a final decision to either adopt or reject the proposal, the Board shall approve a statement describing whether its action is consistent or inconsistent with *The Plan for Sylva 2040 Land Use Plan* and any other relevant plans having applicability to the proposed amendment.

2. Statement of Reasonableness

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 Board of Commissioners.

Section 2.4 Planning Board

A. Authority, Establishment, and Membership

The Planning Board shall serve as the planning agency under G.S. 160D-604. Members of the Planning Board shall be appointed by the Town of Sylva Board of Commissioners. Proportional representation from the extraterritorial jurisdiction (ETJ) shall be appointed to the Planning Board in accordance with G.S. 160D-307 and shall vote on decisions in the extraterritorial jurisdiction or that would affect zoning districts included in the extraterritorial jurisdiction. In order to ensure proportional representation from the ETJ, population estimates to the ETJ shall be updated no less frequently than after each decennial census.

B. Oath of Office

All members of the Planning Board shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

C. Powers and Duties

In the application and enforcement of this Ordinance, the Planning Board has the following powers and duties:

1. Review and Recommendation

The Planning Board has review and recommendation responsibility for the following:

- a.** Zoning Map Amendments, as required by NCGS 160D-604.

- b. Zoning and Subdivision Ordinance Text Amendments, as required by NCGS 160D-604.
- c. Conditional Zoning District Classifications.
- d. Preliminary Plat – Major Subdivision.
- e. Establishment of Vested Rights.

2. Minutes

To take minutes of all Board proceedings.

3. Additional Duties

To perform any other related duties that the governing board may direct.

D. Conflict of Interest

Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation 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 is 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. (NCGS 160D-109(b)).

E. Quorum

Four (4) or more members of the Planning Board shall constitute a quorum.

F. Voting

The concurring affirmative vote of a majority of the members present and qualified to vote is required to make a recommendation or any other decision in favor of an applicant. Tie votes must be considered recommendations for disapproval.

G. Vote of the Chairman

The Chairman of the Planning Board, or Vice-Chairman serving in that role in their absence or temporary disqualification, shall vote as any other member of the Board.

Section 2.5 Zoning Board of Adjustment

A. Authority, Establishment, and Membership

The Town of Sylva Zoning Board of Adjustment is hereby established pursuant to the authority of NCGS 160D-302. The Mayor and the Board of Commissioners shall serve as the Zoning Board of Adjustment. Proportional representation from the extraterritorial jurisdiction (ETJ) shall be appointed to the Board of Adjustment in accordance with G.S. 160D-307. The representative from the extra-territorial jurisdiction shall vote on decisions in the extraterritorial jurisdiction or that would affect a zoning district included in the extraterritorial jurisdiction. In order to ensure proportional representation from the ETJ, population estimates to the ETJ shall be updated no less frequently than after each decennial census.

B. Oath of Office

All members of the Planning Board shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

C. Powers and Duties

In the application and enforcement of this Ordinance, the Zoning Board of Adjustment has the following:

1. Final Approval Authority

The Zoning Board of Adjustment is the final approval authority for the following:

- a. Special Use Permits
- b. Variances
- c. Floodplain Variances

2. Appeals

The Zoning Board of Adjustment shall hear and decide on all appeals of permit denials and other administrative decisions made by the Zoning Administrator.

3. Minutes

To take minutes of all Board proceedings.

D. Conflict of Interest

1. Quasi-Judicial Decisions

A member of any board exercising quasi-judicial functions pursuant to this Ordinance 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 the 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 financial interest in the outcome of the matter.

2. Appointed Boards

Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Ordinance 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 is 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.

E. Quorum

Three (3) or more members of the Board of Adjustment shall constitute a quorum. However, a vote on a variance will require a 4/5 vote.

F. Voting

The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. (NCGS 160D-406(i))

Section 2.6 Zoning Administrator

A. Appointment

The Board of Commissioners shall, by a majority vote, appoint a Zoning Administrator who shall be duly sworn in and charged with administering and enforcing the provisions of this Ordinance. The Zoning Administrator shall serve at the pleasure of the board and may be removed from office without cause at any time by an affirmative vote of a majority of the members of the Board. The Zoning Administrator may delegate any authority or duties prescribed to his/her duty in order to ensure the efficient administration of this Ordinance.

B. Powers and Duties

In the application and enforcement of this Ordinance, the Zoning Administrator has the following powers and duties:

1. Review and Recommendation. The Zoning Administrator has review and recommendation responsibility for the following:
 - a. Zoning Map Amendments
 - b. Unified Development Ordinance Text Amendments
 - c. Conditional Zoning District Application Review
 - d. Conceptual Site Plan/Sketch Plan Review
 - e. Major Subdivision Preliminary Plats
 - f. Major Site Plans/Master Plans
 - g. Establishment of Vested Rights
2. Final Approval. The Zoning Administrator has final approval authority for the following and shall follow the procedures outlined in subsection 5, below when making a final determination on an application for the following:
 - a. Zoning Certificate
 - b. Minor Site/Master Development Plans
 - c. Minor Subdivision Plats
 - d. All Subdivision Final Plats

- e. Land Development Permits
- f. Certificates of Compliance
- g. Floodplain Development Permits
- h. Stormwater Management Permits

3. Administrative Adjustments and Minor Modifications

The Zoning Administrator is responsible for the review and approval (or denial) of minor modifications and administrative adjustments in accordance with Section 3.11 of this Ordinance.

4. Additional Duties

- a. Establish application content requirements and a submission schedule for the review of applications and appeals.
- b. Determine completeness of all applications for development approval.
- c. Maintain the Official Zoning Map and related materials.
- d. Enforce the regulations contained within this Ordinance. In exercising the full police power of the Town, the Zoning Administrator, or duly authorized representative, may enter any building, structure, or premises to perform any duty imposed by this Ordinance, provided entry is made with proper notice and at reasonable hours.
- e. Maintain the official copy of the Zoning and Subdivision Ordinance.
- f. Maintain a record of all permits and approvals.

5. Determinations

The Zoning Administrator is responsible for decisions made in the implementation, administration, and enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Ordinance. Within 14 days after a decision on an administrative determination is made, a copy of the decision shall be provided to the property owner and the party seeking determination. Written notice of the decision shall be made by personal delivery, electronic mail, or first-class mail. A copy of the decision may also be filed with the Zoning Administrator and available for public inspection during regular office hours.

C. Availability for Duty

The Zoning Administrator shall be available to receive applications by appointment. The Board of Commissioners may appoint a Deputy Zoning Administrator to serve in the place and instead of the Zoning Administrator for those times that the Zoning Administrator may be on leave of absence.

D. Conflict of Interest

The Zoning Administrator may not make a final decision on an administrative decision if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the Zoning Administrator or if the applicant or other person subject to that decision is a person with whom the Zoning Administrator has a close familial, business, or other associational relationship.

Section 2.7 Jackson County Historic Preservation Commission

A. Appointment

The Jackson County Historic Preservation Commission is established under the provisions of the Jackson County Unified Development Ordinance.

B. Powers and Duties

In the application and enforcement of the Jackson County Unified Development Ordinance, the Historic Preservation Commission has the power and duty to review and process Certificates of Appropriateness as outlined in Article 3 of the Jackson County Unified Development Ordinance.

ARTICLE 3 PROCEDURES

Section 3.1 General Provisions

In order to establish an orderly process to develop land within the jurisdiction of the Town of Sylva, consistent with standard development practices and terminology, this section provides a clear and comprehensible development process that is fair and equitable to all interests including the applicants, affected neighbors, Zoning Administrator, Staff, and related agencies, and the Town Board of Commissioners.

A. No Construction to Commence without Permit

No land shall be used or occupied, and no structures shall be erected, moved, extended, or enlarged, nor shall any timbering, clearing, and grubbing, or filling of any lot for the construction of any building be initiated until the Zoning Administrator has issued an appropriate development approval which will certify that the proposed work is in conformity with the provisions of this ordinance.

B. Development Approvals Run with the Land

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Article attach to and run with the land.

Section 3.2 Subdivisions

A. General Requirements

1. Compliance Required

Within the jurisdiction of this Article, no subdivision shall be made, platted, or recorded for any purpose, nor shall parcels resulting from such subdivision be sold or offered for sale unless such subdivision meets all the requirements of this Article and applicable development regulations contained in this Ordinance.

2. Plat Approval Required

No final plat of any subdivision within the Town of Sylva shall be filed or recorded by the County register of deeds until it shall have been prepared, submitted to, reviewed, and approved by the appropriate authority, in accordance with this Article, and such approval entered in writing on the plat.

3. Exempt Subdivisions

Any plat of property exempted from the regulations of this Ordinance (Section 3.2.B.) shall be certified as exempt by the Zoning Administrator or, in the limited circumstances specified in G.S. 47-30.f.(11), a professional land surveyor prior to such plat being recorded. Such plat is not exempt from any zoning, water supply watershed, or other local ordinances. Any exemption from the regulations of this chapter shall not be deemed an exemption from any other applicable ordinance.

4. Improvements/Performance Guarantees

Before final plat approval, each subdivision shall either contain the improvements specified in this ordinance and all conditions of approval or a satisfactory performance guarantee shall have been posted with the Town pursuant to Section 3.10. The improvements shall be installed in accordance with the requirements of this article and paid for by the subdivider unless other means of financing are specifically allowed within the requirements of Section 3.10 and paid for by the subdivider. The land shall be dedicated and reserved in each subdivision as specified in Article 6. Each subdivision shall adhere to the minimum standards of design established by this ordinance.

5. Aggregation

For any tract of land, no more than five (5) lots may be created by means of the minor subdivision review process. It is the intent of this section to preclude any attempt to avoid the major subdivision review process by the sequential subdivision of land into two (2) or more minor subdivisions. To that end, two (2) or more subdivisions shall be aggregated and treated as a single subdivision under this article when they are either contiguous to one another or contiguous to property owned or controlled by the person owning or controlling the land to be subdivided.

6. Filing or Recording of Unapproved Plat

Filing or recording of a plat of a subdivision not having the approval of the appropriate authority, as required in this Ordinance, shall be punishable as provided by Section 3.13

7. Penalties for Selling Lots in an Unapproved Subdivision

The owner or agent of the owner of any land to be subdivided within the area of jurisdiction of this Ordinance who transfers or sells or agrees to sell such land by reference to or exhibition of or by any other use of a plat of a subdivision of such land before such plat has been approved by the applicable authority and recorded by the register of deeds, shall be in violation of this Ordinance and subject to the regulations of Section 3.13. The description of the land by metes and bounds in the instrument of transfer shall not exempt the transaction from these penalties. Such transfer, sale, or agreement may be enjoined by appropriate action.

8. Effect of Plat Approval on Status of Dedication, Acceptance

The effect of plat approval on the status of dedications is as follows:

- a.** The approval of a plat shall not be deemed to constitute or affect an acceptance by the public for maintenance purposes of the dedication of any road, ground, or other improvements shown upon the plat.
- b.** Acceptance of such dedications shall be only by resolution of the Board of Commissioners or appropriate action by the State Department of Transportation. The Board of Commissioners shall consider such resolutions only on a determination that any required improvements have been properly installed and all applicable conditions met, as set out in this Ordinance.

9. Effect of Subdivision Regulations on Naming Streets

It shall be unlawful for any person, in laying out any new street or road, to name such street or road on any plat, by any marking, or in any deed or instrument without first getting the approval of the appropriate authority. Any person violating this subsection shall be subject to enforcement procedures as provided in Section 3.13.

B. Exempted Subdivisions and Expedited Subdivision Reviews

The following divisions of land are either exempt or subject to different submittal and review processes. The final recorded plats shall meet the drafting requirements contained in Section 3.6 and bear the appropriate certificates.

- 1.** The following shall be exempt and not subject to the subdivision or development regulations prescribed within this ordinance:
 - a.** The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not

increased and the resultant lots are equal to or exceed the standards of the Town as shown in the Zoning and Subdivision Ordinance.

- b.** The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved, and if the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations and Zoning Ordinances.
- c.** The public acquisition by purchase of strips of land for the widening or opening of streets.
- d.** The division of a tract in single ownership whose entire area is no greater than (2) acres into not more than three (3) lots, if no street right-of-way dedication is involved, and if the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations and Zoning Ordinance.
- e.** Division of land ordered by a court of law, to include division of property in a divorce decree, in condemnation proceedings, or in the settlement of a decedent's estate.

2. Expedited Reviews

Only a plat for recordation (Final Plat) is required for the division of a tract or parcel of land in single ownership if all the following criteria are met:

- a.** The tract or parcel to be divided is not exempted under Section 3.2.B.1.b.
- b.** No part of the tract or parcel to be divided has been divided under this subsection into the ten (10) years prior to division.
- c.** The entire area of the tract or parcel to be divided is greater than five (5) acres.
- d.** After division, no more than three (3) lots result from the division.
- e.** After division, all resultant lots comply with all of the following:
 - (1)** All lot dimension size requirements of the applicable land-use regulations, if any.

- (2) The use of the lots is in conformity with the applicable zoning requirements if any.
- (3) A permanent means of ingress and egress are recorded for each lot.

Section 3.3 Applications

A. Application Required

1. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land with the permission of the landowner, or an authorized agent of the landowner.
2. All completed applications for development approval shall be submitted to the Zoning Administrator, including their application fee, all appropriate documentation, and the plan sets in accordance with the requirements of this Section and the Fee Schedule adopted by the Town Board of Commissioners.

B. Completeness Review

1. Completeness Determination

Applicants shall submit applications to the Zoning Administrator in accordance with the applicable published schedule of submittal dates. Until an application is determined to be complete in accordance with the requirements of this Ordinance, an application has not been submitted.

On receiving a development application, the Zoning Administrator shall, within ten (10) business days, determine whether the application is complete or incomplete. A complete application is one that:

- a. Contains all information and materials required by this Zoning and Subdivision Ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for the Town of Sylva Zoning Administrator to evaluate the application for compliance with applicable review standards; and
- b. Is accompanied by the fee established for the applicable type of application.

2. Application Incomplete

- a. On determining that the application is incomplete, the Zoning Administrator shall, within ten (10) business days following submittal,

provide the applicant written notice of the submittal deficiencies electronically. The applicant may correct the deficiencies and resubmit the application for a completeness review.

- b.** If the applicant fails to resubmit an application within fifteen (15) calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. If an applicant submits a request in writing to the Zoning Administrator within fifteen (15) calendar days of the application abandonment date, fifty (50%) percent of the application fee paid for the withdrawn application shall be refunded.

3. Application Complete

On determining that the application is complete, the Zoning Administrator shall:

- a.** Accept the application as submitted in accordance with the procedures and standards of this Ordinance in effect at the time of the submittal; and
- b.** Provide the applicant written notice of application submittal acceptance electronically.

Section 3.4 Development Process Table

TABLE 3-1 DEVELOPMENT PROCESS TABLE

Development Approval	ZSO Section	Process Type	Reviewer	Public Notice	Approving Body	Appeal	Valid*	Extension
Zoning Certificate and Dev. Permits	3.5.B 3.7.A	Admin	Admin	N	Admin	BOA	6 months	6 months
Minor Site Plan/Master Plan	3.5.C 3.6.B.3	Admin	Admin	N	Admin	BOA	1 year	1 year
Major Site Plan/Master Plan	3.5.D	Quasi-Judicial	Admin	N	BOC	BOA	1 year	1 year
Minor Subdivision	3.5.E	Admin	Admin	N	Admin	BOA	1 year	Resubmit
Major Subdivision	3.5.F 3.6.B.5.	Admin	Admin/PB	N	BOC	BOA	1 year	1 year
Final Plat	3.6.B.6	Admin	Admin	N	Admin	BOA	30 days to file	Resubmit
Special Use Permit	3.5.G 3.8.C	Quasi-Judicial	Admin	Y	BOA	Superior Court	1 year	1 year
Appeal of Administrative Decision	3.8.A	Quasi-Judicial	-	Y	BOA	Superior Court	30 days to appeal	N/A
Variance	3.5.GH 3.8.B	Quasi-Judicial	Admin	Y	BOA	Superior Court	30 days to appeal	N/A
Text Amendment	3.5.I 3.9.B	Legislative	Admin/PB	Y	BOC	Superior Court	N/A	N/A
Map Amendment	3.5.I 3.9.B	Legislative	Admin/PB	Y	BOC	Superior Court	N/A	N/A
Conditional Zoning or PUD	3.5.J 3.5K-PUD 3.9.C	Legislative	Admin/PB	Y	BOC	Superior Court	It May be rescinded after 2 years	N/A
Developer Agreement	3.9.D	Legislative	Admin/PB	Y	BOC	Superior Court	Varies	Varies
Building Permit/ Construction Plans	3.6.B.5.	Admin	County Permitting Staff	N	County	Superior Court	6 months/ 2 years	1 year
Certificate of Compliance	3.5.L	Admin	Admin	N	Admin	BOA	--	N/A

Admin = Zoning Administrator or Administrative
PB= Planning Board

BOC = Board of Commissioners
BOA = Board of Adjustment

All Legislative and Quasi-Judicial Processes require public hearings in accordance with the procedures outlined herein.

* In accordance with NCGS 160D-108(d), unless otherwise specified, development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced.

Section 3.5 Review Process

The following Review Process Outline indicates the steps for submittals, reviews, and development approvals in accordance with the requirements of the Town of Sylva Zoning and Subdivision Ordinance. It should be noted that some applications may require additional information specific to the development approval being sought. Further, these processes may run concurrently, such as a Special Use Permit and Site Plan Approval or Major Subdivision and Rezoning.

A. Pre-Submittal/Sketch Plan

- STEP 1: Application
Fees
Sketch Plan
- STEP 2: Administrative Review
- STEP 3: Applicant Meeting. *This meeting may be held in a virtual setting on a web-based platform, by phone, or other means acceptable to both the Zoning Administrator and the applicant.*

B. Permitting Process (Zoning, Sign, Temporary Uses, Home Occupation, Accessory Use, Building)

- STEP 1: Application
Fees
Sketch or Site Plan
Architectural Drawings/Sign Details/Building Construction Drawings, as applicable
- STEP 2: Completeness Review
- STEP 3: Administrative Review
Building permits subject to Jackson County Inspections Department review)
- STEP 4: Permit Approved or Denied
If denied, the applicant may consider variance or appeal. May need Conditional District or Rezoning, as well.

C. Minor Site Plan/Master Plan. The Minor Site Plan/Master Plan process shall apply to a site plan with structures less than eighty thousand (80,000) square feet.

- STEP 1: Application
Fees
Existing Conditions
Project Description
Site Plan (individual) or Master Plan (phased)
Landscape Plan
- STEP 2: Completeness Review
- STEP 3: Administrative Review

Site plans that are on existing lots of records that have previously been subdivided are administratively reviewed. If approved, proceed to Step 7.

- STEP 4: Site Construction Plans/Preliminary Plat
Environmental Permits
- STEP 5: Building Permit
- STEP 6: Construction
- STEP 7: Final Plat (required if any public infrastructure).

D. Major Site Plan/Master Plan. The Major Site Plan/Master Plan process shall apply to a site plan with structures equal to or greater than eighty thousand (80,000) square feet.

- STEP 1: Application
Fees
Existing Conditions
Project Description
Site Plan (individual) or Master Plan (phased)
Landscape Plan
- STEP 2: Completeness Review
- STEP 3: Administrative Review/Public Notice
- STEP 4: Board of Adjustment Review and Evidentiary Hearing
- STEP 5: Site Construction Plans/Preliminary Plat
Environmental Permits
- STEP 6: Building Permit
- STEP 7: Construction
- STEP 8: Final Plat (required if any public infrastructure).

E. Minor Subdivision. Subdivision involving no new public or private streets or roads, or right-of-way dedication, no water or sewer system extension, the entire tract to be subdivided is less than ten (10) acres in size, and where five (5) or fewer lots result after the subdivision is completed.

- STEP 1: Application
Fees
Preliminary Plat
- STEP 2: Completeness Review
- STEP 3: Administrative Review
- STEP 4: Jackson County Review
- STEP 5: Final Plat/Signatures

F. Major Subdivision. All subdivisions are not considered a minor subdivision, an exempted subdivision, or an expedited review. Major Subdivisions shall be subject to a Sketch Plan and Pre-Submission Meeting

- STEP 1: Application
Fees

- Existing Conditions
- Project Description
- Site Constructions Plans/Preliminary Plat
- Drainage Calculations
- Landscape Plans
- STEP 2: Completeness Review
- STEP 3: Administrative Review
- STEP 4: Planning Board Review
- STEP 5: Board of Commissioners Review and Approval
- STEP 6: Environmental Permits
- STEP 7: Construction of Required Improvements
- STEP 8: Performance Guarantees
- STEP 9: Final Plat

G. Special Use Permit. A special use shall only be permitted when meeting a prescribed set of standards in a quasi-judicial process to ensure the project meets the requirements of this Zoning and Subdivision Ordinance as well as the protection of the health, safety, and welfare of the community.

- STEP 1: Application
- Fees
- Existing Conditions
- Project Description
- Master Plan
- Landscape Plan
- STEP 2: Completeness Review
- STEP 3: Administrative Review/Public Notice
- STEP 4: Board of Adjustment Review and Evidentiary Hearing

H. Variance. This process shall be followed when site conditions do not allow for the proposed land development to be constructed as outlined in this ordinance. A variance would allow for a deviation from the provisions of the Zoning and Subdivision Ordinance if it meets prescribed criteria.

- STEP 1: Application
- Fees
- Site Plan
- Project Description
- STEP 2: Completeness Review
- STEP 3: Administrative Review/Public Notice
- STEP 4: Board of Adjustment Review and Evidentiary Hearing

I. Amendments (Zoning Map or Text). Amendments to the zoning map or text of this ordinance allow for a change in use, zoning district, or development regulation.

- STEP 1: Application
Fees
Proposed Map of Area (if Map Amendment)
Proposed Text Changes (if Text Change)
Project Description
- STEP 2: Completeness Review
- STEP 3: Administrative Review/Public Notice
- STEP 4: Planning Board Review and Recommendation
- STEP 5: Board of Commissioners Review and Legislative Hearing

J. Conditional Zoning. Conditional Zoning is more fully described in Article 4. A *Conditional District* shall be adopted by the Board of the Commissioners, which allows a specific development with reasonable conditions. While the applicant for a conditional zoning district must accept any conditions placed on the approval, all such conditions do become binding with the land, and development of the site can only proceed in accordance with those conditions.

- STEP 1: Application
Fees
Existing Conditions
Project Description
Master Plan
Landscape Plan
- STEP 2: Completeness Review
- STEP 3: Administrative Review/Public Notice
- STEP 4: Planning Board Review
- STEP 5: Board of Commissioners Review and Legislative Hearing
Developers Agreement may be considered as a portion of the approval.

K. Planned Unit Development (PUD)

See Conditional District in Subsection I. PUD applications will follow the same procedures.

L. Certificate of Compliance

No building or structure hereafter erected or structurally altered or changed in use shall be used or occupied until the Zoning Administrator has issued a Zoning Certificate of Compliance. The Zoning Certificate of Compliance shall state that the building or portion of a building or lot is in compliance with the zoning provisions of this Ordinance, and with the information stated on the zoning permit. Once the Zoning Administrator has issued a Zoning Certificate of Compliance, the applicant can seek a Certificate of Occupancy from Jackson County.

Section 3.6 Plan Requirements

Required plan sheets submitted as a part of an application must have the necessary information for the Zoning Administrator and Boards to make an adequate and informed decision on the proposed land development. However, the Zoning Administrator may waive or require additional information based on the type of application, site conditions, or the stage of the development process in which the plan is being reviewed.

A. General

Unless otherwise noted, plans required by this Ordinance, or any portion thereof, with the exception of sketch plans, shall be prepared:

1. By an engineer, architect, landscape architect, or land surveyor who is authorized by the State of North Carolina to practice as such;
2. To a scale of one inch equal to forty (40) feet (1" = 40') or larger;
3. In one or more sheets to show clearly the information required by this section and to facilitate the review and approval of the site plan;
4. Showing all horizontal dimensions in feet;
5. Indicating decimal fractions of a foot shall be rounded to the closest one-hundredth of a foot (0.00); all bearings shall be in degrees, minutes, and seconds; and,
6. Showing the name and address of the owner or developer, the north arrow, the date, the scale of the drawing, and the number of sheets. In addition, it shall reserve a blank space three (3) inches in width by five (5) inches in length for the use of the approving authority.

B. Plans

The following plan types are required to be submitted with applications for development approvals in the Town of Sylva in accordance with the procedures in Section 7.1.C.:

1. Sketch Plan

A sketch plan is drawn to approximate scale on the appropriate sheet or sheets of Jackson County's tax map series and shall show: tentative street layout, approximate right-of-way widths, lot arrangements, drainage and utility easements, sites for schools, parks, churches, and other non-residential uses, existing structures, water courses, wooded areas, number of acres devoted to each use, total acreage, the approximate number of

lots, the name, address, and telephone number of the owner; the name, if any of the proposed subdivision; and existing zoning of the land to be subdivided and the land immediately adjacent to the proposed development. The sketch plans, when submitted or discussed as a portion of a pre-submittal meeting, shall not be a binding document nor shall its submission or review be construed as an approval.

2. Existing Conditions Plan

The existing conditions plan is a necessary part of the application process as it highlights the conditions of the subject site and allows both the applicant and the Town to take every effort to preserve environmental features prior to site design.

- a. Survey/Existing Development: The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, rights-of-ways, bridges, culverts, railroad lines, water courses, cemeteries, easements, utilities, driveway and curb cuts, sidewalks, parking, loading, brownfields or any known contaminated areas, any building restriction areas (i.e., flood hazard areas, stream buffers, watershed protection districts, and/or jurisdictional wetlands), or any other environmentally significant areas. Additionally, surveys must show the location of any historic or cultural resources.
- b. Scale: Denote the scale both graphically and numerically with the north arrow and declination.
- c. Vicinity Map: Include a vicinity map at a scale no smaller than one (1) inch equals one thousand two hundred (1,200) feet showing the location of the development with respect to adjacent streets and properties.
- d. Significant Vegetation: Provide a description and location of significant vegetation twelve (12) inches in diameter at breast height (DBH) or greater. Include the average size and height of stands of homogenous trees. State the typical tree species, size, spacing, and general health and vigor of forest stands. Identify all free-standing open-grown or field-grown specimen trees located on the site.
- e. Natural Features: Show all-important natural features influencing site design such as the location of wetlands, upland areas, rock outcropping, site topography at two-foot intervals, slopes steeper than twenty (20) percent, perennial streams, stream buffers, post-construction buffers water quality buffers, natural drainage ways,

lakes and other water bodies, floodplains indicating both the flood fringe and the floodway, soil types (including prime agricultural soils), and historical or cultural features, as well as designated open space or conservation easements on adjoining properties. Identify connections to existing or future contiguous open space and additionally, provides a study of viewsheds related to the site.

3. Master/Site Plan

The Master Plan/Site Plan shall show the basic but detailed form of the proposed layout of streets, lots, buildings other than a detached house, public and private open spaces, and other features in relation to existing conditions. It shall also include the following information:

- a.** Survey: The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements, or other significant features of the tract.
- b.** Scale: Denote the scale both graphically and numerically with the north arrow and declination.
- c.** Vicinity Map: Include a vicinity map at a scale no smaller than one (1) inch equals one thousand two hundred (1,200) feet showing the location of the development with respect to adjacent streets and properties.
- d.** Site Design: Depict the location of proposed buildings, parking and loading areas, streets, alleys, greenway connections, easements, lots, parks or other open spaces, reservations (i.e., transit shelter), property lines, and building setback lines with street dimensions, proposed lot dimensions, and the location of any building restriction area as described in the Environmental Inventory. Publicly accessible open space must show access points, trail locations, and any improvements proposed.
- e.** Site Calculations: Site calculations shall include total acreage of the tract, acreage in parks, public and private open space, and other non-residential uses, total number and acreage of parcels, and a total number of housing units, including the amount that will be affordable. All necessary pervious/impervious calculations required for compliance with the watershed overlay must be included.
- f.** Site Details: Provide street names, the owner's name and address, current on-site uses, the names and uses of adjoining property

owners, the name of the county and state which the development is located, the date of plan preparation, and the zoning classification of the tract to be developed and adjoining properties.

- g.** Street Cross-Sections: Provide typical cross-sections of proposed streets. Where a proposed street is an extension of an existing street, a cross-section of the existing street will be required. Where a proposed street abuts a tract of land that adjoins the development and may be expected to extend into the adjoining tract of land, the profile shall be extended to include three hundred (300) feet of the adjoining tract.
- h.** Timetable: A timetable for estimated project completion for each phase proposed.
- i.** Topography: Original contours at intervals not greater than five (5) feet for the entire area to be subdivided. Contours are to extend into the adjacent property for a distance of three hundred (300) feet at all points where street rights-of-way connect to the adjoining property, and fifty (50) feet at all other points of common project boundaries. County digital topography may be used to satisfy this requirement.
- j.** Illustrative Renderings: Provide illustrative renderings of all proposed buildings, including views from the public rights-of-way, illustrating the character of the neighborhood.
- k.** Restrictions: Describe any intended conservation easements, deed restrictions prohibiting further subdivision or development, or instruments reducing development rights.
- l.** Landscape Plan. (See Section 3.6.B.4 for details)

In addition to the required information listed on the previous page, the following information may be required by the Zoning Administrator on discretionary, site-specific bases if necessary:

- m.** Environmental Impact Statement: If required by Chapter 130A (Pollution Control and the Environment) of North Carolina General Statutes.
- n.** Watershed Protection Permit Application: Permit application and supporting calculations and plans in accordance with Section 9.5, Watershed Protection.
- o.** A Traffic impact Analysis or Traffic report.

4. Landscape Plan

The Landscape Plan shall include, at a minimum, the following information at a scale no smaller than one (1) inch equals one hundred (100) feet:

- a. Existing Landscape: General location, type, and quantity of existing plant materials, including those areas to be left in a natural state.
- b. Proposed Landscape: Locations, sizes, and labels for all proposed plants, including those in rights-of-way.
- c. Proposed Hardscape Improvements: Location of other hardscape improvements such as walls, paving, courtyards, and walks.
- d. Landscape Protection: Methods and details for preserving the critical root zone (CRZ) of existing plant materials during construction.
- e. Plant Lists: Plant lists with common name, botanical name, quantity, spacing, and size of all proposed landscape material at the time of planting.
- f. Proposed Landscape Improvements: Location, size, and labels for all proposed plants outside of rights-of-way. Include the location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, streetlights, and parking area lights, courtyards, walks, or paved areas.
- g. Installation Data: Planting and installation details as necessary to ensure conformance with all required standards.

5. Preliminary Plat/Site Construction Plans

The Site Construction Documents constitute the complete submittal requirements for preliminary plats. The Site Construction Documents shall be submitted at a scale no smaller than one (1) inch equals fifty (50) feet for preliminary plats. The following certifications are required on preliminary plats:

- Certificate of Survey and Accuracy
- County approval
- Town of Sylva approval

Preliminary plats must be drawn to the following specifications and must contain or be accompanied by the applicable information listed below. No review of Site Construction Documents will proceed without all of the following information:

- a.** Survey: The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements, or other significant features of the tract.
- b.** Scale: Denote the scale both graphically and numerically with the north arrow and declination.
- c.** Vicinity Map: Include a vicinity map at a scale no smaller than one (1) inch equals one thousand two hundred (1,200) feet showing the location of the development with respect to adjacent streets and properties.
- d.** Site Calculations: Site calculations shall include total acreage of the tract, acreage in parks, public and private open space, and other non-residential uses, total number and acreage of parcels, and a total number of housing units, including the amount that will be affordable. All necessary pervious/impervious calculations required for compliance with the watershed overlay must be included.
- e.** Site Details: Provide street names, the owner's name and address, the name of the surveyor, the names and uses of adjoining property owners, the name of the county and state in which the development is located, the date of plan preparation, and the zoning classification of the tract to be developed and adjoining properties.
- f.** Site Design: Depict the location of proposed buildings, parking and loading areas, streets, alleys, greenway connections, easements, lots, parks or other open spaces, reservations (i.e., transit shelter), property lines, and building setback lines with street dimensions, proposed lot dimensions, and the location of any building restriction area as described in the Environmental Inventory. Publicly accessible open space must show access points, trail locations, and any improvements proposed.

- g.** Topography. Existing topography and finish grading with contours drawn at two-foot intervals. At the Zoning Administrator's discretion, the use of County topographic data in five-foot intervals on a site-specific basis may be permitted. This requirement may be waived for developments smaller than one acre where the Zoning Administrator determines that there is an insufficient topographic change to warrant such information.
- h.** Water and Sewer: A statement from the Tuckasegee Water and Sewer Authority regarding the availability of adequate water and sewer capacity for the proposed development.
- i.** Utility Design: The plans for utility layouts, including sanitary sewer system, storm sewer system, water lines, and hydrants, illustrating connections to existing systems. All water supply systems and sewer collection systems noted on construction documents shall conform to Jackson County Land Development Standards, the Town of Sylva Standards, and Tuckasegee Water and Sewer Authority, as applicable. All storm drain systems shall also conform to these standards.
- j.** Utility Location: The location and size of all utility lines, easements, and rights-of-way including water, sewer, storm sewer, natural gas, and electric.
- k.** Easements: Easements shall be shown as follows:
- (1)** Utility Easements: Easements for underground or above-ground utilities shall be provided for and centered along rear or side lot lines. Easements for water lines, sanitary sewers, and storm drains shall be centered on the pipe.
 - (2)** Drainage Easements: Where development is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such stream and of sufficient width as shall be adequate to maintain the overall integrity of the drainage area and provide for its periodic maintenance.
 - (3)** Landscape Easements: Landscape easements along streets should be designed in accordance with the provisions of Article 7. The Town may require landscape easements where industrial or commercial uses abut residential uses or where any type of buffer is required.
 - (4)** Public Access Easements: Public access easements shall be provided for sidewalks, trails, greenways, and other

pedestrian and bicycle facilities that provide connections other than within public rights-of-way.

(5) Existing Conservation Easements: Deed restrictions prohibiting further subdivision or development, or instruments reducing development rights.

- l.** Landscape Plan (See Section 3.6.B.4 for details)
- m.** Parking: The location and dimensions of off-street parking and loading spaces, and walkways indicating the type of surfacing, size, angle of stalls, the width of aisles, and a specific schedule showing the number of parking spaces provided.
- n.** Signage: The location, size, height, and orientation of proposed signs.
- o.** Open Space: The location of proposed recreation areas, active and passive open space, and required amenities and improvements, including the calculated area of all required open space dedication in accordance with Article 6.
- p.** Streetscape Improvements: The location and dimensions of any sidewalks, curb and gutters to be installed along public street frontages, and other required street improvements within this ordinance, or on any other relevant transportation plan prepared by the Town, County, or Regional or State Organization. The required right-of-way shall be shown on any official plan at the width specified in this ordinance.
- q.** Street Cross-Sections: Typical cross-sections of proposed streets showing rights-of-way, pavements widths, grade, and design engineering data for all corners and curves. Where a proposed street is an extension of an existing street, a cross-section of the existing street will be required. Where a proposed street abuts a tract of land that adjoins the development and may be expected to extend into the adjoining tract of land, the profile shall be extended to include three hundred (300) feet of the adjoining tract.
- r.** Landfills: The location of any existing or proposed demolition landfills on the site. Such locations shall not be used for building.
- s.** Erosion Control: A copy of full soil erosion and sedimentation permit application including forms, plans, and calculations to be submitted to Jackson County and a copy of the approval letter prior to site plan or preliminary plat approval.

- t. Building Elevations: Final proposed elevations of all non-single family residential buildings proposed for construction as part of this site plan approval. Subsequent buildings within the development may be handled as separate site plans. Elevations shall include all façades visible from public streets.

In addition to the required information listed above, the following information may be required by the Zoning Administrator, on discretionary, site-specific bases if necessary:

- u. Watershed Protection Permit Application: Permit application and supporting calculations and plans in accordance with Section 9.5, Watershed Protection.
- v. Floodplain Permit Application: Development permit and certification application with supporting documentation as required by the floodplain overlay.

6. Final Plat

The Final Plat shall be prepared by a registered land surveyor, licensed to practice in the State of North Carolina, and must be drawn to a scale no smaller than one (1) inch equals one hundred (100) feet, and shall meet the requirements of the County Register of Deeds office. The Final Plat shall constitute all portions of the preliminary plat site, which the applicant proposes to record at the time.

No Final Plat shall be approved unless and until the applicant has installed in the platted area all improvements required by this ordinance or has posted improvement guarantees in accordance with this Ordinance.

The Final Plat shall contain the following:

- a. Purpose: In the Notes section, list the purpose of the plat as the first note. For example, the purpose should state: "The purpose of this plat is to..."
- b. Survey: The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements, buffers, or other significant features of the tract. The Town of Sylva, unless located in the ETJ, and then the County name shall be listed, the name of the owner, the name, registration number, and seal of the registered surveyor under whose supervision the plat was prepared, and the date of the plat.

- c.** Scale: Denote the scale both graphically and numerically with the north arrow and declination.
- d.** Vicinity Map: Include a vicinity map at a scale no smaller than one (1) inch equals one thousand two hundred (1,200) feet showing the location of the development with respect to adjacent streets and properties.
- e.** As-Built Drawings: As-built drawings and plans of all water, sewer, and storm drainage system facilities, illustrating their layouts and connections to existing systems. Such plans shall show easements and rights-of-way, to demonstrate that facilities are properly placed, and the location of all fire hydrants, blowoff valves, manholes, pumps, force mains, and gate valves. This information shall not be placed on the Final Plat but must be submitted at the time of the request for Final Plat approval or release of any surety for required improvements, whichever comes later.
- f.** Site Design Data: The accurate locations and descriptions of all monuments, markers, and control points. Sufficient data to readily determine and reproduce accurately on the ground the location, bearing, and length of every street, alley line, lot line, building line, easement line, and setback line. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.
- g.** Site Details: The lines and names of all streets, alley lines, lot lines, lot and block numbers, lot addresses, lots designated for affordable units, building setback lines, easements, designated tree save areas, reservations, on-site demolition landfills, and areas dedicated to public purpose with notes stating their purposes.
- h.** Floodplain: All lots subject to flooding shall be noted with the following statement: "Any construction or use within the areas delineated as floodway is subject to the restrictions imposed by Section 9.5."
- i.** Restrictions: Any intended conservation easements, deed restrictions prohibiting further subdivision or development, or instruments reducing development rights.
- j.** Certifications: All of the appropriate certifications must appear on the final plat.

Section 3.7 Administrative Procedures

The Zoning Administrator or his/her designee will be responsible for the administration of this Ordinance in accordance with the duties and responsibilities outlined in Article 2. Further, the Zoning Administrator will be responsible for the issuance of permits and other development approvals and/or determining the further applications (variance, rezoning) should an application not meet the requirements of this Ordinance.

A. Zoning Certificate

1. A complete application, in accordance with Section 3.3, is required for a Zoning Certificate.
2. No person shall commence or proceed with construction of any new building or with the reconstruction, alteration, repair, moving, or demolition of any existing building prior to the issuance of a Zoning Certificate. Application for a Zoning Certificate shall be filed with the Zoning Administrator and may be made prior to or in conjunction with an application for a permit under the North Carolina State Building Code. An administrative fee, in accordance with the Schedule of Fees and Costs, shall be applied to applications for a Zoning Certificate. Applications shall include the following information:
 - a. A site sketch, drawn to a scale of at least one inch to forty feet (1" = 40'), of the parcel of property showing its actual dimensions and indicating the size, location, and distance from property lines of the proposed building, any other existing building(s), and any other improvements proposed to be accomplished, including but not limited to driveways, sidewalks, and parking areas.
 - b. A drawing of the proposed building drawn to scale and in sufficient clarity and detail to indicate the nature and character of the work to be done, consisting at a minimum of a floor plan and elevations of the building (except, however, that the Zoning Administrator may approve minor construction work without compliance with this requirement).
 - c. A description of the use to which the completed project shall be devoted.
 - d. Any other information the Zoning Administrator may deem reasonably necessary to evaluate compliance of the applicant's proposal with the provisions of this Ordinance.
2. The Zoning Administrator shall review each element of the application and if satisfied that the work described therein complies with the ordinance, issue a Zoning Certificate. Zoning Certificates may be issued prior to

application for a permit under the North Carolina State Building Code. After a Zoning Certificate has been issued, no changes or deviations from the terms of the application, plans, or permit shall be made unless specific written approval has been obtained from the Zoning Administrator, in accordance with Section 3.11, Administrative Modifications. If the Zoning Administrator finds the application to be deficient or the information contained therein to be contrary to the provisions of this Ordinance, the application for a Zoning Certificate shall be denied and a written statement setting forth the reasons for the rejection provided to the applicant.

3. A Zoning Certificate shall expire six months after the date of issuance if the work authorized has not commenced. If after commencement the work is discontinued for a period of twelve (12) months, the certificate shall immediately expire. Upon expiration, the certificate shall become void, and no work may be performed until a new certificate has been secured.

B. Land Development Permits and Site Plans

1. Applications for approval of site plans and development permits shall be filed with the zoning administrator as outlined in this Article. The application shall be accompanied by applicable fees as approved by the Board of Commissioners.
2. The administrator shall review the applications for completeness and for compliance with the requirements of this Ordinance and shall issue a determination in accordance with the duties outlined in Article 2.
3. After the plans have been approved and the permits have been issued, no changes or deviations from the terms of the application, plans or permits shall be made unless specific written approval has been obtained from the Zoning Administrator, in accordance with Section 3.11, Administrative Modifications.
4. If the Zoning Administrator finds the application to be deficient or the information contained therein to be contrary to the provisions of this Ordinance, the application shall be denied and a written statement setting forth the reasons for the rejection provided to the applicant.

C. Preliminary Plats for Major Subdivisions

1. Applications for approval of a preliminary plat for a major subdivision shall be filed with the zoning administrator as outlined in this Article. The application shall be accompanied by applicable fees as approved by the Board of Commissioners.

2. The administrator shall review the applications for completeness and for compliance with the requirements of this Ordinance and prepare a report to be provided to the Planning Board.
3. The Planning Board shall review the site plan or preliminary plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the administrator receives the application.
4. The Planning Board shall, in writing, recommend to the Board of Commissioners' approval, conditional approval with recommended changes, or disapproval of the preliminary plat within forty-five (45) days of its first consideration of the plat.
5. The Board of Commissioners shall take action with a legislative hearing (Section 3.9.E). upon an application for approval of a preliminary major plat within forty-five (45) calendar days after acceptance of the recommendation of the planning board unless the applicant consents in writing to an extension of this time limit.
 - a. Where applications are approved unconditionally, the administrator shall notify the applicant of the approval date.
 - b. Where applications are approved with conditions, the Administrator shall notify the applicant in writing of the conditions and the reasons.
 - c. Where applications are denied, the Administrator shall notify the applicant of the reasons.

D. Minor and Expedited Subdivision Plats/Final Plats

1. Minor Subdivision Plats

- a. Applicants for Minor Subdivisions and Expedited Subdivisions shall file an application for a Final Plat with the Zoning Administrator as outlined in this Article. The application shall be accompanied by applicable fees as approved by the Board of Commissioners.
- b. The administrator shall review the applications for completeness and for compliance with the requirements of this Ordinance and shall issue a determination in accordance with the duties outlined in Article 2.
- c. Approved Final Plats shall be recorded by the County.

2. Final Major Plats

If the final major plat conforms to the approved preliminary major plat, requirements lawfully established under this section, and all preliminary conditions of approval, the administrator shall administratively approve the final major plat within ten (10) working days from receipt of a complete final subdivision submittal. All required improvements shall be complete, or a performance guarantee package shall be submitted in accordance with this Article and subsequently approved by the Board of Commissioners.

E. Certificate of Compliance

1. A complete application, in accordance with Section 3.3, is required for a Certificate of Compliance.
2. A Certificate of Compliance shall be secured from the Zoning Administrator before the making of a permanent connection to electrical service, water service, or sewer service.
3. If any repairs, improvements, or alterations have been performed for which a Zoning Certificate has been issued, a Certificate of Compliance shall be secured from the Zoning Administrator within thirty (30) days from the completion thereof.
4. The Certificate of Compliance shall certify that the Zoning Administrator has inspected the completed improvements and that the improvements, together with the proposed use thereof, are in conformity with the Zoning Certificate and the provisions of the ordinance.
5. No new building or part thereof, no addition or enlargement of any existing building, and no existing building that has been altered or moved shall be occupied until a Certificate of Compliance has been issued.
6. The Zoning Administrator may issue a Temporary Certificate of Compliance permitting the occupancy of specified portions of an uncompleted building or project for a limited time, not to exceed six (6) months, if the Zoning Administrator finds that the portion of the building or project may safely be occupied prior to the final completion of the entire building or project. The Zoning Administrator may renew the Temporary Certificate of Compliance for additional periods, each period not to exceed six (6) months.

Section 3.8 Quasi-Judicial Procedures

A. Appeals of Administrative Decisions

The following is established to provide an appeal process for parties aggrieved by an order, requirement, decision, or determination made by the Zoning Administrator charged with enforcing the specific provision of the ordinance.

1. **Application Procedure:** An appeal of an administrative decision may be taken by any person who has standing under G.S. 160D-1402(c) or by the Town, to the Board of Adjustment. Such an appeal shall be made within thirty (30) days of the receipt of the written notice of decision from the Zoning Administrator, or of the filing of the written notice with the Town Clerk. If notice is sent via first-class mail, it is deemed received on the third business day following the deposit of the notice, for mailing with the United States Postal Service. A complete application, in accordance with Section 3.3, is required for an Appeal.
2. **Stay of Proceedings:** The filing of an appeal shall stay enforcement of the action appealed from and accrual of any fines assessed during the length time of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the length of time of any civil proceeding authorized by law or appeals therefrom unless the Zoning Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order or preliminary injunction granted by the Superior Court of Jackson County in accordance with Rule 65 of the North Carolina Rules of Civil Procedure.
3. **Required Appeal Application Information:** Upon submission of a complete application, containing such relevant information as may reasonably allow the Board of Adjustment to understand the basis for the applicant's appeal, the Zoning Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
4. **Review Process**
 - a. Upon receiving the application and being deemed complete, the Zoning Administrator or designated staff for the Board of Adjustment shall schedule a public, evidentiary hearing on the appeal. The applicant, the local government, and any person who would have the standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Refer to Section 3.8.E for hearing procedures.

- b. After conducting the public hearing, the Board of Adjustment shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision, or determination in question. It shall take a simple majority vote of the Board of Adjustment to reverse or modify the contested action.
- c. The Board of Adjustment, in making its ruling, shall have all the powers of the Zoning Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
- d. The decision of the Board of Adjustment must be in writing and permanently filed in the minutes as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board of Adjustment, which must be delivered to parties of interest by certified mail.

B. Variances

The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance. However, in no event shall the Board of Adjustment grant a variance that would conflict with any state code, would allow the establishment of use that is not otherwise allowed in a particular zoning district, or which would change the zoning district classification or the district boundary of the property in question.

1. **Application Procedure.** An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such an application. Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Zoning Administrator shall schedule the matter for consideration at a meeting of the Board of Adjustment. The Zoning Administrator shall prepare a staff report regarding the submitted variance application.
2. **Review Process**
 - a. Upon receipt of the request for a variance from the Zoning Administrator, the Board of Adjustment shall hold a public, evidentiary hearing on the request.
 - b. After conducting the hearing and within forty-five (45) days, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with additional conditions.

A concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance.

- c. Conditions. In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The Board of Adjustment may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this ordinance. Such conditions and safeguards must be reasonably related to the condition or circumstance that gives rise to the need for a variance.
- d. Any approval or denial of the request shall be accompanied by written findings of fact supporting the conclusion that the variance meets or does not meet each of the standards set forth in Section 7.3.B.3.

3. Required Findings. The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

- a. Carrying out the strict letter of the ordinance would result in unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- c. The hardship did not result from actions taken by the applicant of the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.
- e. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, or expand, or extend a nonconforming use.

Moreover, the existence of a nonconforming use is the same or in any other zoning district shall not constitute a reason for granting the requested variance.

C. Special Use Permits

Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

1. Application Procedure

An application for a Special Use Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such an application. Each application for a Special Use Permit shall contain legal descriptions, a site plan (Section 3.6.B), and other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided. The Zoning Administrator shall review the application to ensure that it is complete and if complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Adjustment.

2. Review Process

a. Board Hearing and Decision

The Board of Adjustment shall hold an evidentiary hearing. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. Upon reviewing all of the pertinent information, the Board of Adjustment may approve, deny or approve with conditions the Special Use Permit by a majority vote.

b. Conditions

The Board of Adjustment may place conditions on the use as part of the approval to assure that mitigation measures are associated with the use. The conditions shall become part of the Special Use Permit approval and shall be included in the final site plan application. However, the Board must not impose conditions on special use permits that the Town does not otherwise have the statutory authority to impose. Further, there must be written consent by the applicant to the related conditions.

c. Findings of Fact

In addition to determining that the application meets all other requirements of this ordinance, the Board of Adjustment must find the following in order to grant approval of a Special Use Permit:

- (1) The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of the landscaping on the site.
- (2) The proposed use will not cause undue traffic congestion or create a traffic hazard.
- (3) Adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use.
- (4) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
- (5) The establishment of the proposed use shall not impede the orderly development and improvement of the surrounding property.
- (6) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
- (7) The proposed use will not substantially injure the value of adjoining or abutting property. or, in the alternative, the use is a public necessity.
- (8) The proposed use is consistent with the officially adopted plans and policies of the town, including any specific use standards, specifications, and other requirements of this ordinance

d. Permit Validity

Special Uses that have been granted approval must begin development within one (1) year following approval or the approval becomes invalid.

e. Permit Extension

The Board of Adjustment may grant one (1) extension of this time period of up to one (1) year, upon submittal by the applicant of

sufficient justification for the extension, prior to the actual expiration of the permit. Sufficient justification may include but is not limited to, delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

D. Evidentiary Hearing Notice

All quasi-judicial processes are required to have an evidentiary hearing. Public notice of the meetings is required.

1. Mailed Notice

Notice of evidentiary hearings required to be held in accordance with this Article shall be mailed to the applicant, the owner of the property (if not the applicant), and to the owners of all parcels of land abutting the subject property. The Town may use county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing.

2. Posted Notice

The Town shall also prominently post a notice of the hearing on the subject site that is the subject of the hearing or on an adjacent street or highway right-of-way no more than twenty-five (25) days but no less than ten (10) days prior to the hearing.

3. Continuation of Hearing with Notice

The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

E. Evidentiary Hearing Procedures

Evidentiary hearings are required to gather competent, material, and substantial evidence. They are held by the body making the quasi-judicial decision, either Board of Adjustment or Board of Commissioners.

1. **Materials**

The Zoning Administrator or staff to the Board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing as long a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record.

2. **Presentation of Evidence**

The applicant, the local government, and any person who would have the standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. This includes presenting evidence, cross-examination of witnesses, objecting to evidence and making legal arguments. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Further, the Council/Board may subpoena witnesses and compel the production of evidence.

3. **Objections**

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party or the inclusion or exclusion of administrative materials, may be made to the Board. The Board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

4. **Zoning Administrator as Witness**

The official who made the decision or the person currently occupying that position, if the decision-maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness.

5. **Oaths**

The Board Chair or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

6. Voting

A simple majority is needed for all quasi-judicial decisions with the exception of variances that require a concurring vote of four-fifths of the Board/Council. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the majority if there are no qualified alternates available to take the place of such members.

7. Decisions

Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be in writing, reflect the Board's determination of contested facts and their application to the applicable standards. Each decision approved by the board shall be signed by the chair.

8. Effective Date

A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board. The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy of the decision.

9. Judicial Review

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

F. Appeals from Quasi-Judicial Decisions

An appeal from the decision of the Board of Adjustment regarding a quasi-judicial decision may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. Any such petition shall be filed with the clerk of the superior court by the later of thirty (30) days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

Section 3.9 Legislative Procedures

A. Comprehensive Plan Approval and Updates

As a condition of adopting and applying zoning regulations, the Town shall adopt and maintain a comprehensive plan or land use plan, adopted by the Board of Commissioners as a legislative process, with the advice and consultation of the Planning Board, in accordance with the requirements of Section 1.5 of this Ordinance and G.S. 160D-501. Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601 and Section 3.9.B. of this Ordinance.

1. Comprehensive or Land Use Plans do not expand, diminish, or alter the scope of authority for development regulations.
2. An adopted Comprehensive Plan or Land Use Plan shall be considered by the Planning Board and the Board of Commissioners when considering proposed amendments to zoning regulations as required by G.S. 160D-604 and G.S. 160D-605.
3. If a Comprehensive or Land Use plan is deemed amended by the adoption of a zoning amendment that is inconsistent with the plan (G.S. 160D-605), that amendment shall be noted in the plan.

B. Zoning Map and Text Amendments

Board of Commissioners may from time to time amend any part of the text of this ordinance, the Comprehensive Plan/Future Land Use Plan, as mentioned in Section 1.6, or amend the Zoning Map of the Town. Any development regulation adopted subject to this Ordinance shall be adopted by Ordinance as a legislative procedure.

1. Application Procedure

- a. An application, meeting the requirements of this Article, shall be submitted to the Town for completeness review. Upon being deemed complete, the Zoning Administrator shall review, prepare a staff report, and schedule the matter before the Planning Board prior to scheduling a public hearing.
- b. Initiation. The Board of Commissioners, any Town agency, or any resident or landowner within the land use jurisdiction of the Town may initiate a rezoning, except that no amendment to a zoning regulation or a zoning map that down-zones property shall be initiated nor enforceable without the written consent of all property owners subject to the amendment unless initiated by the Town. For

purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage."

2. Citizen Comment

If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to zoning regulation, including a text or map amendment that has been properly initiated as provided in 160D-601, to the clerk to the Council at least two (2) business days prior to the proposed vote on such change, the clerk to the Council shall deliver such written statement to the Board of Commissioners.

3. Planning Board Review

- a. All proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within thirty (30) days of referral of the amendment to that board, the Board of Commissioners may act on the amendment without the planning board report. The Board of Commissioners is not bound by the recommendations, if any, of the planning board.
- b. Review of Other Ordinances. Any development regulation other than a zoning regulation that is proposed to be adopted pursuant to this Ordinance may be referred to the planning board for review and comment.
- c. Plan consistency. When conducting a review of proposed text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan or future land use plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency.
 - (1) A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan

shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

(2) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning 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 recommendation made.

d. The review and comment required of the Planning Board by this section shall not be assigned to the Board of Commissioners and must always be performed by a separate board, even if the Board of Commissioners is acting on behalf of the Planning Board.

4. Board of Commissioners Statement

a. Plan Consistency

When adopting or rejecting any zoning text or map amendment, the Board of Commissioners must approve a brief statement describing whether its action is consistent or inconsistent with the comprehensive plan. The requirement may also be met by a clear indication in the minutes of the Board of Commissioners that the Board of Commissioners was aware of and considered the planning board's recommendations and any relevant portions of the comprehensive plan.

(1) If a zoning map amendment is adopted and the action was deemed inconsistent with the 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.

(2) A comprehensive plan amendment and a zoning amendment may be considered concurrently.

(3) The comprehensive plan consistency statement is not subject to judicial review.

(4) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Commissioners' statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

b. Additional Reasonableness Statement for Rezoning

When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. This statement of reasonableness may consider, among other factors:

- (1) The size, physical conditions, and other attributes of the area proposed to be rezoned,
- (2) The benefits and detriments to the landowners, the neighbors, and the surrounding community,
- (3) The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- (4) Why the action is taken is in the public interest; and
- (5) Any changed conditions warranting the amendment.
- (6) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of Commissioners' 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.

C. Conditional Districts

A conditional district is a zoning district in which site plans or individualized development conditions are imposed. Conditional districts are permitted by and in accordance with the requirements of G.S. 160D-703. Article 4 of this Ordinance contains regulations regarding its applicability.

1. Conditional zoning is a legislative process.
2. Property may be placed in a conditional district only in response to a petition or application by all the owners of the property to be included.

3. Specific conditions may be proposed by the Town, its agencies, or the applicant, but only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the zoning regulations.
4. The Town may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law unless consented to by the petitioner in writing.
5. **Modifications**
 - a. Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively in accordance with Section 3.11.B.
 - b. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments.
 - c. If multiple parcels of land are subject to conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

D. Developer Agreements

1. Authorization

As authorized by G.S. 160D-1001., the Town may enter into development agreements with developers subject to the procedures of Article 10 of that Chapter and the established procedures and requirements included below.

2. General

- a. The Town may not exercise any authority, make any commitment, or impose any tax or fee not authorized by law.
- b. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations.

- c. Development shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of the property, including permitted uses, density, intensity, design, and improvements.

3. Hearing

A development agreement must be approved by the Board of Commissioner following a legislative hearing on the proposed agreement. Notice of the hearing shall be made in accordance with Subsection E. of this Article. The notice must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

4. Agreement Incorporated into Ordinance

Further, the development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town.

- a. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement.
- b. A development agreement may be concurrently considered with and incorporated by reference with a plan or preliminary plat required under a subdivision or zoning regulation.
- c. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

5. Contents

A development agreement shall, at a minimum, include subsections a. through g. below. Items contained in subsections h. through j. below are at the discretion of the Board of Commissioners for the specific development:

- a. A description of the property subject to the agreement and the names of its legal and equitable property owners.
- b. The duration of the agreement. However, the parties may enter into subsequent development agreements that may extend the original duration period. Any action requiring an extension shall be

requested prior to the actual expiration date to ensure there is no lapse in coverage.

- c.** The development uses permitted on the property, including densities and building types, intensities, placement on the site, and design.
- d.** A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to a successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
- e.** A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions, agreed to by the developer that exceeds existing laws related to the protection of environmentally sensitive property.
- f.** A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
- g.** A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- h.** A development schedule, including start dates and interim completion, dates at no greater than five (5) year intervals. Modifications to dates may be requested by the developer.
- i.** If another government entity is made a party to the agreement, the agreement must specify which government body is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.
- j.** Performance guarantees in accordance with G.S. 160D-804.1 and Section 3.10 of this ordinance.

E. Notice and Hearing Procedures

1. Hearing Notice for Zoning Map Amendments, Developer Agreements

a. Mailed Notice

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 by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridors. This notice must be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the hearing. If the hearing is for a development agreement the notice must specify the location of the property, the development uses proposed on the property and must specify a place where a copy of the proposed development agreement can be obtained.

b. Published Notice for Large-Scale Zoning Map Amendments

If the zoning map amendment proposes to change the zoning designation of more than fifty (50) properties, owned by at least fifty (50) different property owners, the Town may opt instead of mailing notices as in Subsection a., above, to provide an expanded published notice. A notice of the hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The advertisement shall not be less than one-half (1/2) of a page in size. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (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. Property owners who reside outside of the newspaper circulation area shall be notified according to the provisions of subsection a. of this section.

c. Posted Notice

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

3. Hearing Notice for Text Amendments

A notice of the hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (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.

4. Voting

The Board of Commissioners shall permit the adoption of a legislative decision for development regulations on the first reading by a simple majority.

F. Declaratory Judgements

Judicial challenges of legislative decisions of the Board of Commissioners, including the validity or constitutionality of development regulations adopted pursuant to this Article, may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The Board of Commissioners shall be named a party to the action.

Section 3.10 Performance Guarantees

To ensure compliance with the development regulation requirements of NCGS 160D and this ordinance, The Town of Sylva may require Performance Guarantees to assure successful completion of these required improvements.

A. Type

The type of the performance guarantee shall be at the election of the developer.

1. A surety bond issued by any company authorized to do business in North Carolina
2. Letter of credit issued by any financial institution licensed to do business in North Carolina
3. Other forms of guarantee provide equivalent security to a surety bond or letter of credit.

B. Duration

The duration of the performance guarantee shall initially be one (1) year unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

C. Extension

A developer shall demonstrate reasonable, good-faith progress toward the completion of the required improvements. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for the duration necessary to complete the required improvements.

D. Release

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the Town that the improvements for which the performance guarantee is being required are complete. This shall be as twenty-five (25%) percent, fifty (50%) percent, seventy-five (75%) percent, and one hundred (100%) percent of the project is completed; a corresponding percentage can be released, unless the Board of Commissioners and the developer agree to an alternative schedule at the time of approval.

E. Amount

The amount of the performance guarantee shall not exceed one hundred ten percent (110%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for the completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional ten percent (10%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred ten percent (110%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

F. Timing

The Town requires the performance guarantee to be posted at the time the plat is recorded.

G. Coverage

The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

H. Legal Responsibilities

No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

1. The Town of Sylva to whom the performance guarantee is provided.
2. The developer at whose request or for whose benefit the performance guarantee is given.
3. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

I. Multiple Guarantees

The developer shall have the option to post one type of performance guarantee in lieu of multiple securities, for all development matters related to the same project requiring performance guarantees.

J. Review and Approval

Performance guarantees and any renewal of performance guarantees shall be reviewed by the Planning Board and approved by the Board of Commissioners. All approved performance guarantees shall be noted on the Final Plat.

K. Exclusion

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

Section 3.11 Administrative Modifications and Adjustments

A. Administrative Adjustments

This section provides the Zoning Administrator with the authority to permit deviations from the development standards for setbacks, lot width, and number of parking spaces required by this section, provided certain conditions are met. The flexible development standards shall be administered in order to promote the orderly development and redevelopment of property within the Town of Sylva. Decisions shall be in writing and conditions may be placed on the approval of flexible development standards to ensure that the intent of this section is achieved.

1. Review Standards

An administrative adjustment shall be approved by a decision of the Zoning Administrator when the applicant demonstrates all of the following:

- a. The administrative adjustment is consistent with the thresholds for an administrative adjustment established in this section;
- b. The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;
- c. The administrative adjustment is either:
 - (1) Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
 - (2) Supports an objective or goal from the purpose and intent statements of the zoning district where it is located; or
 - (3) Saves healthy existing trees; or
- d. The administrative adjustment will not pose a danger to the public health or safety;
- e. Adverse impacts resulting from the administrative adjustment will be fully mitigated; and

- f. The development standard being adjusted is not the subject of a previously approved administrative adjustment on the same site.
- g. The development standard being adjusted is not expressly prohibited by a condition of approval.

2. Administrative Adjustments Permitted. The Zoning Administrator may approve the following:

a. Setbacks

From the required setbacks in Article 4 by up to two feet, provided there are site or structural conditions that preclude strict adherence to the setback requirements, or the proposed location of the structure will allow preservation of existing vegetation.

NOTE: State Building Code regulations regarding building separation will take precedent and may, therefore, limit the adjustment allowed.

b. Parking

For uses that have up to 25 percent less than the required number of spaces set forth in Article 7, provided that the applicant provides proof that the proposed number of spaces will meet the needs of the use; the project is a redevelopment of an existing structure and there is insufficient space on the site to accommodate the required parking; or the reduced parking will permit the preservation of existing vegetation.

c. Lot dimension

Adjustments up 10 percent in the required lot widths provided the reduced lot width will not inhibit the reasonable use of the lot.

B. Minor Modifications

Occasionally, unanticipated circumstances require changes to approved development plans and permits, including developer agreements and site-specific vesting plans. In accordance with NCGS 160D-403.(d), the Town of Sylva allows for minor modifications to be administratively approved, however, all major modifications require the same procedures to be followed as were completed for the original approval. This administrative flexibility reduces the need for a full approval process to accommodate a limited change to the plans for a project.

1. **Modifications Unable to be Approved Administratively.**

The following are considered major modifications and shall not be approved administratively. These changes must follow the same process as the original approval.

- a. Any change in land use.
- b. Any change in density.
- c. When there is the introduction of a new vehicular access point to an existing street, road, or thoroughfare not previously designated for access.
- d. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area last approved by the Board of Commissioners.
- e. A change in the type of proposed dwelling unit (e.g., Single-family detached to Townhouse).
- f. When the number of existing trees to be preserved decreased more than ten percent (10%) beyond the number of trees shown on the approved plans.
- g. Any change that would increase traffic beyond the levels projected in the approved Transportation Impact Analysis (TIA).
- h. Any increase in the stormwater impact beyond what was identified in the approved stormwater analysis for the project.
- i. Any change which alters the basic development concept of the approval.
- j. Any net reduction in the area of a buffer or a reduction in the width of more than twenty-five (25%) of the approved width.
- k. For developer agreements, any change in deadlines or completion dates in excess of three (3) months.
- l. Any minor modification beyond the permitted number of modifications for specific approval.

2. Minor Modifications

The Zoning Administrator is authorized to review and approve administratively a minor modification to an approved Special Use Permit, Conditional Zoning, Major Subdivision, Minor or Major Site Plan, or Vesting Plan, subject to the following limitations.

- a. General Limitations.** The minor modification shall meet the following:
- (1) Does not involve a change in the uses permitted or the density of overall development permitted.
 - (2) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
 - (3) In compliance with all other ordinance requirements.
 - (4) Limited to two (2) modifications per development approval for the life of the project.
- b. Site Design.** Site design minor modifications are limited adjustments to the terms of the design of an approved development plan or plat, including a site plan attached as a condition to conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:
- (1) Comply with underlying zoning standards and other applicable conditions of the approval;
 - (2) Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building or internal driveway location, or a minor adjustment to utility alignment.
- c. Dimensional Standards.** Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the Zoning Administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.

In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:

- (1) An adjustment to parking requirements up to the greater of five (5) spaces or ten (10) percent.
- (2) An adjustment to setback requirements up to greater than five (5) feet or twenty-five (25) percent of the standard setback.
- (3) An adjustment to landscape standards up to twenty (20) percent of required landscaping.

C. Appeals and Variances

A decision on administrative adjustment or minor modification may be appealed to the Board of Adjustment as an administrative determination. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

D. Individual Parcels within a Conditional Zoning District

For a conditional zoning district applicable to multiple parcels, the owners of individual parcels may apply for a minor modification or major amendment so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties whose owners petitioned for the change.

Section 3.11 Vested Rights and Permit Choice

- A.** The zoning vested right is a right which is established pursuant to N.C.G.S.160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan. Obtaining development approval through the vested rights precludes any action by the Town of Sylva that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations. As such, amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:
1. Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
 2. Subdivisions of land for which a development permit application authorizing the subdivision have been submitted and subsequently issued in accordance with G.S. 143-755.
 3. A site-specific vesting plan pursuant to G.S. 160D-108.1 and subsection H, below.

4. A multi-phased development pursuant to Subsection D.
5. A vested right established by the terms of a development agreement

B. Duration of Vested Rights

1. Upon issuance of a development permit, the vesting granted for a development project is effective upon the filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid. Unless otherwise specified, building permits expire after six (6) months and development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced.
2. Except where a longer vesting period is provided by statute or land development regulation, the vesting granted expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than twenty-four (24) consecutive months. The vesting period for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than twenty-four (24) consecutive months.

C. Multiple Permits.

Where multiple development permits are required to complete a development project, the applicant may choose the version of each of the Town's land development regulations applicable to the project, upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within eighteen (18) months of the date following the approval of an initial permit.

D. Multi-Phased Developments.

A multi-phased development is a development containing over twenty-five (25) acres that are both submitted for development approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of each phase.

1. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development.
2. A right that has been vested as provided for herein remains vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phased development.

E. Continuing Review

Following the issuance of a development permit, the Town of Sylva may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original approval.

F. Process to Claim Vested Right.

A person claiming a vested right may submit information to the zoning administrator, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

G. Runs with the Land.

Vested rights run with the land except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of the permit issued by the North Carolina Department of Transportation.

H. Site-Specific Vesting Plans

1. A site-specific vesting plan consists of a plan submitted to the Town in which the applicant requests vesting, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The development approvals listed below are determined by Sylva to qualify as site-specific vesting plans.
 - a. Preliminary Plat
 - b. Minor Subdivision
 - c. Major Subdivision
 - d. Special Use Permit
 - e. Planned Unit Development
 - f. Conditional Zoning
2. A vested right established pursuant to this ordinance shall run for a period of two (2) years from the effective date of the approval of the underlying development application.

3. Approval Process for a site-specific vesting plan

- a. Each site-specific vesting plan shall include the information required by the Board of Commissioners and outlined in Section 3.12.A for the underlying type of development plan.
- b. Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development plan. If the vesting plan is not based on such approval, a legislative hearing as required by NCGS 160D-602 shall be held.
- c. The Town of Sylva may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare.
- d. A site-specific vesting plan is deemed approved upon the effective date of the Board of Commissioners' decision approving the plan.
- e. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government in the same manner as required for the underlying type of development plan. Minor modifications may be approved administratively in accordance with Section 3.11.

4. Duration and Termination of a Vested Right

- a. A vested right for a site-specific vesting plan remains valid for two (2) years. Upon following the same process as required for the original approval, the Board of Commissioners or the Administrator may extend the vesting of a site-specific vesting plan up to three (3) years (with a total length of vesting not to exceed five (5) years) upon finding that:
 - (1) The permit has not yet expired;
 - (2) Conditions have not changed so substantially as to warrant a new application; and,
 - (3) The extension is warranted in light of all other relevant circumstances—including, but not limited to the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.
- b. Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested

right under this section is outstanding.

- c. A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

5. Changes and Exceptions

- a. A vested right precludes any zoning action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under the following conditions outlined in NCGS Section 160D.108.1
- b. The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.
- c. Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of the Town of Sylva to adopt and enforce development regulations governing nonconforming situations or uses.

I. Permit Choice

An applicant for a development permit may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application if a land development regulation is amended between the time the application was submitted and the permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal.

1. When a development required multiple permits under the development regulations of this ordinance, the applicant may choose the regulations applicable to the project at the time of their initial permit application. The applicant must submit the subsequent applications within eighteen (18) months of approval of the initial permit in order to claim permit choice.
2. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome

of the amendment to the rule, map, or ordinance prior to acting on the development permit. The provisions contained in G.S 143-755 apply.

3. If a permit application is on hold for six (6) or more consecutive months at the request of the applicant, then permit choice is waived and the rules in effect at the time of resuming consideration of the application apply.

Section 3.12 Enforcement

A. Notice to Comply

1. Zoning Administrator Authority

The provisions of this Ordinance shall be enforced by the Board of Commissioners and the Zoning Administrator through their authority to abate any violations, enjoin, restrain, and prosecute any person violating this Ordinance pursuant to North Carolina law.

2. 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, the staff is 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.

3. Complaints Regarding Violations

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis thereof shall be filed with the Zoning Administrator who shall properly record such complaint, immediately investigate, and take action as provided by this ordinance.

4. Notice of Violation

Upon discovering a violation of this ordinance, the Zoning Administrator shall issue a written "Notice of Violation" containing the following information:

- a. That the land, building, structure, sign, or use is in violation of this ordinance;

- b. A description of the violation and citation of the relevant Sections of the Zoning and Subdivision Ordinance;
- c. Specific measures necessary to remedy the violation;
- d. The time within which the violation shall be corrected.

The Notice of Violation shall be in writing and shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail or by conspicuously posting on the property. The responsible party shall remedy the violation within the time specified in the Notice of Violation. Appeals of the Notice of Violation may be taken to the Zoning Board of Adjustment and any further enforcement shall have stayed pending hearing of the appeal.

5. Responsible Party.

The owner of any land, building, structure, sign, land use or part thereof, and any occupant, architect, builder, contractor, agent or another person, who participates or acts in concert, assists, directs, creates or maintains any condition that is in violation of this ordinance may be held responsible for the violation and subject to the civil penalties and remedies provided therein.

B. Stop Work Orders.

Whenever any work or activity subject to regulation pursuant to this ordinance is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, the Zoning Administrator may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

1. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed.
2. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop-work order shall certify to the local government that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.
3. Appeals and Violations of Stop Works Orders. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop-work order may be appealed

pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop-work order pending a ruling on the appeal. Violation of a stop-work order shall constitute a Class 1 misdemeanor.

C. Revocation of Permits.

In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.

D. Remedies.

Any development regulation adopted in accordance with N.C.G.S. 160D may be enforced by any remedy provided in G.S. 160A-175 or G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this ordinance or of any development regulation, the Town may take appropriate action or proceedings.

1. No civil penalty shall be assessed under this Section until a Notice of Violation has been issued to the responsible party as provided above. If after receiving a Notice of Violation the responsible party fails to correct the violation, a civil penalty shall be imposed in the form of a citation. Such citation shall be in writing and shall be delivered by certified or registered mail to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval), by personal service, or by conspicuously posting on the property. The citation shall state the civil penalty fee and shall direct the violator to pay the civil penalty within ten (10) business days of the date of issuance. Failure to pay the civil penalty shall subject the responsible party, in addition to other remedies, to the payment of reasonable attorney's fees, including the principal amount of the penalty and interest accruing thereon.
2. Upon expiration of the time limit set forth by the Zoning Administrator in the Notice of Violation, Civil Penalties as set by the Town of Sylva fee schedule shall be assessed per violation. Assessment of a civil penalty and payment

of that penalty does not negate the responsible party from correcting the violation. Civil penalties paid within ten (10) business days shall be reduced by fifty (50%) percent if the violation has been corrected.

- 3.** Civil penalties assessed for violations of this Article shall constitute a lien against the property upon which the violation is or has been conducted.
- 4.** Notwithstanding any other remedies of civil penalties imposed for violations of this Article, in the event that the Town files suit to enforce any section of this Article and prevails in such suit, the entity found to be in violation shall be responsible for reasonable attorney's fees expended by the Town to enforce such ordinance.

ARTICLE 4

ZONING DISTRICTS & DIMENSIONAL STANDARDS

Section 4.1 Zoning Districts Established

Incorporated and extraterritorial jurisdiction areas of the Town of Sylva as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, are hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance. Within overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional districts. The respective symbol for each type of district being set forth opposite its title:

LDR	Low-Density Residential District
MDR	Medium-Density Residential District
HDR	High-Density Residential District
DTB	Downtown Business District
GB	General Business District
I	Institutional District
PB	Professional Business District
IND	Industrial District
HSO	Hillside and Steep Slope Development Overlay
CCO	Commercial Corridor Overlay
CD	Conditional District

Section 4.2 General Zoning District Descriptions

A. LDR, Low-Density Residential District

The Low-Density Residential District is a residential district for single-family dwellings with customary accessory outbuildings and other related and complementary uses that contribute to the District's low-density residential character.

B. MDR, Medium-Density Residential District

The Medium-Density Residential District is a residential district designed to accommodate greater housing variety while still maintaining a residential character. This area is primarily designed for single-family residential on small lots, duplexes, townhomes, cottage courts, and multi-family buildings with four (4) to six (6) units.

C. HDR, High-Density Residential District

The High-Density Residential District is a residential district for small lot, single-family and multi-family dwellings, including townhomes, multi-family complexes, and manufactured homes and manufactured homes parks (in accordance with the standards set forth in Section 7.17). This District also includes the use of customary accessory outbuildings and other related uses that contribute to the District's residential higher-density character.

D. DTB, Downtown Business District

The Downtown Business District is the heart of Sylva's commercial activity along Main Street and the surrounding area. The Downtown Business District is primarily a "walking district" for specialized retail uses, restaurants, offices, limited personal services, and mixed uses. The standards contained in this Ordinance are designed to create a successful and prosperous commercial atmosphere. This District stresses the need for maintenance and upkeep of the commercial property.

E. GB, General Business District

The General Business District provides commercial and retail opportunities along corridors that are reliant on automobiles and through traffic. The General Business District strives to continue the small-town character of Sylva but offers a broad range of permitted and special uses in buildings with varying architectural styles. These commercial areas are intended to serve both the local and regional residents in its proximity to neighborhoods and accessibility to the local road network.

F. I, Institutional District

The Institutional District is a service-based district that includes public services such as government administration, schools, recreation, public/non-profit facilities, police, fire and emergency services, animal shelters, hospitals, and related medical/health uses. It is located within proximity to commercial and professional businesses districts, utilizing existing road networks for ease of access, and within walking distance of residential neighborhoods.

J. PB, Professional Business District

The Professional Business District is established to reserve areas for the development of small to medium scale office use, compatible with that of adjacent commercial and institutional uses. The Professional Business District may consist of residential units converted to office uses and provide for a mixture of service and offices along commercial corridors. This district also serves as a transition district between commercial and residential areas and as such, activities associated with nonresidential uses, shall be restricted to general business hours.

K. IND, Industrial District

The Industrial District provides an area, along the railroad corridor, for industrial, manufacturing, warehousing, and heavy commercial purposes. Industrial uses, providing a stable tax base for the Town are encouraged but shall provide buffering from adjacent residential and institutional uses.

Section 4.3 Overlay Districts Descriptions**A. Hillside and Steep Slope Development Overlay (HSO)**

The Hillside and Steep Slope Development Overlay is designed to regulate development on the hillside and steep slope areas to preserve the Town of Sylva's unique character, conserve the public health, safety, and general welfare, and promote environmentally sound design and planning.

Development Standards for the Hillside and Steep Slope Development Overlay are located in Article 9, Environmental Regulations, of this Ordinance.

B. Commercial Corridor Overlay (CCO)

1. Purpose

The purpose of the Commercial Corridor Overlay District (CCO) is to promote safety and mobility while protecting the scenic vistas that exists along Highway 107/Main Street, which serves as the major access and gateway into the Town of Sylva. The regulations herein are to provide consistency but also flexibility in site design based on the improvements to Highway 107. The design and policies applied to this roadway are important and necessary to not only preserve the natural landscape but also to control commercial growth, protect public safety, maximize the efficiency of traffic, and encourage unified development. It is the intent that this highway corridor continues to be a valuable asset to the economic viability of Sylva and provide a safe and efficient gateway for the Town.

The Commercial Corridor Overlay District shall be in addition to any other zoning district designated on the Town of Sylva Zoning Map so that any parcel of land lying in a CCO may also lie in one (1) or more of the zoning districts provided for by this Article. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the CCO and the underlying zoning district. In the event, the CCO requirements conflict with the underlying district requirements, the requirements of the CCO shall take precedence.

2. Applicability

For the purposes of this section, the CCO is defined as and applicable to all property fronting on the portions of Highway 107/East Main Street, as shown on the Town's official zoning maps.

3. Setback Requirements

All buildings, parking, and accessory uses shall be set back, a minimum of twenty-five (25) feet from the right-of-way of the designated highway. All other building setbacks shall be in compliance with the base zoning district requirements.

4. Driveways and Shared Access

- a. Each development under single ownership shall be limited to one driveway access onto Highway 107/East Main Street, which shall provide both points of ingress and egress. In cases where it is deemed by the North Carolina Department of Transportation and the Town that more than one driveway access would be necessary to accommodate the proposed traffic generated, provide a more efficient circulation pattern within the development and/or would promote improved traffic safety on Highway 107, one additional driveway access into the development may be permitted, however, driveways shall be separated by a distance no less than 150'.
- b. Shared driveway access between two neighboring developments shall also be recommended as a suitable alternative to the above-mentioned requirement. In such cases, it is recommended that the driveway midpoint be the property line between the two parcels. The driveway must meet standard specifications, and the estimated driveway volume will be the sum of the trip generation rate of both land uses in question. Access easements shall be provided as necessary.
- c. When two (2) adjacent property owners agree to establish a shared driveway, the city shall grant an incentive bonus. The total lot size and road frontage normally required will be reduced by fifteen (15) percent for each development. In addition, the required number of parking spaces will be reduced by fifteen (15) percent for each development. Site circulation and safety standards will still be enforced.

5. Parking and Loading

- a. Parking and loading shall be provided in accordance with the provisions set forth in Article 7.
- b. All loading shall be from the side or rear of the principal structure as viewed from the designated highway. If loading is performed on the side of the building, as viewed from the designated highway, a planted screen in accordance with Article 7.8.D.13, of this chapter shall be provided.
- c. No vehicular parking shall be permitted in the front yard, between the right-of-way and the front building line. All parking shall be located to the side and rear of the principal building. The architectural front of the building, however, shall be oriented to the street.

- d. A drop-off area/turn around, or valet parking area may be located to the front of the building, provided a buffer screening is provided to prevent glare from headlights and no parking is provided within the area.
- e. With parking provided to the rear and sides of buildings, special care shall be taken to address the design and access of the building:
 - (1) Building design shall utilize creative architectural treatments, such as false facades, secondary access points, and pedestrian-scaled elements, to allow for both street-front pedestrian access and parking lot access to the building.
 - (2) Any storage, loading, preparation areas shall be screened from view. The use of similar architectural features, landscaping, walls/fences, and/or window treatments, shall be used to ensure such activities are hidden from view from any adjacent roadway.
 - (3) Building design shall be in accordance with the design standards of Article 7.

6. Activities within Buildings and Outdoor Storage

All industrial and commercial uses (e.g., manufacturing, offices, wholesaling, retail sales) and associated storage shall be conducted within an enclosed building except for the following uses meeting the requirements contained herein:

- a. The display of automobiles and/or boats in the front, side, or rear yard areas may be permitted where a minimum front setback of forty (40) feet is provided, the required streetscape and/or buffer is installed, and all other setbacks are met. If the storage and/or display of boats and autos are adjacent to residentially zoned property, occupied by a residential use, or a platted residential lot, then the storage or display shall be screened from view so that no part of the display is visible from the residential use/lot.
- b. Outside storage, accessory to a permitted use, may be permitted if it is located directly to the rear of the principal building and is not visible from any location along the designated highway. The outside storage area shall not occupy an area wider than the principal building. The outside storage area must be screened in

accordance with Article 7.8.D.13. No storage shall be permitted above the height of the principal building or the provided screen.

- c. Junkyards, storage as a principal use, and scrap processors shall not be permitted.

7. Signs

- a. Signs shall be in accordance with Article 8, except that other than the permitted building mounted signs, only one (1) freestanding sign, not to exceed eight (8) feet in height and a maximum surface area of one hundred fifty (150) square feet may be permitted within the required front setback.
- b. No outdoor advertising signs shall be permitted.

8. Open Space

While the Town of Sylva emphasizes the importance of open space in the preservation of environmentally sensitive areas and the provision of green spaces for its residents, visitors, and employees, it is also aware of these constraints to development. As such, the provision of open space is encouraged in the Commercial Corridor Overlay (CCO), however, the properties located in the CCO are not subject to the open space requirements of the underlying zoning district, contained in Article 6.

9. Flexibility Specific to Commercial Corridor Overlay (CCO)

Due the acquisition of right-of-way and widening of Route 107, it is anticipated that many of the current structures and lots will become nonconforming with the requirements of this ordinance. Understanding that many of the business along this corridor are vital to the economic stability of the Town of Sylva, it is the desire that these uses be afforded additional flexibility in regard to nonconforming dimensional and design standards. As such, properties with nonconforming conditions will be subject to the requirements of Section 1.10 of Article 1 of the Ordinance.

The following shall be applicable to lots within the Commercial Corridor Overlay:

- a. **Landscaping.** Where lot sizes have been reduced and existing vegetation and landscaping has been removed due to right-of-way expansion, applicants proposing changes to lots with existing buildings may suggest alternative landscape options for replacement of landscaping, buffers, and street trees which may not meet the specific requirements of Article 7. This alternative does

not apply to screening as required by this Section. All alternative plans must be approved by the Zoning Administrator.

b. Parking. The following options are available to uses within the CCO to address potential reduction in parking availability:

(1) Nonconforming parking areas in front of existing buildings may be repaved, realigned, and/or restriped. However, no additional spaces shall be added or created unless there is no other alternative on site and shared and satellite parking options [subsections (2) and (3) below] are not viable. Expansion of nonconforming parking in the front yard shall be approved by the Zoning Administrator.

(2) Shared Parking

(a) One (1) parking lot may contain required parking spaces for several different uses; however, the required parking spaces assigned to one (1) use may not be counted or assigned to another uses, unless otherwise provided in this section.

(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different, off-peak times, the same spaces may be credited to both uses.

(c) In the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of subsection (3)c., below, are also applicable.

(d) Where vehicle access is provided between adjoining nonresidential developments and the operating hours of adjoining uses do not significantly overlap, the uses may share up to fifty (50%) percent of the required parking spaces.

(e) An applicant proposing the use of the shared parking must:

i. Demonstrate that the applicant has the express legal right to use the parking spaces in question;

- ii. Provided the shared use parking agreement detailing how the parking spaces will be shared among the uses; and
 - iii. Sign an acknowledgement that the continuing validity of the applicant's development permit depends upon the continuing ability to provide the requisite number of parking spaces. If the shared parking is no longer available or the property owner fails to comply with the requirements of this section, the parking requirement reverses to those requirements found in the parking schedule in Article 7 and the property owner or applicant must demonstrate compliance with said requirements or the development permit shall be revoked.
- (f) Should there be a change in property owner, change in use, expansion or reduction in building or parking area, a new shared use agreement and agreement in outlined in subsection (e) above shall be submitted to the Town and additional parking may have to be provided as required by this Ordinance or the permit shall be revoked.

(3) Satellite Automobile Parking

- (a) If the off-street parking spaces required by Article 7 cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within six hundred sixty (660) feet. Such measurement shall be taken from the edge of the satellite parking area to the entryway of the principal use for which the parking is provided. A safe, direct, paved, and lit pedestrian route shall be provided between the lot and the entrance of the principal use.
- (b) Satellite parking may not be used for residential visitor/guest parking or for the provisions of the ADA required spaces unless located within two hundred (200) feet of the entryway of the principal use for which the parking is provided.
- (c) If satellite parking is utilized to fulfill parking requirements, the owner or authorized agent for the

land upon which such satellite parking is located shall restrict the use of such parking area for parking only in connection with the use(s) or structure(s) for which such satellite parking is provided. Such restriction shall be recorded through an easements plat properly filed with the Register of Deeds of Jackson County, which may be released only by written consent of the town.

- (d)** Satellite parking for a particular use shall not be established if the use is nonconforming.
- (e)** The applicant wishing to utilize the provisions of this section must present satisfactory written evidence that the applicant has the legal right to use the satellite parking spaces, and that such right is exclusive during the operation hours of the use in question. The applicant must also sign an acknowledgement that the continuing validity of the applicant's permit depends upon the continuing ability to provide exclusive use during operation hours of the requisite number of parking spaces. If the parking spaces are required for residential uses, "operating hours" shall be considered twenty-four (24) hours a day for the purposes of this section.
- (f)** The applicant using satellite parking to comply with the requirements of this section must sign an acknowledgement that the continuing validity of the applicant's permit depends on the continuing ability to provide the requisite number of parking spaces. If the applicant or property owner fails to comply with the requirement so this section, the parking requirements reverts to those requirements in Article 7 and the property owner and applicant must demonstrate compliance with said requirements or the development permit may be revoked.
- (g)** Should there be a change in property owner, change in use, expansion or reduction in building or parking area, the applicant will have to demonstrate continued compliance through the satellite parking and/or provide additional parking as required by this Ordinance or the permit shall be revoked.

Section 4.4 Conditional Districts

Conditional Zoning Districts (-CD) are a zoning tool, permitted in accordance with NCGS 160D-703.b., which may be utilized to create new unique, site-specific districts for uses or developments that may have particular benefits and/or impacts on both the immediate area and the community as a whole. The development of these uses may require deviation of the general district standards. The applicant must provide an initial Master Site Plan and zoning proposal that includes all proposed uses and standards for the conditional zoning district being proposed. It is not the intention of Conditional Zoning to circumvent, reduce, or eliminate particular regulations as they would normally be applied to any particular district or use but rather provide flexibility and design standards unique to the subject property and use.

This negotiated approach between the applicant and the Town through a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. Special restrictions have been placed on Conditional zoning. Conditional Zoning Districts occur at the owner's request and conditions cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed are limited to those that are needed to bring a project into compliance with town ordinances and adopted plans and to those addressing the impacts reasonably expected to be generated by the use of the site. The town must assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

Conditional Zoning shall be subject to the specific procedural rules herein and in Articles 3 and 5.

Section 4.5 District Conversion Chart

The following table shows the district conversions from the previous zoning ordinance to the current ordinance effective upon the adoption of this Ordinance on February 24, 2022. Not all district standards or boundaries are identical to those of the previous ordinance, however, these are the foundation of the newly adopted Zoning Districts.

TABLE 4-1 DISTRICT CONVERSION CHART

Previous Zoning/Overlay District	Newly Adopted Zoning District
R-1, Residential District	LDR, Low Density Residential
R-1-A, Residential District	LDR, Low Density Residential
R-1B, Residential District	MDR, Medium Density Residential
R-2, Residential District	MDR, Medium Density Residential
R-3, Residential District	HRD, High Density Residential
B-1, Main Street Business District	DTB, Downtown Business District
B-2, Business District	GB, General Business
B-3, Business District	CCO, Commercial Corridor Overlay
GI, Government and Institutional District	I, Institutional
PB, Professional Business District	PB, Professional Business District
I-1, Industrial District	IND, Industrial
HSO, Hillside and Steep Slope Development Overlay	HSO, Hillside and Steep Slope Development Overlay
RPUD, Residential PUD Overlay	HRD, High Density Residential
MUPUD, Mixed-Use PUD Overlay	- CD, Conditional Districts (site specific; only if developed as PUD at time of adoption)

Section 4.6 Dimensional Standards – Methods of Measurement

A. Building Height

The vertical distance measured from the lowest grade point (of the lowest habitable floor) adjacent to the building wall to the highest point of the roof surface or parapet for flat and shed roofs, to the highest break line of mansard/gambrel roofs, and to the median height between edge of eave and the highest ridge for pitched/gable and hip roofs. The existing natural grade of the property may not be raised around a new building or foundation in order to comply with the height requirements of this Ordinance. Chimneys, bell towers, steeples, copulas and other similar decorative elements may extend an additional ten feet above the highest point of the roof or parapet.

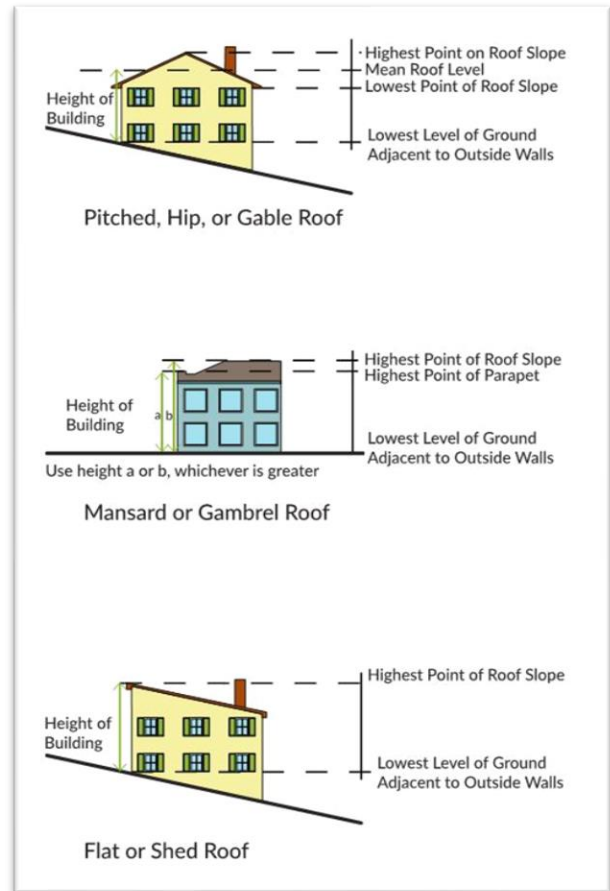
B. Gross Density

A ratio is expressed as the number of dwelling units per gross acre. The ratio is derived by dividing the total number of dwelling units by the total land area of the parcel(s) to be developed.

C. Gross Floor Area

The entire area of a building, including storage areas, garages, closets, hallways, and restrooms, but excluding basement or attic storage areas not accessible to the public.

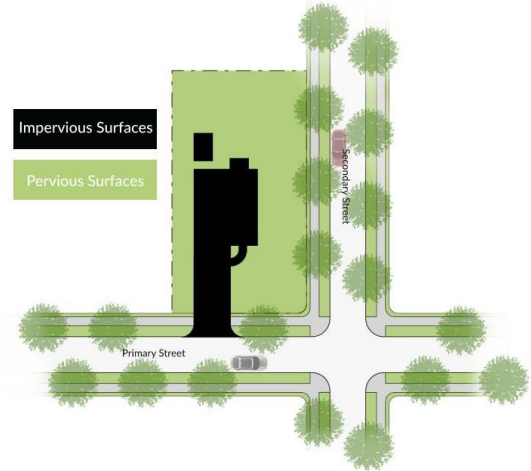
**FIGURE 4-2
BUILDING HEIGHT**



D. Impervious Area

Calculation of the impervious area includes, but is not 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. The calculation of impervious area is expressed as a percentage of the total site area.

**FIGURE 4-3
IMPERVIOUS AREA**



E. Lot Size

The entire area is within the lot lines of a lot.

F. Building Frontage

The length of the side of a building that abuts the required front yard as stipulated in this Ordinance. A building on a corner lot may have two building frontages, however, the primary building frontage shall be determined by the location of the front door or primary access to the structure.

H. Lot Width

Lot width refers to the horizontal distance between side lot lines. Lot width shall be measured as the distance between the side lot lines as measured at the front building setback line.

**FIGURE 4-4
LOT WIDTH, BUILDING FRONTAGE, AND SETBACKS**



I. **Setback**

The setback is the distance between a lot line and a building. Setbacks shall be measured perpendicularly from the street right-of-way line or property line to the nearest projection of the building, including any eave, dormer, deck, or other part attached thereto and any portion of the building located below grade. However, doors, windows, canopies, fixed awnings, and movable metal or canvas awnings shall be permitted to encroach in the setback area.

A minimum setback is the minimum distance by which any building or structure must be separated from a street right-of-way or lot line as specified by the specific zoning district in which the parcel is located. Setbacks are identified and as outlined below. It should be noted that setbacks may overlap in determining the buildable portion of a lot or parcel.

1. **Front Setback**

A setback extending the full width of the lot between the architectural front of a building and the front lot line or the fronting street right-of-way measured perpendicularly from the point of the building closest to the front lot line.

2. **Side Setback**

A setback extending from the front lot line to the rear lot line, between the side of the principal building and the side lot line and measured perpendicularly from the side lot line to the closest point of the principal building facade.

3. **Rear Setback**

A setback extending the full width of the lot between the architectural rear of the principal building and the rear lot line, measured perpendicularly from the point of the building closest to the rear lot line.

J. **Lots**

1. **Corner Lots**

Any building on a corner lot shall comply with the minimum front setback for each street which the corner lot abuts.

2. Irregular Lot Shapes

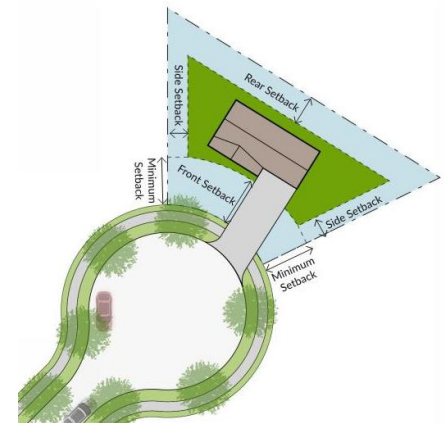
The location of the required front, side, and rear setbacks on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the intent and purpose of this Ordinance to achieve an appropriate spacing and location of buildings and buildings on individual lots. Where questions arise as to the appropriateness, the Administrator may require the subdivider may be requested to provide additional design information.

3. Side Lot Lines

Side lot lines shall be substantially at right angles or radial to street lines.

4. Lots on a Curved Street or Cul-de-sac

The front setback shall be measured as a line that extends parallel to the arc of the street right-of-way at a distance measured perpendicularly along the side lot lines and equal to that of the required minimum front setback.



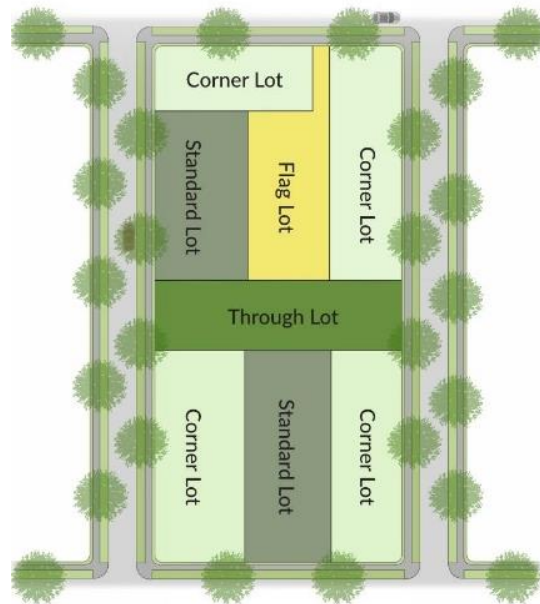
**FIGURE 4-5
LOTS ON CUL-DE-SAC
AND SIDE LOT LINES**

5. Through Lots/Double Frontage Lots/Flag Lots

- a. The creation of through lots/double frontage lots or flag lots shall be avoided except where necessary to overcome specific disadvantages of existing, pre-development topography or lot configuration.
- b. Where through or double frontage lots exist or are created, a front yard setback shall be provided for each street for which the property abuts. However, this provision shall not preclude the placement of an accessory structure. Where required, the Administrator shall make a determination based on building and road frontage which yard shall be utilized.
- c. Flag Lots. A lot which does not have the required minimum lot width at the minimum front setback but has direct access to a roadway through a narrow strip of land ("flagpole" or "lane") which is part of the same lot.
 - (1) Where flag lots exist or are created, the front setback shall be measured from the point where the lot first obtains the minimum lot width measurement after the "lane."

- (2) The “flagpole” or “lane” shall not count toward meeting the minimum lot size of the lot.
- (3) Only one tier of a flag lot is permitted. No stacking of flag lots.

**FIGURE 4-6
LOT TYPES**



Section 4.7 Dimensional Standards – Requirements

The following Table of Dimensional Standards provides the standards for the development of all new lots as they relate to lot size, lot width, setbacks, etc. No yard or lot existing upon adoption of this ordinance shall be reduced in size or area below the minimum requirements of the district. Yards of lots created after the effective date of this ordinance shall meet the minimum requirements established by this Ordinance, except where noted.

TABLE 4-2 TABLE OF DIMENSIONAL STANDARDS

District/Use	Min. Lot Area per DU (sq feet)	Min. Lot Width (feet)	Minimum Setbacks (feet) ²			Max Height (feet)	Max. Density (Units per Acre)	Max. Impervious (%)	
			Front	Side	Rear				
LDR, Low Density Residential District									
Single-Family, Detached	17,500	50	30	10	20	35	2	60	
Other Permitted Uses	20,000	100	30	10	20	35	n/a	60	
MDR, Medium Density Residential District									
Single-Family, Detached	10,000	50	25	10	15	35	4	65	
Duplex	7,500	50	25	10	15	35	6	65	
Townhouse	Unit	5,000	25	25	0	15	35	n/a	n/a
	Develop.	n/a	100	25	10	15	n/a	6	65
All other permitted uses	20,000	100	25	10	15	35	n/a	65	
HDR, High Density Residential District									
Single-family, Detached	7,000	40	20	5	10	35	6	70	
Duplex	5,000	40	20	5	10	35	8	70	
Townhouse	Unit	2,500	20	20	0	10	35	n/a	n/a
	Develop.	n/a	70	20	10	10	n/a	10	70
Multi-family	n/a	n/a	20	10	10	40	12	70	
Manufact. Home Park	Unit	5,000	20	5	5	5	n/a	n/a	n/a
	Develop.	22,500 ³	70	100	25	10	n/a	6	70
All other permitted uses	8,000	70	25	10	10	40	n/a	70	
DTB, Downtown Business District									
Townhouse	Unit	2,000	20	5	0	5	35	n/a	N/A
	Develop.	n/a	n/a	n/a	5	5	n/a	10	N/A
Multifamily	2,500	n/a	5	10	10	50	12	N/A	
All permitted uses	n/a	n/a	0	0	0	50	n/a	N/A	
GB, General Business District									
Multi-family	n/a	70	10	10	10	50	8	70	
All other permitted uses	10,000	70	10	10	10	70	n/a	70	
I, Institutional District									
Multi-family	n/a	70	25	10	10	55	8	70	
All other permitted uses	20,000	70	25	10	10	55	n/a	70	
PB, Professional Business District									
Townhouse	Unit	5,000	25	15	0	15	35	n/a	80
	Develop.	n/a	80	15	10	15	n/a	6	80
Multi-family	n/a	80	15	10	15	40	8	80	
All other permitted uses	10,000	80	15	10	15	40	n/a	80	
IN, Industrial District									
All Permitted Uses	40,000	100	35	20	25	70	n/a	70	

- Should vehicular access to a dwelling unit be served by a rear-loaded alley, the front yard setback may be reduced to a width equal to the rear yard setback.
- Manufactured Home Parks shall have a minimum lot size of 22,500 for the first two (2) units. For every unit after two (2), the minimum lot size shall be increased by five thousand (5,000) per unit.

ARTICLE 5

USE STANDARDS

Section 5.1 Establishment of Use Regulations

Except as otherwise provided herein, regulations governing the use of land and structures are hereby established as shown in the Table of Permitted Uses in Section 5.3.

In addition to the permissible uses authorized within designated Districts, the construction, installation, or operation of facilities necessary to furnish public utility services or municipal services by the Town or by any public utility company serving or franchised to serve the community shall be permitted in all districts.

Section 5.2 Uses Not Mentioned

- A.** Uses of land or structures which are not expressly listed in the Table of Permitted Uses (Section 5.3), as Permitted Principal Uses, Permitted Accessory Uses or Special Uses in a District shall be regulated as a use most similar to an existing use within the Town of Sylva, in accordance with the procedures outlined in Subsection B., below.
- B.** It is recognized that new types or forms of land use will develop within the Town of Sylva that are not anticipated by this Code. To provide for such changes and contingencies, the classification of any new or unlisted land use shall be made by the Zoning Administrator or designee to determine if the use can reasonably be determined to fit into a similar use category described in the Code with the information presented by the applicant and research completed by the Zoning Administrator. The Zoning Administrator or designee may, at their discretion, use other classification methods to determine if and where certain uses may be permitted such as the latest version of the North American Industry Classification System (NAICS) Guide produced by the Bureau of Labor Statistics. If the Zoning Administrator or designee cannot make a determination on a particular use, then the Board of Adjustment may make such a determination after conducting a public hearing.

Section 5.3 Table of Permitted Uses

The following table outlines the specific uses identified by the Town of Sylva to be Permitted by Right (P), Permitted with Supplemental Standards (PS), Permitted with a Special Use Permit (SUP), or Permitted as a portion of a Conditional District (-CD) within the Town.

TABLE 5-1 TABLE OF PERMITTED USES

Use Category	LDR	MDR	HDR	DTB	GB	I	PB	IND	Use Standard
Agriculture									
Agricultural Uses Level 1	PS	PS	PS	PS	PS	PS	PS	PS	5.4.C.
Agricultural Uses Level 2	-	-	-	-	-	-	-	PS	5.4.C.
Residential Uses									
Single-Family, Detached	P	P	P	-	-	-	P	-	-
Manufactured Housing	-	PS	PS	-	-	-	-	-	5.4.R
Modular Homes	P	P	P	-	-	-	P	-	-
Duplex	-	P	P	-	-	-	P	-	-
Townhome	-	P	P	P	-	-	P	-	-
Multifamily	-	-CD	PS	PS	-CD	-CD	-CD	-	5.4.V
Manufactured Home Parks	-	-	SUP	-	-	-	-	-	5.4.R
Accessory Dwelling	PS	PS	PS	PS	PS	-	PS	-	5.4.A
Accessory Structures, Residential*	P	P	P	-	P	-	P	-	5.4.B
Home Occupations Level 1	PS	PS	PS	-	-	-	PS	-	5.4.P
Home Occupations Level 2	-	PS	PS	-	-	-	PS	PS	5.4.P
Nursing Home	-	PS	PS	-	PS	PS	SUP	-	5.4.W
Family Care Home	PS	PS	PS	-	-	-	PS	-	5.4.N
Accommodations									
Bed and Breakfast/Inns	-	PS	PS	PS	-	-	PS	-	5.4.H
Hotels	-	-	-	PS	PS	-	PS	-	5.4.Q
Short-term Rentals	-	PS	PS	PS	-	-	PS	-	5.4.JJ
RV Park/Campground					PS	PS	PS	PS	5.4.GG
Retail Sales/Service									
Accessory Structures, Commercial*	-	-	-	PS	PS	PS	PS	PS	5.4.B
Animal Facilities with Kennels	-	-	-	-	PS	-	-	-	5.4.D
Animal Hospitals without Kennels	-	-	-	-	P	-	P	-	-
Automobile Repairs and Services	-	-	-	-	PS	-	-	-	5.4.E
Automobile Sales	-	-	-	-	PS	-	-	-	5.4.F
Banks and Financial Institutions	-	-	-	P	P	P	P	P	-
Bars, Nightclubs and Private Social Clubs	-	-	-	PS	PS	-	SUP	-	5.4.G
Brewery/Winery/Distillery	-	-	-	PS	PS	-	PS	PS	5.4.I
Car Wash/Auto detailing	-	-	-	-	PS	-	-	-	5.4.J
Commercial Pharmacies/Medical Equipment and Supply	-	-	-	P	P	P	P	-	-
Conference Centers and Theaters	-	-	-	SUP	P	SUP	SUP	-	-
Convenience Store/Gas Station	-	-	-	-	PS	-	-	P	5.4.K
Electronic Gaming Establishment	-	-	-	-	-	-	-	SUP	5.4.L
Fitness and Dance Centers	-	-	-	P	P	P	P	P	-
Flea Market/Open Air Markets	-	-	-	-	SUP	-	-	SUP	-

Use Category	LDR	MDR	HDR	DTB	GB	I	PB	IND	Use Standard
Funeral Parlors	-	-	-	-	P	-	-	P	-
Graphic Arts, Studios, Photography Galleries and Museums	-	-	-	P	P	-	P	P	-
Laundry and Dry Cleaning	-	-	-	P	P	-	P	P	-
Mortuaries and Crematoriums	-	-	-	-	PS	PS	-	P	5.4.U
News/Telecommunication Services	-	-	-	P	P	-	-	P	-
Restaurants w/outside seating	-	-	-	PS	PS	-	PS	-	5.4.EE.
Restaurants w/out outside seating	-	-	-	PS	P	-	P	-	5.4.FF.
Retail Businesses	-	-	-	P	P	-	P	P	-
Wholesale Business	-	-	-	-	P	-	-	P	-
Office, Research & Healthcare Uses									
Laboratory	-	-	-	-	P	P	P	P	-
Medical and Health Care Facilities	-	-	-	-	-	P	P	-	-
Professional Offices	-	-	-	P	P	P	P	P	-
Public/Civic Uses									
Accessory Structures, Public/Civic*	P	P	P	P	P	P	P	P	5.4.B
Amphitheatres and Auditoriums	-	-	-	-CD	CD	P	P	-	-
Cemeteries	-	-	-	-	-	P	-	P	-
Civic, Social Service, and Fraternal Facilities	-	-	-	-	-	P	P	P	-
Community Centers	-	-	-	-	-	P	P	P	-
Emergency Services	-	-	-	P	P	P	P	P	-
Government Administrative Facilities	-	-	-	P	P	P	P	-	-
Institutional Shelter/Group Home	-	-	-	-	PS	PS	PS	PS	5.4.O
Libraries (Public)	-	-	-	P	P	P	P	-	-
Place of Worship	SUP	SUP	SUP	PS	P	P	P	P	5.4.Z
Pre-school or Daycare	-	P	P	-	PS	PS	PS	PS	5.4.BB
School (Public or Private)	-	SUP	SUP	-	-	P	P	P	-
Recreational Uses									
Public Parks, Playgrounds, and Greenways	PS	PS	PS	PS	PS	PS	PS	PS	5.4.CC.
Commercial Indoor Recreation	-	-	-	P	P	P	P	-	-
Industrial/Storage Uses									
Manufacturing and Industrial Uses	-	-	-	-	-CD	-	-	PS	5.4.S
Outdoor Storage Yard	-	-	-	-	PS	-	-	P	5.4.X
Self-Storage, Storage, and Warehousing	-	-	-	-	PS	-	-	PS	5.4.HH.
Truck Terminals	-	-	-	-	-	-	-	SUP	-

Use Category	LDR	MDR	HDR	DTB	GB	I	PB	IND	Use Standard
Planned Unit Developments									
Planned Unit Developments (PUD)	-	-CD	-CD	-	-CD	-CD	-CD	-CD	5.4.AA
Utilities									
Essential Services, Class I & II	PS	PS	PS	PS	PS	PS	PS	PS	5.4.M
Essential Services, Class III	-	-	-	-	-	-	-	P	-
Recycling Collection Centers and Processing Facilities	-	-	-	-	PS	PS	-	PS	5.4.DD.
Miscellaneous Uses									
Mixed Uses	-	-	PS	PS	-	PS	PS	-	5.4.T
Yard Sales	PS	PS	PS	-	PS	PS	-	PS	5.4.KK
Parking lots and decks	-	-	-	PS	PS	PS	PS	PS	5.4.Y
Sexually Oriented Business	-	-	-	-	SUP	-	-	SUP	5.4.II

Section 5.4 Supplemental Standards

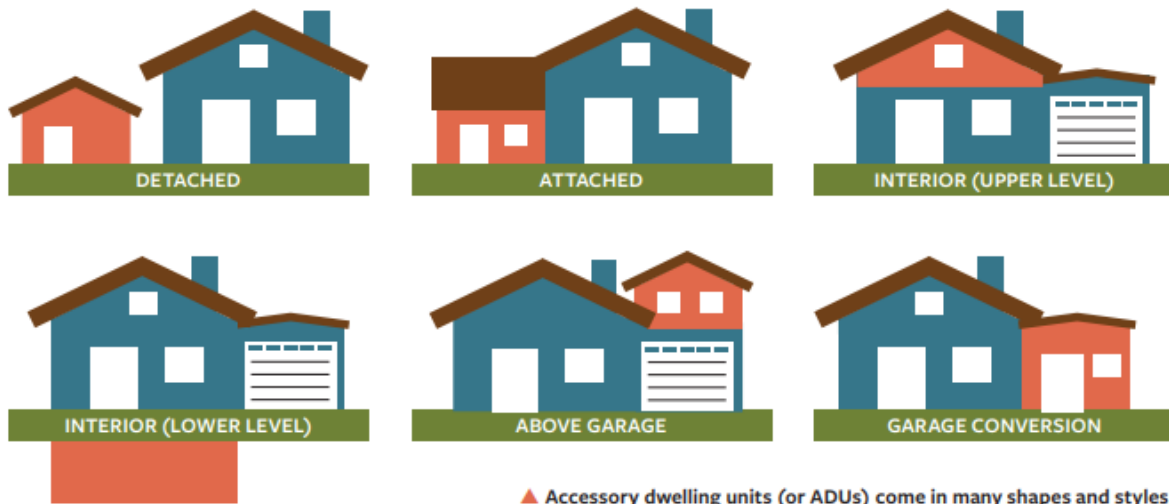
The following uses are provided with additional standards which must be addressed prior to approval. These standards are relevant where the use is Permitted with Supplemental Standards (PS) or with a Special Use Permit (SUP). It should be noted that if a use requires a Special Use Permit, additional findings of fact, outlined in Section 3.8.C., will also need to be addressed.

A. Accessory Dwelling

- Free-standing accessory dwellings or accessory dwellings located in an accessory structure must also comply with the requirements for accessory structures in Section 5.4.B.
- Free-standing accessory dwellings or accessory dwellings located in an accessory structure shall require, per accessory dwelling, an additional 5,000 square feet of additional lot area over the required minimum lot size for the zoning district in which the dwelling is located.
- Only one (1) accessory dwelling is permitted in the LDR, Low-Density Residential Zoning District. No more than two (2) accessory dwellings may be permitted in the MDR, Medium Density and HDR, High-Density Residential Districts.
- Non-residential uses and residential uses in non-residential zoning districts, may have up to four (4) accessory dwellings. Non-residential uses with more than four (4) accessory dwellings shall be regulated as a Mixed Use (Section 5.4.T)
- Accessory dwellings may be located attached to or within the principal use or structure, but each accessory dwelling shall have a separate entrance per

unit, meet applicable building codes, and be issued a certificate of occupancy.

6. One (1) on-site parking space is required per accessory dwelling, in addition to those required for the principal use.
7. Accessory dwellings must be subordinate in size and clearly incidental to the primary use. Accessory dwellings shall be located to the side or rear of the principal building except in cases of irregular lot shape or when the accessory dwelling is unable to be seen from a public right-of-way.
8. Stand-alone accessory dwellings shall be subject to the setback requirements of the primary use.
9. In the DTB district, accessory dwellings shall only be permitted on the upper floors of a mixed-use (commercial/retail/office).



Example: Accessory dwellings can be located detached on the lot or within the structure.
(Source: AARP, *The ABCs of ADUs*)

B. Accessory Structures

1. Principal Buildings Required

The construction of an accessory structure is not permitted unless a principal building is located on the lot.

2. General Requirements

a. Location

- (1) Residential accessory structures shall be located only in the side or rear yards for non-corner lots. Residential accessory structures shall be in rear yards only for corner lots.
- (2) All non-residential accessory structures must be located in the rear yard.
- (3) Exceptions: With the administrator's approval, residential accessory structures may be placed in the front yard on irregular-shaped lots or when the accessory structure is unable to be seen from a public right-of-way.
- (4) All accessory structures must adhere to the required yards/setbacks of the district in which it is located

b. Design and Appearance

Accessory structures not subject to regulation under the North Carolina Residential Code for one and two-family dwellings shall be clad in materials, painted, or finished in such a manner that appears to match or compliment the primary structure on the lot.

c. Relationship to Principal Structure

- (1) For residential principal uses, the aggregate area of accessory structures shall not exceed five hundred (500) square feet or twenty-five (25) percent of the floor space of the principal use building, whichever is greater. If an accessory structure is serving as an accessory dwelling, the aggregate area may be increased to fifty (50) percent.
- (2) For all non-residential primary uses, the aggregate area shall not exceed thirty (30) percent of the floor space of the principal use.

d. Permit

A building permit is required for all accessory structures greater than 12 feet in any direction or greater than one hundred forty-four (144) square feet including all appurtenances.

e. Buffer

Lots with non-residential uses that utilize an accessory structure shall have a buffer installed, except for those lots in the DTB District. See Section 7.4.D for buffer details.

f. Garage

A garage for more than three (3) motor vehicles shall not be permitted as an accessory use in connection with a single- or two-family dwelling.

C. Agriculture Uses

1. Level 1

The production, principally for use or consumption of the property owner or community members, of plants, animals, or their products and for sale to others where such sales are incidental, including but not limited to the following: gardening, fruit production, beekeeping, and poultry and livestock products for household use only.

- a.** The keeping of animals is subject to the requirements contained in the Code of Ordinances of the Town of Sylva: Chapter 6, Animals and Chapter 16, Health and Sanitation.

2. Level 2

The employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, by any other horticultural, floricultural or viticultural use, by animal husbandry, or by any combination thereof. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines including, but not limited to, providing riding lessons, training clinics and schooling shows.

The following agricultural uses are not considered Level 2 uses and are prohibited in the Town of Sylva: fat rendering, bone distillation, meat processing, sawmills, and other intensive agricultural production facilities and uses.

- a.** Agricultural sales which include products grown elsewhere, or goods processed or manufactured on site, shall be considered a retail use.

- b. Any agricultural sales shall require the provision of on-site parking spaces.

D. Animal Facilities With Kennels

1. No outdoor containment of animals shall be located within a minimum of four hundred feet (400') from any adjacent residential district or mixed-use facility.
2. Kennels shall be designed to effectively buffer all noise audible to surrounding properties.
3. No more than twenty (20) animals may be allowed in an outdoor kennel at any one time.
4. Outdoor areas shall be located to the side or rear of the main building. No outdoor animal areas shall be in the front yard.

E. Automobile Repairs And Services (Commercial)

1. Interior plantings shall be provided in and around public parking, sales, and rental lot areas. Double stacking may be allowed within sales and rental lots and for cars awaiting or finished with service on a case-by-case basis provided that all other parking and screening requirements are met.
2. All commercial painting and/or external repair of damaged, wrecked, dismantled, or inoperative vehicles, and all "auto bodywork", shall be done behind closed doors in a properly ventilated indoor area.
3. There shall be no outdoor storage of damaged, wrecked, dismantled, or inoperative vehicles.
4. No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.

F. Automobile Sales

1. Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three (3) acres unless divided by a street, principal building, or a fenced/walled buffer option as provided in section 7.8.D.
2. Interior plantings shall be provided in and around public parking, sales, and rental lot areas. Double stacking may be allowed within sales and rental lots on a case-by-case basis provided that all other parking and screening requirements are met.

3. All outdoor sales or displays of vehicles shall be screened with a buffer. Outdoor display areas should not be located in front of the principal structure. Vehicles may not be located, parked, or displayed on grass, or in a buffer or landscaped area.
4. All painting and/or external repair of vehicles, and all "auto bodywork", shall be done behind closed doors in a properly ventilated indoor area.
5. No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.

G. Bars, Nightclubs, And Private Social Clubs

Bars, nightclubs, or private social clubs shall preserve visibility into establishments from the sidewalk/street to include no tinting, painting, or covering (curtains, blinds, paper, etc.) of windows. Further, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material which renders the opening functionally obsolete or causes it to be opaque.

H. Bed And Breakfast Homes/Inns

1. Single-family homes used as a bed and breakfast home or inn shall have a minimum heated floor area of fifteen hundred (1,500) square feet.
2. Single-family homes used as a bed and breakfast homes may not subdivide existing rooms into less than two hundred (200) square feet.
3. The bed and breakfast home or inn shall be permanent residence of the owner or the manager of the business.
4. No more than two (2) full-time employees, not including the owners.
5. All guest parking shall be to the rear of the home or inn. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one space per room of lodging.

I. Brewery/Winery/Distillery

1. Except for loading and outdoor patron seating, all activities must occur within a building.
2. Must have an off-street or designated on-street loading dock.
3. Must obtain all applicable ABC commission permits.

4. If located in the DTB district, the facility must dedicate at least fifteen percent (15%) of the gross floor area to a tap room, a tasting room, and/or a restaurant.
5. Shall not produce odors, gas, dust or any other atmospheric pollutant detrimental to the health, safety or general welfare of persons living or working in the surrounding area.
6. If the facility includes on-site consumption of alcohol (excluding tastings) and does not meet the definition of a restaurant, it shall also be required to meet all standards of a 'Bars/Nightclubs/Social Clubs' and shall only be allowed in those districts in which a 'Bars/Nightclubs/Social Clubs' is permitted.

J. Car Wash/Auto Detailing

1. An automatic car wash shall be considered an accessory use to a convenience store/gas station use when it is located on the same lot and shall be governed by the use and property development regulations applicable to the service station use.
2. No outdoor speaker or public address systems that are audible off-site shall be permitted.

K. Convenience Store/Gas Station

1. Automatic car washes are only allowed in the rear yard and as accessory uses.
2. Fuel pumps and the associated canopy may be located in the front yard; however, the required minimum front yard setback shall be provided. If unable to be provided, screening methods must be utilized to provide an opaque barrier.
3. No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be located closer than twenty-five feet (25') to any public right-of-way and ten feet (10') to any exterior property line or within any required setback, whichever is greater. Pump island canopies shall not be located closer than ten feet (10') to a public right-of-way.
4. Vacuuming facilities may be located outside the building but may not be located within any required buffer area or adjacent to a residential district.
5. Accessory uses such as propane tank exchange, ice coolers, vending machines, etc. if located outside the principal structure may only be

located in the rear yard or side yard behind the front building line.
Newspaper boxes may be permitted in the front yard.

L. Electronic Gaming Establishment

1. No electronic gaming operations shall be located within one thousand (1,000) feet of a place of worship, public or private school, child daycare center, residential district, residential development, public park, or an establishment with an on-premises North Carolina ABC license.
2. There shall be no more than one (1) electronic gaming operations establishment on the same lot or property or in the same building, structure, or portion thereof.
3. No other principal or accessory use may occupy the same building, structure, property, or portion thereof as an electronic gaming operations establishment.
4. Electronic gaming operations establishments shall not operate outside of the hours of 7:00 am to 12 midnight each day, seven (7) days per week.
5. No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where electronic gaming operations occur and the rear wall of such room so that a clear view of the interior may not be had from the entrance to the room.
6. There shall be one paved parking space for every terminal, machine, and computer in addition to one (1) paved parking space per employee.

M. Essential Services, Class I and II

1. The construction, installation or operation of facilities necessary to furnish public utility services or municipal services by the Town or by any public utility company serving or franchised to serve the community shall be permitted in all Districts.
2. Satellite dishes less than two (2) meters in diameter are not considered a structure under the terms of this chapter and are exempt from all local regulations.
3. The Town authorizes the enforcement of **The Jackson County Unified Development Ordinance, Article VI – Development Standards, Section 6.2 – Wireless Communications** Facilities, as it is currently adopted and as it may be amended from time to time, within the corporate limits of the Town of Sylva.

N. Family Care Home

1. No more than six (6) residents are permitted to live in a family care home. This number shall not be inclusive of the homeowner, operator, or family of the owner or operator of the facility
2. No family care home may be located within a one-half (1/2) mile radius of any other family care home.
3. No exterior signage is permitted.

O. Group Home/Institutional Shelter

1. No more than twelve (12) adult residents may reside in a group home or institution shelter at any given time.
2. The facility must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
3. No group home or institutional shelter may be located within a one-half (1/2) mile radius of any other group home, institutional shelter, or family care facility.
4. No exterior signage is permitted.
5. No lockdown, violent, and dangerous residents shall be allowed.
6. Only incidental and occasional medical care may be provided.

P. Home Occupations Levels 1 and 2

1. The following conditions shall apply to a home occupation Level I:
 - a. No evidence of the home occupation shall be visible or audible from outside of the dwelling except that one sign not larger than three (3) square feet may be placed on the property identifying the occupation.
 - b. Home occupations shall not occupy more than twenty-five percent (25%) of the gross floor space of the dwelling.
 - c. No commodity shall be sold on the premises and the use shall not significantly increase vehicular traffic or require more than one (1) additional parking space.
 - d. The home occupation shall not employ, in connection with the home occupation, more than one (1) person that is not a resident of the premises.

2. The following conditions shall apply to a home occupation Level II:
 - a. In addition to the terms and conditions of a Level I home occupation, accessory use buildings in conjunction with the home occupation provided the accessory space is not more than 25 percent (25%) of the total square footage of the dwelling.
 - b. The home occupation may employ the use of not more than two (2) service vehicles and may be maintained or repaired on the premises within an enclosed garage or utility structure.
3. General Conditions are applicable to all Home Occupations.
 - a. Such business shall not change the character of the dwelling or constitute a nuisance for the neighborhood.
 - b. No outside storage or displays associated with the home occupation is permitted.
 - c. Signage is permitted on the vehicles associated with the home occupation.
 - d. Customers may visit the business between the hours of 7 AM and 8 PM.

Q. Hotels

Outdoor pools must be screened with a fenced/walled buffer option as provided in section 7.8.D.

R. Manufactured Home and Manufactured Home Parks

1. Only Double-Wide Manufactured Homes, on individual lots of record, will be permitted in the MDR, Medium Density Residential Zoning District. Manufactured home parks are only permitted through the Board of Adjustment, by Special Use Permit, in the HDR zoning district.
2. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated below when used in this section:
 - a. **Manufactured Home, Class A.** A dwelling unit that:
 - (1) Is not constructed in accordance with the requirements of the North Carolina State Residential Building Code as amended;

- (2)** Is composed of two (2) or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site;
- (3)** Meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development, and
- (4)** Conforms to the following appearance criteria:
 - (a)** The manufactured home has a minimum width, as assembled on the site, of twenty-four (24) feet.
 - (b)** The tongue, axles, removable towing apparatus, and transporting lights shall be removed after final placement on the site.
 - (c)** A continuous, permanent masonry curtain wall, unpierced except for ventilation and covered access, is installed under the unit.
 - (d)** The pitch of the manufactured home's roof shall be a minimum vertical rise of one foot for every four feet of horizontal rise (1:4) and finished with shingles.
 - (e)** The exterior siding shall consist predominantly of horizontal or vertical vinyl, aluminum, wood, or hardboard siding.
 - (f)** The primary entrance has a landing which is no smaller in-depth than six (6) feet with a minimum ten-foot width; and
 - (g)** Class A manufactured homes are only permitted in the HDR zoning districts or in manufactured home parks. Double-wide Manufactured homes are permitted in the MDR zoning district. Only one (1) Class A manufactured home is allowed per property except in a manufactured home park.

b. Manufactured Home, Class B

A manufactured home that meets or exceeds the construction standards by the U.S. Department of Housing and Urban Development. A Class B may not satisfy all the criteria necessary to qualify as a Class A manufactured home, but a Class B manufactured home must have a continuous, permanent masonry curtain wall, unpierced except for required ventilation and access. Class B manufactured homes are only permitted in manufactured home parks in the HDR zoning districts. Multiple units per lot are only allowed in manufactured home parks.

c. Manufactured Home, Class C

Any manufactured home that does not meet the definitional criteria of Class A manufactured home, a Class B manufactured home, a modular home, or a travel trailer. Class C manufactured homes are not permitted.

d. Travel Trailer/Recreational Vehicle

A mobile structure with self-contained utilities, except for electricity, is designed to be used for camping or recreation purposes only, rather than as a permanent dwelling. Travel trailers are prohibited as permanent residences within the Town of Sylva.

3. Commercial Use of Manufactured Homes

Unless hereinabove authorized, or hereinbelow authorized, it shall be unlawful for any person to place or maintain any Class A or Class B manufactured home used for business or utility purposes on any premises in the Town's zoning jurisdiction, other than in a manufactured home park duly permitted by this ordinance and maintained pursuant to the provisions of this section and pursuant to the Tables of Uses.

4. Requirements and Conditions for a Manufactured Home

Any Class A or Class B manufactured home, as defined in this ordinance, may be placed and maintained upon a lot in accordance with the Table of Permissible Uses, and is subject to and shall comply with the following conditions:

- a.** The installation and set-up shall comply with NC State Building Code;

- b. The primary entrance, defined as an entrance leading to a living room, foyer, vestibule, kitchen, or other common areas, shall face a driveway;
- c. No manufactured home shall be used solely for storage purposes;
- d. No owner or manufactured home dealer may deliver, or cause anyone, to deliver, a manufactured home to a site within the planning jurisdiction of the Town until the manufactured home dealer, or the set-up contractor, shall have in hand all zoning/building permits required by the zoning ordinance to enable the manufactured home to be legally located on the proposed site. No manufactured home shall be located in the Town's planning jurisdiction as herein provided until a building permit shall have been issued by the zoning and inspections departments. The building permit shall authorize:
 - (1) The location of said manufactured home on the proposed site;
 - (2) The installation of the required masonry piers;
 - (3) The installation of the appropriate permanent masonry curtain wall; and
 - (4) The construction of the specific stairs, porches, entrance platforms, ramps, or other means of entrance and exit required by this Ordinance.

5. Requirements for Approval of Manufactured Home Parks

- a. **General Requirements.** In districts in which this Ordinance provides for manufactured home parks, they shall be permitted provided that:
 - (1) Plans for the proposed manufactured home park shall be submitted to and approved by:
 - (a) Jackson County health department (if required);
 - (b) Zoning administrator;
 - (c) Building inspector;
 - (d) Town of Sylva Board of Adjustments;

Before the Zoning Administrator issues a permit for the construction of the park. The Zoning Administrator shall certify the authenticity of each approval before the permit is issued and shall keep copies of the manufactured home park plan and certified approvals as a record.

- (2) Manufactured home parks shall be located on a well-drained site which shall be properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- (3) Manufactured home parks shall contain a minimum of two (2) buildable acres of land
- (4) Manufactured Home Parks shall provide a buffer adjacent residential uses and districts.
- (5) The maximum allowable density in the manufactured home park shall be four dwelling units per buildable acre (land area excluding floodways, wetlands, and slope more than twenty (20) percent).
- (6) Landscaping within the park shall comply with the Landscape Ordinance of this Ordinance.
- (7) The operator/manager of a manufactured home park shall designate and enforce a uniform type of underpinning of all manufactured homes in the community.
- (8) It shall be the duty and responsibility of the owner or agent/manager to keep the manufactured home park or residential group development in a reasonably clean and sanitary condition at all times and to keep all required facilities including water supply, sewage disposal, solid waste disposal containers, roads, walkways, stormwater drainage, and ground cover in good repair and maintenance.

b. Manufactured Home Space Requirements

- (1) The minimum land area required for any manufactured home unit shall be eight thousand (8,000) square feet.
- (2) Each manufactured home shall be located at least thirty (30) feet from any other manufactured home structure within the park, excluding storage buildings for use within the home.

- (3)** No permanent addition shall be constructed to any manufactured home.
- (4)** No manufactured home space shall be within twenty-five (25) feet of any public street right-of-way nor twenty-five (25) feet of any property line.
- (5)** Each home shall be setback at least twenty-five (25) feet from the edge of any traveled way within the park.
- (6)** There shall be front and rear steps and/or deck for each manufactured home.
- (7)** Each manufactured home park shall provide the following minimum facilities on the site for the common use of all mobile home occupants:
 - (a)** An acceptable plan for collection and disposal of garbage shall be included in the site plan for the manufactured home park.
 - (b)** Each residential unit in a manufactured home park shall be served with public water and sanitary sewer systems.
 - (c)** Each manufactured home space shall have a permanent site number sign that is clearly visible from the street running in front of the home.
 - (d)** A minimum of two (2) parking spaces shall be provided for each manufactured home.
 - (e)** A visitor parking area, consisting of one (1) space for each two (2) manufactured home units located within the park, shall be provided. This parking area does not have to be paved.
 - (f)** Adequate and suitable recreation facilities shall be developed within the park consisting of at least four hundred (400) square feet of recreation area for each mobile home space in the park. Safety, the convenience of the park residents, the presence of existing vegetation, and good drainage are among the features that shall be considered in locating the recreational areas.

c. Street Standards

- (1) All internal streets shall be paved.
- (2) All internal streets shall have a minimum width of eighteen (18) feet.
- (3) Pedestrian trails or sidewalks, meeting the standards of the Town of Sylva, shall abut all internal streets.
- (4) Street trees at the rate of one (1) tree per forty (40) feet of the street shall be planted along both sides of all internal streets and along streets abutting the mobile home park.

S. Manufacturing and Industrial Uses

The following uses shall not be permitted:

1. Abattoirs.
2. Bone Distillation.
3. Fat rendering.
4. Offal or dead animal reduction.
5. Stockyards.
6. Processing of acetylene gas, ammonia, chlorine, disinfectant, explosives, gelatin or glue, sulfurous, sulfuric, nitric, hydrochloric, or other corrosive acids, except as an accessory to permitted industrial use.

T. Mixed-Use

1. A single building must contain a residential use AND at least one (1) of the following use categories, with the actual uses limited to those identified in the use table:
 - a. Public/Civic
 - b. Commercial
 - c. Office
2. For mixed uses containing two (2) uses, no use shall occupy less than thirty percent (30%) of the floor area of the project.

3. For projects with three (3) or more uses, the thirty percent (30%) minimum for a single-use shall be waived; however, no single-use shall occupy more than sixty percent (60%) of the floor area of the project.
4. Density: Twelve (12) units per acre. For projects in which residential and nonresidential uses are integrated vertically, density shall be calculated based upon the entire site acreage.
5. In the DTB district, residential dwellings shall only be permitted on the upper floors of a mixed-use (commercial/civic/office).
6. Must meet all applicable building and fire codes.

U. Mortuaries and Crematoriums

A crematory may be located within the same structure as a mortuary. If a crematory is in a separate structure from the mortuary, the crematory must be located in the rear yard and must be screened from neighboring properties and public rights-of-way with a buffer.

V. Multi-Family

1. Multi-family uses must meet the minimum lot size of the zoning district in which they are located plus provide an additional 5,000 square feet of lot area per additional unit for every unit more than two (2).

Example: A 4-unit complex will require the minimum lot area of the zoning district + an additional 10,000 square feet.

2. All multifamily buildings with four (4) stories or more must contain an elevator.
3. Multifamily buildings must have their primary access from and front onto a public street, private street, or courtyard. Buildings shall not face the rear of other buildings on the same lot or parcel.
4. All parking associated with the multifamily use must be located to the side or in the rear of the building. Secondary access to the buildings may be provided from the parking area.
5. The minimum spacing between buildings is twenty (20) feet, plus one (1) foot for each one (1) foot of building height in excess of thirty (30) feet.
6. The maximum building length shall be one hundred fifty (150) feet.

7. Where a multifamily development is located along any road with current public transit access and such public transit authority approves the addition of a stop, such development shall provide a minimum of one (1) public transit access shelter for the use of occupants/patrons.
8. Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to, parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks, or greenways, and on-site amenities such as recreation areas. These interior sidewalks shall be constructed in accordance with the standards for sidewalks as set forth in Article 6 of this Ordinance.
9. Where a multi-family use building contains a commercial, civic, or office use, the standards of Section 5.4.T may be applicable.

W. Nursing Home

1. Sleeping rooms shall be no less than one hundred (100) square feet for each patient.
2. The preparation of food shall be accomplished at a central kitchen facility under the auspices of a trained nutritionist. Meals can be served to persons in their rooms.
3. The facility shall comply with all state licensing requirements.

X. Outdoor Storage Yard

1. No salvaged, discarded, junked, or other similar materials shall be placed in an outdoor storage yard for more than thirty (30) days.
2. No material shall be placed in an outdoor storage yard that could be moved by the elements out of the storage yard.
3. All materials in outdoor storage yards shall be stored within a chain-link or similar fence.
4. All outdoor storage yards that adjoin or are visible from a public right-of-way shall be screened from view by appropriate fencing and/or landscaping approved by the Zoning Administrator.
5. Outdoor storage as a principal use is not permitted in the Commercial Corridor Overlay District.

Y. Parking Lots and Decks

1. Any parking facility or structure must have pedestrian orientation, design, and access.
2. Parking facilities must have an edifice with similar architecture and materials of the district with a parapet or similar feature concealing the top floor of vehicles.
3. The perimeter of a parking area must be screened by a buffer.

Z. Place of Worship

In the DTB, Downtown Business District, places of worship are permitted as a stand-alone use provided the parking requirements for the use are met on-site. Places of worship are also permitted on the second and third floors of a mixed-use building or development. Places of worship are not to be located on the first floor in a mixed-use building or development.

AA. Planned Unit Development

1. More than one (1) principal structure shall be allowed within the planned unit development.
2. Uses proposed to be incorporated into the planned unit development shall be permitted uses in the Town of Sylva, as outlined in Article 5 for the zoning district in which the planned unit development is proposed.
3. The land in a planned unit development 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 sale agreement) shall be provided that the development can be successfully completed by the applicant.
4. Every dwelling unit shall have access to a public or private street, walkway, or other area dedicated to common use, and there shall be provision for adequate vehicular circulation to all development properties, in order to ensure acceptable levels of access for emergency vehicles.
5. Density standards shall be consistent with the underlying district. Dimensional standards may be varied to accommodate the anticipated design.
6. Design standards shall be consistent with the requirements of Article 7.

7. The minimum distance between buildings shall be twenty (20) feet or as otherwise specified by the Board of Commissioners or North Carolina Building Codes to ensure adequate air, light, privacy, fire separation, and access for emergency vehicles.
8. Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walls, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants and adjacent properties for screening of objectionable views or uses, and for reduction of noise. Multi-level buildings shall be located in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.
9. All buildings, landscaping, signage, and similar features within the planned unit development shall be developed with a coordinated architectural style.

BB. Pre-School Or Daycare

1. Pre-schools and daycares shall be located on lots that provide ample outdoor play areas. Play areas shall be enclosed with a fence, a minimum of twenty-five hundred (2,500) square feet, and located in the rear or side yard. Fences shall be a minimum of six feet (6') in height. Childcare and preschools located adjacent to parks are exempt from this provision.
2. On-street parking may be used to fulfill parking requirements.
3. All play equipment shall be located in the fenced area. Front yards shall not be used as playground areas.
4. Decorative fencing or a vinyl coated chain link fence screened with landscaping shall be provided when the fence is visible from the street.

CC. Public Parks, Playgrounds, and Greenways

1. All public parks, playgrounds, and greenways shall be treated as parks in design and landscaping. All structures associated with public parks, playgrounds, and greenways shall be located toward the perimeter of the lot.
2. Public parks, playgrounds, and greenways are encouraged to be built adjoining school campuses, parks, greenbelts, parkways, or greenways.
3. Parking shall be located behind structures or along the perimeter of the lot and shall be in accordance with Article 7.

4. All outdoor swimming facilities shall be located at least one hundred feet (100') from any adjoining residentially zoned lot or mixed-use facility.
5. All other outdoor recreational uses must be located at least twenty feet (20') from any side or rear lot line, and fifty feet (50') from any side or rear lot line adjacent to a residential zoning district or mixed-use facility.
6. Regular hours of operation may be between 8:00 AM and 10:00 PM if located in or adjacent to a residential district.
7. Lights shall be turned off after regular hours of operation. Illumination of sporting events shall be permitted after this time only to conclude a scheduled event that was unable to be completed before this time due to unusual circumstances.

DD. Recycling Collection Centers and Processing Facilities

1. No storage areas shall be visible from rights-of-way, residential uses, or residential districts.
2. Recyclable materials shall be contained within a leak-proof bin or trailer. There shall be no storage of materials on the ground.
3. Only limited sorting, separation, or other processing of deposited materials shall be allowed on the site.
4. No collection or storage of hazardous or biodegradable wastes. There shall be no collection or storage of hazardous or biodegradable wastes on the site. There shall be no chipping, mulching, or receiving of construction debris.

EE. Restaurants with Outside Seating

Outdoor seating and items used in connection with the restaurant may not encroach into the pedestrian travel path such that the path is reduced below five (5) feet in width at any point.

FF. Restaurants without Outside Seating

In the DTB, Downtown Business District, restaurants shall not provide drive-through services.

GG. RV Parks and Campgrounds

1. Every campsite shall consist of a minimum of 1,500 square feet. Each campsite shall be clearly established on the ground by permanent monuments or markers.

2. Maximum development density not to exceed forty-five percent (45%) of total gross land area (excluding roads).
3. No more than one (1) temporary recreational vehicle per lot site. The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding ninety (90) days.
4. The sale or storage of recreational vehicles within the park is prohibited.
5. Permanent sleeping quarters shall be limited within the park. One (1) permanent dwelling may be allowed for the park manager or operator. Cabins are also permitted within the campground and are subject to the following conditions listed below:
 - (a) The total building coverage may not exceed 50% of the permitted site. Building area also subject to water shed provisions and other applicable laws.
 - (b) Construction- cabins construction must be stick built and have a permanent foundation. Cabins must be 100% constructed from natural material such as wood, stone, brick, stucco, or fibrous cement board.
 - (c) At least twenty (20) feet between cabins.
 - (d) Outdoor fireplaces, grills or fire pits: allowed but subject to requirements and inspection by the Fire Marshal. Must be at least twelve (12) feet from the cabin.
 - (e) Other than the permitted cabins, the permanent dwelling for the park manager or operator, and an accessory structure, the property designated under this conditional use may not contain any other structures.
6. Minimum ten percent (10%) total gross land area dedication for recreational uses excluding maximum density development.
7. Property owner may dedicate a minimum of five percent (5%) total gross land area for the use of tent camping, excluding the use of recreational vehicles.
8. No more than two (2) vehicles per site allowed for parking.
9. No site or lot shall have direct access to a public road.

10. Campgrounds shall provide safe and convenient vehicle access from public streets or roads into the campground, or registration area.
11. Minimum interior two-way street widths of twenty (20) and twelve (12) feet in width for one-way streets. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter. Gravel, with a six (6) inch gravel base, within the park or campground. Roads must remain accessible, passable, maintained, and conform to best practice in terms of erosion control.
12. A public water supply is required along with connection to Tuckaseegee Water & Sewer Authority as no wells or septic tanks are allowed.
13. Adequate lighting shall be provided for all common areas, including the interior lighting of any building open after dusk. Service buildings, entrances, exits should be adequately lit from sundown to sunrise, with low spillage, and casting no direct light on adjacent properties. A trail type of light such as bollards, and lighting on buildings to change to a lowlight, i.e., amber light after sundown to avoid light pollution.
14. Separate sanitary facilities for both sexes (including showers), as well as drinking water, shall be available.
15. There shall be no removal of wheels or axles from any recreational vehicle so as to keep the residence temporary.
16. There shall be no manufactured homes or mobile homes allowed in any recreational vehicle park or campground.
17. Campgrounds and parks shall be maintained free of accumulations of debris, which may contribute to rodent harborage or distinct breeding grounds for flies, mosquitoes, insects, or other pests. The growth of brush, weeds, shrubbery, and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Open areas shall be maintained free of heavy undergrowth and maintained to promote a pleasing aesthetic appearance.

HH. Self-Storage

1. The only commercial uses permitted on the site of a self-service storage facility use shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate, or process goods; service or repair vehicles, small engines, or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site.

2. A security or caretaker quarters use may be established on the site of a self-storage facility.
3. Except as provided in this section, all property stored on the site of a self-service storage facility use shall be entirely within enclosed buildings.
4. Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:
 - a. The storage shall occur only within a designated area. The designated area shall be clearly delineated.
 - b. The storage area shall not exceed twenty-five percent (25%) of the buildable area of the site.
 - c. The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or solid fencing with landscaping on the outside of the fence.
 - d. Storage shall not occur within the area set aside for minimum building setbacks.
 - e. No dry stacking of boats shall be permitted on site.
 - f. No vehicle maintenance, washing, or repair shall be permitted.
5. The development shall not encroach into any buffer required by this Ordinance; the minimum required setback from any property line shall be the greater of any required buffer or setback. If separate structures are constructed, there shall be a minimum separation of ten (10) feet between the buildings within the facility.
6. The following on-site circulation standards shall apply:
 - a. The one- or two-way traffic flow patterns in aiseways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows.
 - b. Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aiseways.
7. Outdoor lighting shall be the minimum necessary to discourage vandalism and theft. If a facility abuts a residential district, outdoor lighting fixtures shall be no more than fifteen (15) feet in height.

8. No exterior loudspeakers or paging equipment shall be permitted on the site.
9. The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco, and painting of surfaces. The colors selected shall be compatible with the character of the neighborhood.

II. Sexually Oriented Business

1. Purpose

- a. The purpose of this section shall be to set forth the regulatory and licensing requirements for adult establishments located within the Town of Sylva. Adult establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. Studies and experiences that are relevant to North Carolina have shown that lower property values and increased crime rates tend to accompany and are brought about by adult establishments. The Board of Commissioners finds that regulation of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods and to regulate these acts. Regulation to achieve these purposes can be accomplished by the procedures set forth hereinafter.
- b. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This section represents a balancing of the legitimate ends of the community by imposing an incidental, content-neutral place, time, and manner regulation of adult businesses, without limiting alternative avenues of communication and, at the same time, requiring the business to carry its share of financing administrative and enforcement activities.

2. Definitions

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

a. Adult Establishment

Any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in N.C.G.S. § 14-202.10 as amended. This term may be used interchangeably with adult business.

b. Town

Town of Sylva, North Carolina.

3. Application for Licenses

a. Business License

(1) It shall be unlawful for any person to operate or maintain an adult establishment in the Town unless the owner or operator thereof has obtained an adult establishment license from the Town. It shall also be unlawful for any person to operate such business after such license has been revoked or suspended by the Town or has expired.

(2) It shall be unlawful for any entertainer to knowingly perform any work, service, or entertainment directly related to the operation of an unlicensed adult establishment within the Town.

(3) It shall be prima facie evidence that any adult establishment that fails to have posted, in the manner required by this section, an adult establishment license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer who performs any service or entertainment in an adult establishment in which an adult establishment license is not posted, in the manner required by this section, had knowledge that such business was not licensed.

b. Entertainer License

It is unlawful for any person to work as an entertainer at an adult establishment without first obtaining a license to do so from the town or to work as an entertainer at an adult establishment after such person's license to do so has been revoked or suspended by the Town or has expired.

c. License Classification and Fees

- (1) The term of all licenses required under this section shall be for a period of twelve (12) months, commencing on the date of issuance of the license. The application for a license shall be accompanied by payment in full of the fees referred to in this section and established by the Board of Commissioners. No application shall be considered complete until all such fees are paid.
- (2) All licenses shall be issued for a specific location and/or person and shall be non-refundable and nontransferable.
- (3) The license fees shall be as set by the Board of Commissioners from time to time and be recorded in the Town Board of Commissioners Meeting Minutes at which they are set.

d. Application Procedures

- (1) Adult establishment business license. All persons desiring to secure a license to conduct, operate or maintain an adult establishment under the provisions of this section shall make a verified application to the Town Clerk. All applications shall be submitted in the name of the person proposing to conduct, operate or maintain the adult establishment.
- (2) Entertainer license. All persons desiring to secure a license to entertain within an adult establishment under the provisions of this section shall make an application for a license to the Town Clerk.
- (3) All applications shall be submitted on a form supplied by the Town Clerk and shall require the following information: the applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time; the residence addresses for the past two years; the business and home telephone numbers; occupation; date and place of birth; social security number; driver's license number; and a recent photograph of the applicant.

e. Location Restrictions

Adult businesses may be permitted as a special use in a commercial district provided that:

- (1)** The sexually oriented business may not be located or operated within one thousand three hundred and twenty (1,320) feet of:
 - (a)** A church, synagogue, or regular place of worship;
 - (b)** A public or private elementary or secondary school;
 - (c)** A public library;
 - (e)** A boundary of any residential district;
 - (f)** A public park or playground;
 - (g)** A licensed day-care center;
 - (h)** An entertainment business that is oriented primarily towards children;
 - (i)** Another sexually oriented business.
- (2)** For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of any use listed in a. above.

JJ. Short-Term Rentals (Airbnb, VRBO, etc.)

- 1.** Parking must be provided on-site. At a minimum, two (2) spaces for the unit must be provided. One (1) additional space must be provided for each bedroom over four (4).
- 2.** A traffic flow diagram must be included with the approved development plan.
- 3.** Town of Sylva trash and recycling hours of roll in and roll out must be adhered to by guests.
- 4.** Outdoor signage, no greater than two (2) square feet), located near the main entrance door, must be provided with the property manager's name and 24-hour access phone number.
- 5.** If more than two (2) citations are issued by the police department within a one (1) year period, the property will be placed on six (6) months of probation. During that time, if no additional complaints are placed, the

property will be removed from probation. If additional complaints are lodged, the property may no longer be operated as a rental property for a period of one (1) year and may be subject to fines if found in violation of Town ordinances.

KK. Yard Sales

A single-family residence may conduct not more than two (2), one (1) day, on-premises yard sales within any one (1) calendar year.

Section 5.5 Food Trucks

A. Period of License

The mobile food vending license shall be valid for six (6) months from the date of issuance.

B. Requirements

1. Permit

A permit is required from the Town of Sylva for all mobile food units operating within city limits. A permit is required for trucks and carts regardless of whether the food is prepared on-site or not. The permit will be issued by the Town.

- a.** A mobile food vending permit shall be valid for six (6) months from the date of issuance.
- b.** An approved zoning permit from the Zoning Administrator has been required prior to food vending activities in inappropriate commercial districts only. A zoning permit will not be issued for food vending in any Town district where commercial activity is not permissible.
- c.** The Jackson County Health Department approval is required for all food vending units prior to Town approval.
- d.** The permit and health inspection rating must be visibly displayed.
- e.** A separate permit is required for special events held by the Town.
- f.** Fees are set in the Town of Sylva's Schedule of Fees.
- g.** When submitting a food truck application, the mobile vendor must submit a picture of the mobile unit and sign to be used showing the name of the unit.

2. The vending unit operator shall comply with all federal, state, and local laws when operating the unit.
3. All vendors shall be required to maintain active liability insurance. Proof of insurance must be provided to the Town prior to issuance of the initial permit or any renewal.
4. **Location**
 - a. Written consent must be given from the property owner in order for the use to take place.
 - b. Mobile food vending units and business operations may not obstruct sidewalks, ingress, or egress to the property or building entrance.
 - c. Mobile food vendors shall not be parked or set up closer than fifteen (15) feet from any fire hydrant.
 - d. No mobile food vendors will be allowed to vend in the public street.
 - e. No mobile food vendors will be allowed to vend in any public parking space.
 - f. Mobile food vending units shall be setback ten (10) feet from the road edge in the GB, General Business district. Carts may not obstruct access.
 - g. Mobile food vending units shall not obstruct access to public infrastructure, including but not limited to manholes, valve boxes, meter boxes, underground vaults, and other water and sewer system appurtenances.
 - h. **Parking**

In business districts with parking requirements, the primary site user must be able to maintain compliance with minimum parking standards for the zoning district.
 - i. **Owner Parking**

Owners and employees of mobile food vending units, in the DTB, Downtown Business District, must adhere to the parking requirements of Section 36-104 of the Town of Sylva Code of Ordinances and Section 7.2 of this Ordinance. Owners and employees of mobile food vending units in other business districts

shall not take up more than one (1) designated parking space or one (1) ten-foot by ten-foot area in addition to the mobile unit if they are not connected.

- j. The Town Board of Commissioners must give permission to locate in any public space within city limits.
- k. If the owner of mobile food business has more than one (1) vending unit, a separate permit is required for each location.

5. **Cleanliness of Area**

The area must be kept neat and clean. Grease spills must be cleaned up the same day. Retaining permits depends on the cleanliness of the site.

- 6. Food truck vendors are responsible for the removal of their own garbage and recycling as well as their patrons. Trash shall not be placed in the Town's public trash receptacles. Garbage shall be removed off-site and taken to a sanitary facility.
- 7. The food vendors are responsible for providing receptacles for their patrons' trash and recyclable materials.
- 8. Mobile food vendors are encouraged to use recyclable and/or compostable containers, cups, and utensils.
- 9. All vendor equipment and merchandise located on public property shall be removed from the premises and stored away from public view during non-operating hours.
- 10. All vendor equipment and merchandise for mobile pushcarts shall be removed from the premises and stored away from public view during non-operating hours.

11. **Shade**

Shade is permissible. Awnings, umbrellas, or tents should not obstruct or cause a safety hazard.

12. **Signage**

- a. Signage outside is allowed up to forty-five (45) square feet.
- b. One A-frame sign for specials is allowed. The A-frame sign is subject to the requirements and fees set forth in the temporary sign ordinance.

- c.** Protrusions to increase signage are not allowed.
- 13.** A violation of this section or any other applicable Town Ordinance shall be cause for immediate revocation of any permit issued pursuant to this section.

ARTICLE 6

INFRASTRUCTURE & SUBDIVISION

Section 6.1 Authority, Purpose, and Applicability

A. Authority

This Article, enacted in accordance with the provisions of 160D-801 of the North Carolina General Statutes, shall apply to the entire planning jurisdiction of the Town of Sylva.

B. Purpose

Public health, safety, economy, good order, appearance, convenience, morals, and the general welfare require the harmonious, orderly, and progressive development of land within the jurisdiction of the Town. In furtherance of this intent, regulation of land by the Town has the purposes, among others, to:

1. Encourage economically sound and stable development in the Town;
2. Ensure the timely provision and coordination of required streets and highways, utilities, and other facilities and services to new land developments;
3. Ensure adequate provision of safe and convenient traffic access and circulation;
4. Ensure provision of needed community open spaces in new land developments through the dedication or reservation of land for recreational, educational, and other public purposes or the provision of funds in lieu of dedication;
5. Ensure, in general, the wise and timely development of new areas, in harmony with the land development plan and other official plans of the Town; and
6. Ensure accurate public records of land ownership, to facilitate land ownership transfer, the effective conduct of public and private business, and the protection of private property rights.

C. Intent

This Article is intended to provide for the harmonious development of the Town's jurisdiction and in particular for the following:

1. The coordination of streets with other existing or planned streets or official map streets;
2. Appropriate shapes and sizes of blocks and lots;
3. The provision of open space;
4. The provision of land and of easements for utilities and other public facilities and services; and
5. A distribution of population and traffic will tend to create conditions favorable to health, safety, convenience, prosperity, and general welfare.

D. Applicability

This Article and the submission requirements contained in Article 3 of this Ordinance, are applicable to all development of land, including divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions are created for the purpose of sale or building development (whether immediate or future). This Article is also applicable to all divisions of land involving the dedication of a new street or a change in existing streets.

However, the following divisions of land shall not be included within the definition of subdivision nor be subject to the regulations herein:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Sylva as contained herein.
2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Sylva, as contained herein.

5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Section 6.2 Phasing

A subdivision or development may be developed in phases, in accordance with the following provisions of this section:

- A. Each phase of a subdivision shall contain at least six (6) lots, unless shown on a phasing plan approved by the Zoning Administrator as part of the preliminary subdivision plan and Master Plan, after expressly determining that the proposed phasing makes it unlikely that a subdivider could abandon a final phase that contains a required extension of a road or other infrastructure.
- B. A phasing plan shall be submitted showing the phases of development and the requirements of this ordinance that will be satisfied in each phase which is approved as part of the preliminary plan and Master Plan.
- C. Open space required by Section 6.17. shall be measured cumulatively in all approved phases and shall amount to at least twenty-five (25) percent of the total area of land included in those phases.
- D. The degree and extent of roads, water supply, sewage disposal, stormwater management, erosion and sedimentation control, and other required improvements in the phase and previously approved phases are sufficient to serve or handle all development within the phase.
- E. The Zoning Administrator or approving body may not approve a phasing plan when such phasing will not provide for adequate public facilities to support any such phase independent of the overall development plan. The Zoning Administrator or approving body, may require or make a conditional of approval that additional streets, water, and sewer facilities or other required public facilities be constructed as part of the phase in order to ensure that sufficient public facilities will be in place to support such phase, independent of any future development.

Section 6.3 Road Standards

A. Definition

The term "private," as it appears in this section, refers to the maintenance responsibilities and construction standards of the road and not the dedication status.

B. Designation

Roads that are not required to be constructed to state standards will be privately maintained, and maintenance responsibilities shall be noted on the final plat. Privately maintained roads are allowed only in minor subdivisions. Regardless of the designation of the road, every lot shall have access to a road that is sufficient to provide a means of ingress and egress for emergency vehicles as well as all those likely to need or desire access to the property for its intended use.

C. Public Subdivision Roads

All subdivision lots shall abut a public or private road for a distance of at least thirty (30) feet. Public subdivision roads shall be designed and built according to the standards in the NC Department of Transportation's subdivision roads, minimum construction standards. These roads shall be maintained by the developer/owner until the NC Department of Transportation or Town assumes responsibility for the maintenance. Roads that are not eligible to be put on the state department of transportation system because there are too few residences shall nevertheless be dedicated for public use and shall be built in accordance with the North Carolina Department of Transportation (NCDOT) standards. Where a road has been offered for public dedication, that offer may not be withdrawn without prior review and approval from the Board of Commissioners.

D. Private Subdivision Roads

Private subdivision roads are allowed only in minor subdivisions and shall connect to an existing state-maintained road and shall be constructed in accordance with the standards contained in the North Carolina Department of Transportation's most recent version of Subdivision Roads Minimum Construction Standards.

1. Maintenance of Private Subdivision Roads

Private subdivision roads shall be maintained privately by a property owners' association approved by the Board of Commissioners. The maintenance agreement for private subdivision roads shall include, but not be limited to, the following items:

- a.** A legally incorporated property owners' association shall be established for the property owners within the entire subdivision.
- b.** All property owners within the subdivision shall be members of the property owners' association.
- c.** The subdivider shall convey, in a fee simple ownership, all neighborhood private roads within the subdivision to the property owners' association.

- d. The responsibility for all maintenance of neighborhood private roads shall be with the property owners' association.
- e. The passage of the responsibility for maintenance of neighborhood private roads from the developer to the property owners' association shall be noted in the deed of each purchaser of property within the subdivision.
- f. At the time of preparation of the sales agreement, the developer shall include a disclosure statement to the prospective buyer. The disclosure statement shall provide an explanation of the consequences and responsibilities regarding the maintenance of a private road and shall fully and accurately disclose the party who shall be responsible for the construction and maintenance of the subdivision roads.

2. Maintenance Statement

All private roads shall have a maintenance statement included on the face of the final plat, indicating who will have responsibility for maintaining the streets. Any subdivision plat containing private roads not equaling or exceeding the applicable standards of the state department of transportation shall contain a statement on the face of the plat indicating that such roads are not eligible for maintenance by the state department of transportation.

3. Design Criteria

- a. Roads shall be designed by a registered professional engineer or professional land surveyor licensed to work in North Carolina, as provided for by G.S. 89C-3. Prior to approval of a final plat for a subdivision the engineer or land surveyor who designed the roads shall certify that the roads have been constructed in accordance with the approved plans. If a surety bond or other financial guarantee is provided in lieu of constructing roads prior to the approval of the final plat, the financial guarantee shall not be considered to be satisfied until the engineer or land surveyor who designed the roads has certified that the roads have been constructed in accordance with the approved plans.
- b. Minimum Private roads proposed to serve lots and/or homesites in subdivisions shall comply with the following minimum design standards in the table below.

TABLE 6-1 ROAD WIDTH STANDARDS

ROAD TYPE	MIN. ROW WIDTH (A)	TRAVELWAY WIDTH (B)	SHOULDER WIDTH (C)
SHARED DRIVE (UP TO 8 UNITS SERVED)	30'	10'	2'
MINOR RESIDENTIAL (9-12 UNITS SERVED)	35'	14'	2'
RESIDENTIAL (13-20 UNITS SERVED)	45'	16'	2'
MAJOR RESIDENTIAL (21-50 UNITS SERVED)	45'	18'	3'
COLLECTOR (OVER 50 UNITS SERVED)	45'	20'	3'

Source: Stewart

Notes:

- The minimum road right-of-way width shall be increased to the extent necessary to keep all grading and land disturbing activity within the road right-of-way.
 - Traffic generated by amenities such as golf courses, restaurants, etc. located within the proposed subdivision shall be considered in determining the appropriate standards for the road(s) serving the development and/or providing access to the amenity. This shall be done by identifying the vehicle trips estimated to be generated by the proposed amenity and relating these vehicle trips to those generated by a single-family dwelling. It shall be assumed that a single-family dwelling generates eight (8) vehicle trips per day. Estimated traffic generation shall be as set forth in the NCDOT Traffic Engineering Manual.
 - If the shared drive or minor residential road is more than five hundred (500) feet long, a turnout must be provided as set forth in Section 6.4.D.3.c below.
- c.** The turnouts must be a minimum of fifty (50) feet long and provide for a total travelway width of eighteen (18) feet with an additional three feet (3') width cleared of trees, brush, and undergrowth. If the turnout is located on the fill side of the road, it shall have a total travelway width of twenty (20) feet with an additional three (3) feet width cleared of trees, brush, and undergrowth. The location of turnouts on shared drives and minor residential roads shall be approved by the Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway. Items to be considered in the review of turnout locations shall include the road grade, the slope of the bank (if turnout to be located on the fill side of the road), the width of the turnout,

vertical and horizontal curves, and compaction of the subsoil and base as set forth in the table below.

**TABLE 6-2
GRADES, CENTERLINE RADIUS, AND TURNOUTS**

Road Section Grade	Road Centerline Radius	Turnout Spacing
≤ 12%	> 90 Feet	700 Feet
≤ 12%	90—70 Feet	600 Feet
≤ 12%	69—60 Feet	500 Feet
≤ 12%	59—50 Feet	400 Feet
≤ 12%	< 50 Feet	300 Feet
> 12%	> 90 Feet	350 Feet
> 12%	90—70 Feet	300 Feet
> 12%	69—60 Feet	250 Feet
> 12%	59—50 Feet	200 Feet
> 12%	< 50 Feet	150 Feet

- d. The maximum length for road types shall be as follows:

**TABLE 6-3
ROAD LENGTH STANDARDS**

Shared Drive	2,650 feet (approximately ½ mile)
Minor Residential	5,300 feet (approximately 1 mile)
Residential	10,600 feet (approximately 2 miles)

Notes:

If the road length exceeds the maximum for that road type, the road shall be constructed to the standards of the next type regardless of the number of homes/lots served.

- e. Maximum cut slope: one and one half to one (1 ½:1); maximum fill slope: two to one (2:1). Steeper slopes may be permitted if certified by a professional engineer and approved by the Zoning Administrator. A bench with a minimum width of five (5) feet shall be provided at the toe of all fill slopes greater than ten (10) feet in vertical height. All cut and fill slopes greater than twenty (20) feet in

vertical height shall have a bench with a minimum width of five (5) feet for every ten (10) feet in vertical height.

- f.** Development access roads in subdivisions with more than one hundred (100) lots and/or dwelling units proposed and sections of roads within a subdivision providing access to more than one hundred (100) lots shall be constructed to NCDOT subdivision roads minimum construction standards.
- g.** Subdivisions shall abut and be accessed from a public road or have a deeded right-of-way (minimum width of forty-five (45) feet) to a public road. If access is provided by a deeded right-of-way, an access road meeting the road construction standards for the number of lots served shall be constructed within the deeded right-of-way.
- h.** Sections of road, including shared drives, with a grade in excess of fifteen (15) percent shall be paved, with the pavement extending one hundred (100) feet from the section of road with a grade in excess of fifteen (15) percent. The length of road sections with a grade greater than fifteen (15) percent shall not exceed three hundred (300) feet in length, and a leveling area shall be provided at each end of the road segment with a grade exceeding fifteen (15) percent. The grade of the leveling area shall not exceed twelve (12) percent and shall be at least one hundred (100) feet in length.
- i.** The grade of residential roads and major residential roads may be increased up to a grade of twenty (20) percent upon approval of the Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway in order to minimize grading and/or vegetation removal. The section of road with a grade in excess of fifteen (15) percent shall be paved, shall not exceed three hundred (300) feet in length, and a leveling area shall be provided at each end of the road segment with a grade exceeding fifteen (15) percent. The grade of the leveling area shall not exceed twelve (12) percent and it shall be at least one hundred (100) feet in length.
- j.** The grade of collector roads may be increased up to a grade of eighteen (18) percent upon approval of the Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway in order to minimize grading and/or vegetation removal. The section of road with a grade in excess of fifteen (15) percent shall be paved, shall not exceed three hundred (300) feet in length, and a leveling area shall be provided at each end of the road segment with a grade exceeding fifteen

(15) percent. The grade of the leveling area shall not exceed twelve (12) percent and it shall be at least one hundred (100) feet in length.

- k.** A two-foot-wide shoulder shall be provided on each side of shared driveways, minor residential, and residential roads. A three-foot-wide shoulder shall be provided on each side of major residential and collector roads. The shoulder shall be at approximately the same finish grade as the roadbed and shall be compacted to a minimum compaction rating of ninety-five (95) proctors. Shoulders may be grassed, graveled, or paved.
- l.** The travelway width for all roads except collector and development access roads may be reduced to one (1) lane (minimum width nine (9) feet) in areas with steep slopes to reduce grading and preserve existing vegetation upon approval of the Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway. The maximum length of the one-lane segment shall be one thousand (1,000) feet and a pull-out (s) meeting the standards set forth above shall be provided. A road shoulder with a minimum width of two (2) feet shall be maintained on each side of the one-lane road segments.
- m.** Leveling areas must be provided for all roads at all intersections. The leveling area shall have a maximum grade of five (5) percent extending fifty (50) feet from the intersection.
- n.** The travelway width shall be increased when the road centerline radius is less than ninety (90) feet. For centerline radii between ninety (90) feet and seventy (70) feet, the travelway width shall be increased twenty-five (25) percent; for centerline radii between seventy (70) feet and sixty (60) feet, increase the travelway width thirty-five (35) percent; for centerline radii between sixty (60) feet and fifty (50) feet, increase the travelway width forty-five (45) percent; and for centerline radii less than fifty (50) feet, increase the travelway width fifty (50) percent.
- o.** The width of the corridor cleared/graded for road construction shall not exceed ninety (90) feet for eighty (80) percent of the length of the road. For twenty (20) percent of the length of the road, the corridor may be cleared/graded to a maximum width of one hundred thirty-five (135) feet for the road construction. The maximum height of the corridor (combined cut and fill slopes) shall be sixty (60) feet.
- p.** An overhead clearance of fourteen (14) feet shall be provided on all roads.

- q. Alternatives and modifications to these standards that reduce land disturbance and vegetation removals, such as one-way roads and loop roads, and/or that are necessitated by the natural physical features of the property and not otherwise provided for in these standards may be approved by the Zoning Administrator. The request for such alternative or modification shall be submitted by the property owner/developer to the planning department for review.
- r. Vertical Curves. Formula for determination of length of vertical curve required to provide minimum sight distances shall be as follows:

[L = KA]
 L = Length of the vertical curve in feet
 K = Rate of vertical curvature in feet per percent of A
 A = Algebraic difference in grades in percent

**TABLE 6-4
 VERTICAL CURVATURE STANDARDS**

Crest	10
Sag	10
Stop	5

- s. Minimum private roads proposed to serve lots and/or homesites in subdivisions shall comply with the following minimum construction standards:

**TABLE 6-5
 PRIVATE AND SUBDIVISION ROAD CONSTRUCTION STANDARDS**

Road Type	Base Course	Pavement Surface
Shared Drive	4" ABC ¹ or STBC ²	Not required unless grade > 15%
Minor Residential	6" ABC or STBC	AST ³
Residential	6" ABC or STBC	1 ½" SF9.5A ⁴ or S9.5B ⁵
Major Residential	8" ABC or STBC	1 ½" SF9.5A or S9.5B
	Or 6" ABC or STBC	2" SF9.5 or S9.5B
Collector	8" ABC or STBC	2" SF9.5A or S9.5B

Notes:

¹ ABC Aggregate Base Course

- 2 STBC Soil Type Base Course
 - 3 AST Asphalt Surface Treatment, Mix design to be approved by Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway
 - 4 SF9.5A Asphalt Concrete Surface Treatment, Type SF9.5A
 - 5 S9.5B Asphalt Concrete Surface Course, Type S9.5B
- t.** Approved pervious paving materials are encouraged to be used in lieu of the paving materials listed above. Pervious paving materials shall be approved by the Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway.
- u.** The right-of-way widths and construction standards specified above are for private roads. NCDOT will not assume maintenance of these roads. In order for NCDOT to assume maintenance of roads, they must meet NCDOT standards as set forth in the publication "NCDOT Subdivision Roads Minimum Construction Standards."
- v.** Base and subsoil shall be compacted to a minimum rating of ninety-five (95) proctors.
- w.** Dead end roads shall provide a turnaround at the end of the road to permit general traffic, emergency vehicles, and general service vehicles to turn. If a bulb turnaround is provided, the turnaround shall meet the following standards:
- (1)** Minimum ROW radius: forty-five (45) feet.
 - (2)** Minimum pavement radius: thirty (30) feet.
 - (3)** T-turnarounds and hammerhead turnarounds may be used in lieu of a bulb turnaround on dead-end roads. The minimum length of the maneuvering segment shall be forty-five (45) feet and the minimum width shall be eighteen (18) feet.
- x. Driveways**
- (1)** Curb cuts were provided in the subdivision, shall begin not less than three (3) feet from lot lines as projected to meet the line of the pavement edge. Design and construction of portions of driveways within rights-of-way shall be constructed in accordance with the requirements of the NCDOT. The approving authority may permit the establishment of shared driveways on property lines provided that mutual access easements are delineated upon the subdivision plat and all relevant deeds.

- (2) If extraordinary surface or subsurface conditions, terrain, the general drainage pattern in the area, existing or probable development in the vicinity, or other circumstances exist or occur, the Zoning Administrator, upon making supporting written findings, may establish greater requirements in particular cases.
- y. Cemeteries and grave sites shall be identified during the application process and protected during the development of subdivisions by a twenty-foot buffer, and family members shall be assured reasonable access thereto during development and thereafter. Anyone subdividing properties containing roads, trails, and other travel ways which have historically provided public access to national forests and other public lands is encouraged to provide for continued public access thereto.
- z. All subdivision road intersections including those with existing state-maintained roadways shall be constructed using traffic control standards as designated in the "Manual on Uniform Traffic Control Devices" (MUTCD), "North Carolina Supplement to the Manual on Uniform Traffic Control Devices." All signage shall meet the requirements of the MUTCD.
- aa. Intersections**
- (1) The most desirable intersections are those with angles of seventy-five (75) to ninety (90) degrees. Intersections with angles from sixty (60) to seventy-five (75) degrees are acceptable under extreme conditions as determined by the Zoning Administrator.
- (2) The minimum sight distance triangle for stop condition when connecting new local residential roads or residential collector roads to existing state-maintained roads is seventy (70) feet along the existing road right-of-way and ten (10) feet along the new road right-of-way.
- (3) All internal intersections shall have a minimum twenty (20) feet radius.
- bb. Sidewalks and Ramps**
- (1) Sidewalks may be provided for all major subdivisions to access a pedestrian destination point, such as a school, park, etc., and may constitute part of the open space requirements, provided it is not required as a portion of the right-of-way for any public street.

- (2) All sidewalks shall meet the requirements of the "Americans with Disabilities Act." In accordance with G.S. 136-44.14, all street curbs in the State of North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where curb and gutter are provided and at other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with details contained in NCDOT's, Division of Highways publication entitled, "Guidelines, Curb Cuts, and Ramps for Handicapped Persons."

cc. Street Names and Signage

- (1) Appropriate street name signs which meet standard County specifications shall be placed at all street intersections. The developer shall bear the expense.
- (2) Proposed street names shall be submitted and subject to the approval of Jackson County, as appropriate. New names shall not duplicate or be similar to existing street names. Existing street names, however, shall be extended where appropriate.

E. Access to Adjacent Properties

For the purposes of providing improved traffic flow, limiting the number of subdivision street intersections on collector and arterial streets, and providing access between adjoining subdivisions, the approving authority may, where terrain, topography, and other considerations make it feasible and desirable, require that a proposed road be extended by dedication or reservation to the boundary of such property.

F. Permits for Connection to State Roads

An approved state department of transportation driveway connection permit is required for the connection of a subdivision street to any existing state system road. This permit is required prior to any construction which connects the subdivision road to the state system road.

G. Marginal Access Road

Where a tract of land to be subdivided adjoins a principal arterial, minor arterial, or major thoroughfare as designated on the County thoroughfare plan or comprehensive transportation plan, the subdivider shall be required to provide a collector road parallel to the arterial/thoroughfare or utilize reverse frontage along the subdivision's public road for access to the lots. Where reverse frontage is utilized, private driveways shall be prevented from having direct access to the arterial/thoroughfare. When it is not feasible or practical for the subdivider to provide a collector road or utilize reverse frontage or when the Zoning Administrator determines that the installation of such would result in a less desirable subdivision design, the Zoning Administrator may grant an exception to this requirement upon finding that the spirit and intent of this chapter are preserved and that circumstances particular to the subject property, such as topography or shape of the tract, warrant the exception.

H. Relation to Transportation and Land Development Plans

1. Arrangement, character, extent, width, grade, and location of all roads shall conform to the officially adopted thoroughfare plan or comprehensive transportation plan, and any other adopted plan and shall be considered in relation to the following:
 - a. Existing and proposed transportation patterns;
 - b. Topographic and other natural features;
 - c. Public convenience and safety; and
 - d. Appropriate relation to proposed uses of the land to be served by such streets and existing or potential land uses in adjoining areas.
2. The subdivider shall dedicate lands and fund necessary road improvements in conformity with adopted transportation or land use plans to the extent that such are adequately related to the traffic expected to be generated by the subdivision.

I. Multiple Driveway Accesses

Multiple driveway accesses into a subdivision may be required to provide additional ingress and egress. In determining whether to require multiple accesses, the Zoning Administrator shall look at the following:

1. The overall number of lots served by the road system;
2. The proposed road system pattern;

3. The configuration of the tract of land;
4. The amount of road frontage available; and
5. Public safety and access to the subdivision by emergency services.

Section 6.4 Easements

A. Utilities

1. Easements for utilities shall be provided where necessary along the front, rear, or side lot lines in the subdivision, but shall not be required to center on such lines. Such easements shall be sufficiently wide to provide for the installation of such utilities and access for maintenance and operation.
2. Where it is proposed to locate major utility easements (defined for purposes of this section as being twenty (20) feet or more in width) and/or sites for substations, such as pumping stations, relay towers, pressure regulating stations, and the like, in a subdivision, procedures shall be as generally provided in Article 3.
 - a. Where dimensional or other characteristics of such land are such that the requirements of this ordinance render property unusable, the plan shall indicate and restrict the proposed use to easement or substation purposes, and requirements such as access, dimensions, or other characteristics of that land shall not apply.
 - b. In such cases, the Zoning Administrator shall determine if the proposed location of the substation or easement in relation to the adjacent uses and in consideration of the preservation of areas of major ecological importance, will be required to provide screening.

B. Minor Drainage

1. For purposes of this section, the term "minor drainage easements" is defined as those providing for drainage of surface waters from four (4) or fewer lots, and not involving water bodies of substantial significance in the ecology of the area, as determined by the Zoning Administrator. Minor drainage easements, where required, shall be permitted to cross lots at other points only where such arrangement is found by the Zoning Administrator to be practically necessary as a result of topography or soils conditions or improved flow and where such arrangement will leave a suitable buildable area, safe from inundation, erosion or subsidence, and safely accessible from approved roads.

2. Where necessary for operation, construction or maintenance, the Zoning Administrator may require, in accord with the terms of the easement, minor drainage easements to be kept free of trees and other obstructions.

C. Utilities in Drainage Easements

Utilities in drainage easements shall be permitted only upon specific authorization by the Zoning Administrator and only in locations authorized.

Section 6.5 Preservation of Water Areas

A. Intent

It is the intent of this section both to safeguard existing and potential development in appropriate locations and to preserve and promote a desirable ecological balance. Insofar as is reasonably practicable, subdivisions shall, therefore, be located, designed, and improved to:

1. Preserve important natural water areas and related vegetation and wildlife habitats;
2. Avoid the creation of upstream impoundments or downstream runoff harmful to such complexes or to existing or potential development in appropriate locations; and
3. Maintain desirable groundwater levels.

B. Maintenance of Natural Watercourses

Standards for maintenance of natural watercourses are as provided as follows:

1. Where a proposed subdivision is traversed by or includes in whole or in part a natural watercourse, as defined herein, the following requirements shall apply:
 - a. Such natural watercourse shall be maintained in its natural state except for those vehicular or utility crossings which are necessary and deemed unavoidable by the approving authority;
 - b. Bordering lands within thirty (30) feet of the edge of any natural watercourse shall be maintained in a naturally vegetated and unaltered state;
 - c. Bordering lands likely to be inundated at the period of high water during periods of rainfall of ten-year return frequency shall be maintained in a naturally vegetated and unaltered state;

- d. Any area designated as a floodway on the most recently adopted flood insurance rate map for the County shall be maintained in a naturally vegetated and unaltered state;
 - e. Any area designated as a special flood hazard area inundated by the 100-year flood on the most recently adopted flood insurance rate map for the County shall be designated as open space on any plat for a major subdivision. It shall not be necessary that it be maintained in a naturally vegetated and unaltered state except as required by subsection 6.5.B.1.d. of this section.
2. The development area for any lot shall be delineated on subdivision plats. Those areas described in subsection 6.5.B.1.d. of this section shall not be included in any lot intended for development and shall be set aside for the common use and enjoyment of occupants of the subdivision, and arrangements for maintenance by a property owners' association, management group or other acceptable arrangements shall be made. These areas shall be designated for permanent protection on the subdivision plat and recorded deeds, with appropriate recorded deed restrictions for the use and protection of these areas stipulated, and all management responsibilities set forth in property owners' association bylaws or other appropriate and binding documents for the development.

C. Changes in Location or Extent of Significant Natural Waterways and Water Areas

1. The Zoning Administrator may approve plats depicting changes in the location or extent of significant natural waterways and/or water areas only in the following circumstances:
- a. When necessary to accommodate unavoidable vehicular or pedestrian crossings;
 - b. When such changes will not adversely affect desirable ecological conditions, drainage or water retention or result in undesirable location or amount of upstream impoundment or downstream discharge; and
 - c. The subdivider has obtained all necessary state and federal permits.
2. No-rise certifications shall be required where regulatory floodways are concerned.

D. Minor Incursion for Recreational Purposes

Minor incursions into areas protected under this section may be permitted for the purpose of providing pedestrian and bicycle access for passive recreational activities. Such incursions shall be permitted only if shown on the preliminary and final plats and approved by the Zoning Administrator.

Section 6.6 Stormwater Drainage

A. General Requirements

1. Drainage systems shall be designed utilizing low-impact design to limit disruption of natural water flows by eliminating stormwater runoff, increasing on-site infiltration, and eliminating contaminants.
2. This system design shall be rendered in a drainage plan, which is a written or graphic concept plan of the proposed post-development stormwater management system. The drainage plan shall, at a minimum, include the following: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of flood plain/floodway limits; the relationship of the site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
3. The approval of the drainage plan of any subdivision shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.
4. Where major new drainage ways are required in a subdivision, they shall be coordinated with existing and proposed general drainage systems and designed with due regard for safety, appearance, and geological effects.
5. Aboveground drainage ways shall be:
 - a. Located and constructed to maintain a natural appearance;
 - b. Limited to safe water depths in easily accessible areas; and
 - c. Designed to avoid excessive rates of flow, erosion, or overflow into developed areas subject to damage.

6. Watercourses and natural water areas downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity in accordance with the Jackson County Sediment Control Ordinance. In circumstances where the impact of new drainage would be likely to damage or destroy significant existing natural water areas, such drainage shall not be discharged through or into such areas.
7. The development area of any lot shall conform to subsection 2 of this section.
8. Development standards for low-density projects
 - a. Stormwater runoff from the development area shall be transported from the development by vegetated conveyances to the maximum extent practicable.
9. Development standards for high-density projects
 - a. The measures shall control and treat the difference in stormwater runoff volume leaving the development area between the pre-and post-development conditions for, at a minimum, the ten-year, 24-hour storm. This standard refers to the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in ten (10) years. Runoff volume drawdown time shall be a minimum of twenty-four (24) hours, but not more than one hundred twenty (120) hours.
 - b. All structural stormwater treatment systems used to meet the requirements of this section shall be designed to have a minimum of eighty-five percent (85%) average annual removal for total suspended solids (TSS).
10. The application shall be accompanied by a description of the proposed method of providing stormwater drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts. Consistent with Section 9.3.C (Stormwater Standards), subdivisions qualifying for the special intensity allocation shall provide non-structural methods of managing stormwater runoff.
11. The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the State Division of Land Quality.

- 12.** Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so as to minimize their impact on water quality.
- 13.** Erosion Protection; preservation of topsoil and vegetation.

 - a.** In general, during the preparation of the subdivision and installation of improvements, appropriate measures shall be taken to prevent erosion and damaging siltation on the property and on adjoining land or water areas.
 - b.** In any grading or filling operations, desirable topsoil shall be conserved and redistributed as such, particularly to cover exposed subsoils.
 - c.** Trees, shrubs and ground cover existing at the beginning of development operations shall be preserved to the maximum extent reasonably feasible where they are of species and in locations likely to add an amenity to the completed development.
 - d.** Ground cover. All land within the subdivision right-of-way that is not used for structures, vehicular or pedestrian traffic, or for other approved landscaping shall be provided with grass or other ground covers, appropriately installed, and consistent with the requirements of the County sediment control regulations. Ground cover may include appropriate plant materials preserved in place.
 - e.** The Zoning Administrator may require the preservation of specified trees or other vegetation in connection with a particular development, except upon findings that such preservation is not feasible in view of the requirements for the installation of public utilities and facilities.
 - f.** The Zoning Administrator may grant conditional approval of a preliminary subdivision plat, provided that an erosion control plan approval letter is submitted to the Planning Department within ninety (90) days and prior to commencement of site preparation or other land-disturbing activities.
- 14.** All storm drainage shall be adequate so that the road may be maintained without excessive cost, and not cause flooding on private property from storm runoff of the design frequency. The minimum design frequency shall be as follows:

 - a.** Storm sewer collector and lateral ditches: ten (10) years.
 - b.** Cross drainage: twenty-five (25) years.

- c. The minimum cross pipe diameter is eighteen (18) inches; the minimum driveway pipe diameter is fifteen (15) inches.
 - d. All drainage shall be consistent with criteria found in NCDOT Guidelines for Drainage Studies and Hydraulic Design.
 - e. In areas where ditch grades or quantities of flow make it impracticable to establish and maintain vegetation, an erosive resistant lining such as paving, matting, or rip rap shall be required. Subsurface drainage shall be adequate to maintain a stable subgrade.
15. Design, construction, and installation of culverts, dams, and retaining walls shall comply with NCDOT standards as set forth in NCDOT Subdivision Roads Minimum Construction Standards unless other standards are approved by the Zoning Administrator with consultation from the Town Engineer or NCDOT, whichever has jurisdiction over the proposed roadway. Bridges shall have a travel way width equal to that required for the road type (including required shoulder width) and shall comply with the requirements of the U.S. Army Corps of Engineers and other permitting agencies. All bridge designs shall be prepared and/or approved by a licensed professional engineer registered in North Carolina. The Zoning Administrator shall review permit documentation for bridges to assure that all required approvals have been obtained prior to construction.

B. Definitions

For purposes of this section, the following terms shall have the meanings noted:

Development means any land-disturbing activity which adds to or changes the amount of impervious or partially pervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil, other than rebuilding activity that does not qualify as redevelopment.

Development area means that portion of any subdivision lot that is designated on the subdivision plat as the area that may become covered by impervious or partially impervious surface, including, but not limited to, buildings, pavement, and gravel areas such as roads, parking lots, and paths, and recreation facilities such as tennis courts.

A high-density project means any subdivision proposal that exceeds the low-density project threshold for dwelling units per acre and development area.

A low-density project means any subdivision proposing no more than two (2) dwelling units per acre and for which no more than twenty-four percent (24%) of the total area of the subdivision is delineated as a development area.

C. Development Standards for Low-Density Projects

Stormwater runoff from the development area shall be transported from the development by vegetated conveyances to the maximum extent practicable.

D. Development Standards for High-Density Projects

1. The measures shall control and treat the difference in stormwater runoff volume leaving the development area between the pre-development and post-development conditions for, at a minimum, the ten-year-24-hour storm. This standard refers to the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in ten years. Runoff volume drawdown time shall be a minimum of twenty-four (24) hours, but not more than one hundred twenty (120) hours.
2. All structural stormwater treatment systems used to meet the requirements of this section shall be designed to have a minimum of eighty-five percent (85%) average annual removal for total suspended solids.

Section 6.7 Protection from Flooding

- A.** In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. No subdivision shall be so located or improved as to:
1. Create impoundments of surface water on developable upstream lands outside the subdivision or increase surface drainage flow across developable downstream lands other than in approved drainage ways;
 2. Cause erosion onto the neighboring property or into water areas; or
 3. Raise or lower groundwater levels in a manner that creates adverse effects within the subdivision or in surrounding areas. Where the location of improvements appears likely to have such effects, plats shall not be approved until suitable remedial measures have been provided.
- B.** Such measures may include, as appropriate to the circumstances, the following:
1. Participation in the provision of necessary enlargements or improvements in off-site drainage ways;
 2. Establishment of water retention and recharge areas; and
 3. Mechanical and vegetative means to control runoff and erosion from the subdivision.

- C. In addition to those requirements set forth herein for the protection of watercourses, the approving authority shall certify that all subdivision proposals conform to the requirements of the County flood damage prevention ordinance and County sediment control ordinance before approving any plat.

Section 6.8 Lots

A. General Design Criteria

Lot size, width, depth, shape, and orientation shall be appropriate for location within the subdivision and location of the subdivision, and for the type of development and use contemplated.

B. Minimum Dimensions

Minimum lot dimensions shall be as follows:

1. Minimum lot dimensions shall be as specified in any regulations applicable to the area in which the proposed subdivision is located, subject to increases as required by the County public health department's division of environmental health for residential lots not served by public water supply and public sanitary sewerage.
2. Depth and width of lots subdivided for nonresidential purposes shall be adequate for off-street parking and service facilities required by the type of use and development anticipated. Where such lots are to be used for purposes requiring water for domestic use and sanitary sewage disposal and where public water and/or sanitary sewerage is not provided, they shall also conform to the minimum area requirements set by the County public health department's division of environmental health.

C. Double Frontage and Reversed Frontage Lots

In general, double frontage and reversed frontage lots shall be avoided except where essential to provide residential separation from traffic arteries or to overcome other disadvantages of orientation or topography or to provide protection for adjacent uses. A planting screen easement of at least ten (10) feet shall be provided along the line of lots abutting traffic arteries or other disadvantageous uses, across which there shall be no right of access unless specifically authorized by the board of commissioners. The screening shall be installed by the subdivider and maintained by their successors in title.

D. Side Lot Lines

Side lot lines shall be substantially perpendicular or radial to street lines unless a satisfactory lot pattern, easement pattern, and area for access can otherwise be provided.

E. Lot Lines and Utility Easements

Lot lines shall be so arranged with respect to utility easements as to permit efficient installation of utilities without unnecessary irregularities in alignment.

F. Suitable Building Sites; Identification of Lots Not for Building

Lots for a building shall contain suitable building sites, and lots not to be built upon shall be identified in accordance with the following:

1. No subdivision shall be approved unless it has been determined that each lot or parcel intended for the building contains a building site:
 - a. Determined by a licensed professional engineer, landscape architect, or other qualified professional, to be free from inundation and safely accessible from an approved street during rainfall of ten-year return frequency.
 - b. Of configuration reasonably adapted to the building.
 - c. Suitable for potential building use as permitted by any regulations applicable to the area in which the proposed subdivision is located and any other applicable ordinances, including, without limitation, the County flood damage prevention ordinance and mountain and hillside development ordinance.
 - d. Without danger from subsidence, heaving, erosion, or slippage of soils; from hazards or nuisances incidental to airports as related to potential uses of such lots; or from other menaces to health, safety, or the general welfare.
2. As guides for such determinations, the applicable approving authority shall give due consideration to limitations, standards, and requirements established in ordinances and regulations adopted in conformance with the National Flood Insurance Program, provision of water and sewerage, proposed drainage, and potential types of occupancy and the like.
3. Where a lot or parcel is not intended for building, such requirements shall not apply, but such lot or parcel, which might be for utility substations, rights-of-way, and the like, shall be identified on the plat and the limitation noted thus:

"Not for a residential building site. No residential building permit shall be issued, nor shall any residential building be erected on this lot."

G. Open Space and Water Areas

No newly created lot shall contain any areas protected as water areas as defined herein. No newly created individual lot in a major subdivision shall contain areas identified as open space pursuant to Section 6.17. Open space and water areas shall be owned and maintained by the homeowner's association (HOA), a management association, a conservation association, the Town, or other responsible agency as outlined in this Article. Furthermore, where open space or water areas are located outside a subdivision, it shall be protected by a recorded easement to prevent any future disturbance or removal.

Section 6.9 Property Owners' Associations

A. Establishment

If a property owners' association or similar legal entity is to be responsible for the maintenance and control of roads, open space, recreational facilities, or other common areas and facilities associated with a subdivision, it shall be established so that it has the clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities. Such association or a similar legal entity shall be established before any dwelling unit or lot in the subdivision is sold or any building in the subdivision is occupied.

B. Documentation

Documents providing for the establishment of a property owners' association or similar legal entity in accord with this section shall be submitted approved by the Town attorney before any plat for the development is recorded. The review by the attorney shall be limited to ensuring that the property owners' association or similar legal entity is established so that it has the clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities.

Section 6.10 Markers and Monuments

- A.** Monuments, complying with the requirements of G.S. 47-30 and the current edition of the Standards of Practice for Land Surveying in North Carolina, shall be placed in all subdivisions.
- B.** Any permanent monuments or markers displaced or destroyed during the course of development or construction in the subdivision shall be accurately witnessed and replaced upon completion of such development or construction.

Section 6.11 Ground Cover

All land within the subdivision right-of-way that is not used for structures, vehicular or pedestrian traffic, or for other approved landscaping shall be provided with grass or other ground covers, appropriately installed, and consistent with the requirements of the County sediment control ordinance. Ground cover may include appropriate plant materials preserved in place.

Section 6.12 Driveways

Curb cuts were provided in the subdivision, shall begin not less than three feet from lot lines as projected to meet the line of the pavement edge. Design and construction of portions of driveways within rights-of-way shall be constructed in accordance with the requirements of the state department of transportation. The approving authority may permit the establishment of shared driveways on property lines provided that mutual access easements are delineated upon the subdivision plat and all relevant deeds.

Section 6.13 Water Supply and Sanitary Sewer

A. Public Water Supply Required

Public water supply is required in a subdivision as follows:

1. Any subdivision which has public water system lines available shall be required to extend the public water system throughout the subdivision to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps, and service to the property line of each lot as required by the standards of the Tuckaseigee Water and Sewer Authority, or any other provider of the service. For subdivisions located within the jurisdiction of this section, the term "available" means that there is an existing water line of adequate size and water flow and/or pressure, as determined by the water provider, abutting the property and/or right-of-way, provided there are no legal or documented topographic constraints which prevent the subdivider from connecting onto and extending the existing system to the subdivision.
2. Every lot in a major subdivision shall be served by a permitted public or community water system or served by individual wells approved by the County division of environmental health.

B. Public Sanitary Sewer Required; Exceptions

Public sanitary sewer is required as follows:

1. Any subdivision which has public sewer system lines available shall be required to extend the public sewer system throughout the subdivision to each lot located therein. All required sewer line extensions shall include

appropriate manholes, lift stations, pumps, cleanouts, taps, and service to the property line of each lot as required by the standards of the Tuckasegee Water and Sewer Authority, or any other provider of the service. For subdivisions located within the jurisdiction of this section, the term "available" means that there is an existing sewer line of adequate size and flow, as determined by the utility provider, abutting the property and/or right-of-way, provided there are no legal or topographic constraints which prevent the subdivider from connection onto and extending the existing system to the subdivision.

2. Every lot in a major subdivision shall be served by a public sewer or, where public sewer is not required, by a permitted community sewer system or an individual on-site septic system approved by the County public health department.
3. Where subdivisions are proposed and no public or community sewer is available, the applicant should review a soils map of the property and be knowledgeable of the suitability of ground absorption systems for his development.

Section 6.14 Erosion Protection

- A. In general, during the preparation of the subdivision and installation of improvements, appropriate measures shall be taken to prevent erosion and damaging siltation on the property and on adjoining land or water areas in accord with the County sediment control ordinance.
- B. In any grading or filling operations, desirable topsoil shall be conserved and redistributed as such, particularly to cover exposed subsoil.
- C. Trees, shrubs, and ground cover existing at the beginning of development operations shall be preserved to the maximum extent reasonably feasible where they are of species and in locations likely to add an amenity to the completed development.
- D. The Zoning Administrator may require the preservation of specified trees or other vegetation in connection with a particular development, except upon findings that such preservation is not feasible in view of the requirements for the installation of public utilities and facilities.

Section 6.15 Fire Protection

All lots served by a municipal public water supply system in a subdivision shall also be afforded fire protection by means of hydrants, installed under uniform standards and specifications. Final plats shall indicate that any qualified water ponds shall be made available to emergency personnel for the purpose of pumping water.

Section 6.16 Public Access

Cemeteries and grave sites shall be identified during the application process and protected during the development of subdivisions by a twenty-foot buffer, and family members shall be assured reasonable access thereto during development and thereafter. Anyone subdividing properties containing roads, trails, and other travel ways which have historically provided public access to national forests and other public lands is encouraged to provide for continued public access thereto.

Section 6.17 Open Space

A. Purpose and Applicability

The requirements in this section are intended to provide for development that is more efficient and better suited to the natural features of the land. It is required that part of a development site which is not devoted to buildings, lots, and/or associated roads and utilities be set aside as usable open space. This requirement is applicable to all major subdivisions and all site/development plans in excess of one (1) acre. However, development within the Downtown Business (DTB) and the Commercial Corridor Overlay (CCO), zoning districts shall be exempt from this open space requirement but shall comply with the requirements for preservation of water areas contained in section 6.5.

Major subdivisions and overall site plans shall be designed with development areas situated on those parts of the site best suited to accommodate development with the least adverse impact. Open Space shall be utilized to preserve sensitive, woodlands, scenic views, and steep slopes and reduce the amount of impervious surface and resulting stormwater runoff. The open space provided should be used to provide recreational opportunities for the residents, visitors, or employees of the development, to conserve and protect significant natural areas and environmentally sensitive areas, and to conserve important historic resources.

B. Required Open Space

Land within the site that is not occupied by buildings, contained in lots or in rights-of-way or parcels devoted to accommodating necessary roads, parking, drive-aisles, and utilities, shall be in one (1) or more connected parcels dedicated or reserved as permanent open space. Lands identified as primary conservation areas pursuant to subsection C. of this section shall be deemed permanent open space in accordance with this article.

When primary conservation areas do not equal or exceed fifteen (15) percent of the land area of the subdivision or development, secondary conservation areas shall be added to open space to equal fifteen (15) percent of the land area. In the event both primary and secondary conservation areas do not equal or exceed fifteen (15) percent of the land area of the subdivision or development,

additional open space shall be designated so that at least fifteen (15) percent of the area of the subdivision or development is made permanent open space.

C. Open Space Use, Location, and Design

Design requirements for open space use, location, and design are contained in this section.

- 1.** The following areas are considered primary conservation areas and shall be designated as open space on the plat of a major subdivision or site plan:
 - a.** Designated floodways and special flood hazard areas identified as part of a flood insurance study prepared by the Federal Emergency Management Agency.
 - b.** Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state by this article.
 - c.** Any identified sensitive natural area as defined herein,
 - d.** Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.
 - e.** Other areas specified in section 6.5.
- 2.** The following areas are considered secondary conservation areas and should be considered for designation as open space on the plat of a major subdivision or site plan:
 - a.** Any environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).
 - b.** Productive farmland or forest land intended for continued agricultural and/or forestry use.
 - c.** Steep slopes (those exceeding thirty (30) percent).
- 3.** Open space that is not situated within a primary conservation area may be used to provide active and/or passive outdoor recreation opportunities (e.g., ball fields, playgrounds, tennis courts, swimming pools, basketball courts, golf courses, bikeways, walking trails, nature trails, and picnic areas), either for the general public or for the development's residents or employees and their guests. Open space situated within a primary conservation area may be used for limited passive recreational activities,

such as nature trails, so long as such activities do not impair the functionality of the area. Impervious surfaces shall not be introduced into the primary conservation area except the minimum necessary for any road or utility crossings where no other feasible route is available. Impervious surfaces required in open space not contained within the primary conservation area is limited to ten percent of the open space not contained within the primary conservation area.

Note: This does not preclude a membership requirement or monetary charge for use of recreation facilities, such as golf, swim, or tennis club, as long as subdivision residents have an opportunity to join the club or pay to use club facilities.

4. Sidewalks, trails, or multi-purpose paths may be provided by the developer as leading to a pedestrian destination point, such as a school, park, etc., and may constitute part of the open space requirements.
5. The location, size, character, and shape of required open space shall be appropriate to its intended use (i.e., open space proposed to be used for recreation, particularly active recreation, shall be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve, and open space proposed to be used for ball fields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry).

D. Open Space Dedication or Reservation

Open space shall be dedicated or reserved in accordance with the standards contained herein.

1. The occupants of a development or subdivision shall be ensured direct access to and use of the open space provided.
2. Open space, when separately deeded, shall be conveyed to a property owners' association, or similar legal entity, or to a public agency, the Town, the County, or a nonprofit organization that is organized for, capable of, and willing to accept responsibility for maintaining, managing the open space for its intended purpose, and ensuring access to and use of the open space. Open space shall not be included on individually platted lots within a residential subdivision.
3. Where open space is reserved as a portion of multi-family or non-residential development and not separately deeded, the landowner shall be responsible for the maintenance and perpetuity of the open space in accordance with the requirements of this Ordinance.

4. Each dedicated open space parcel or area reserved for open space, shall be shown on all subdivision plans, site plans, and on a record plat recorded with the County register of deeds, with a notation of its area and its intended open space use, as identified herein. The owner of an open space parcel may rededicate or re-reserve the parcel for another open space use allowed under this section by recording a record plat showing the parcel and its new intended open space use.

E. Open Space Maintenance

The owner of the open space shall be responsible for maintaining the open space so that it continues to effectively function for its intended use, and any dedication or conveyance of an open space parcel shall provide for such responsibility. Where the subdivision or development is located within a watershed protection district, retention of undeveloped open space in a vegetated or natural state shall be ensured by maintenance provisions filed with the County register of deeds, either as part of recorded documentation providing for the establishment of a property owners' association or similar legal entity that is to be responsible for maintenance and control of open space or in a maintenance agreement recorded with the property deeds.

F. Design Procedure

The following procedures shall be used in evaluating open space in development applications submitted in accordance with the requirements of Article 3:

1. **Existing Features/Site Analysis.** An existing features/site analysis map shall be submitted to the Zoning Administrator. The map shall indicate all features that exist on the subject site as described in this section.
2. **Identification of Open Space Conservation Areas.** Open space areas shall be identified. Guidance as to which parts to classify as open space areas shall be based upon three factors:
 - a. On-site visits by the Zoning Administrator, the subdivider, and the site designer.
 - b. The open space standards are described in subsection C. of this section.
 - c. The evaluation criteria as shown in subsection G. of this section.
3. **Principal Structure Setback from Open Spaces.** Any principal structures must be set back a minimum of ten (10) feet from all designated open space.
4. **Street, Trail, and Sidewalk Locations and Alignments.** All streets, sidewalks, and trails shall be located and aligned on the site to provide access and

connect buildings, homes, and parking areas to the designated open space.

G. Evaluation Criteria

For any given site, resources may vary widely by importance. Likewise, for each type of resource, there should be examples of greater or lesser significance. In evaluating the layout of a site, the following evaluation criteria will be considered in determining the site's features and allowing for site design flexibility:

1. The open space shall be reasonably contiguous and shall abut existing open space on adjacent sites.
2. Wetlands, flood hazard areas, and natural watercourses with associated buffers shall not be cleared, filled, or graded except as authorized by state, federal, and other applicable regulations and as may be approved by the zoning administrator. Water features shall constitute no more than fifty (50) percent of the open space area.
3. Buildings shall be located in unwooded parts of the site to prevent unnecessary clearing practices. Exceptions may be made when a site investigation by staff reveals all or parts of wooded areas are not worth saving due to tree decay/disease or unsightly overgrowth.
4. The impacts on larger woodlands over five (5) acres shall be minimized as much as practical.
5. Where preserving scenic views is the goal of a site design, such scenic views should remain unblocked and uninterrupted. In wooded areas, where enclosure (i.e., a tree canopy) is a feature to be maintained, a no-cut and no-build buffer shall be considered along the public roadway.
6. Where historic or archeological preservation is the goal of a site design, new streets, driveways, fences, and/or utilities shall not interfere with the historic site. Building designs shall reflect the qualities and designs of the historic buildings as much as is practical.
7. Where power line rights-of-way are proposed to be included as part of the open space, the right-of-way shall not exceed fifty (50) percent of the required permanent open space.

Section 6.18 Utilities

A. General

Subdivision development shall comply with the standards established by the utility company or agency providing the utility service and with the standards of the NCDOT as set forth in NCDOT's Subdivision Roads Minimum Construction Standards (latest edition).

B. Above-Ground Utilities

1. Poles and other above-ground utilities which are to remain inside the right-of-way shall be located at or as near as practical to the right-of-way line. As a minimum, above-ground utilities shall be located outside the shoulder/ditch for the road section involved.
2. Where there are curbed sections, above-ground utilities should be located as far as practical behind sidewalks. There is no single minimum dimension for the setback of poles, fire hydrants, etc., behind curbs; however, where there are curbed sections and no sidewalks, six (6) feet will be used as a design safety concept guide. Where dimensional or other characteristics of such land are such that they could not be used for other purposes under the zoning applying in the district, the plan shall indicate and restrict use to easement or substation purposes, and requirements generally applicable to access, dimensions or other characteristics of that land shall not apply. Departmental reports in such cases shall include findings as to the effect of the proposed location in adjacent uses, preservation of areas of major ecological importance, and as to whether sites for substations if involved, are adequate to provide required screening.

C. Public Water Supply

1. Any subdivision, including minor and major, which has public water system lines available shall be required to extend the public water system throughout the subdivision to each lot located therein.
2. All required water line extensions shall include appropriate valves, hydrants, taps, and service to the property line of each lot as required by the standards of the provider of the service.
3. For subdivisions located within the jurisdiction of this section, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure, as determined by the water provider, abutting the property and/or right-of-way, provided there are no legal or documented topographic constraints which prevent the subdivider from connecting onto and extending the existing system to the subdivision.

4. Every lot in a major subdivision shall be served by a permitted public or community water system or served by individual wells approved by the County division of environmental health.

D. Public Sanitary Sewer

1. Any subdivision, including minor and major subdivisions, which has public sewer system lines available shall be required to extend the public sewer system throughout the subdivision to each lot located therein.
2. All required sewer line extensions shall include appropriate manholes, lift stations, pumps, cleanouts, taps, and service to the property line of each lot as required by the standards of the provider of the service.
3. For subdivisions located within the jurisdiction of this section, the term "available" shall mean that there is an existing sewer line of adequate size and flow, as determined by the utility provider, abutting the property and/or right-of-way, provided there are no legal or topographic constraints which prevent the subdivider from connection onto and extending the existing system to the subdivision.
4. Every lot in a major subdivision shall be served by a public sewer or, where public sewer is not required, by a permitted community sewer system or an individual on-site septic system approved by the County Public Health Department.

E. Exceptions

Where subdivisions are proposed, and no public or community sewer is available, the applicant should review a soils map of the property and be knowledgeable of the suitability of ground absorption systems for the development.

F. Fire Protection

All lots served by a municipal public water supply system in a subdivision shall also be afforded fire protection by means of hydrants, installed under uniform standards and specifications. Final plats shall indicate that any qualified water ponds shall be made available to emergency personnel for the purpose of pumping water.

Section 6.19 Preservation of Natural Watercourses in Project Design

A. Intent

It is the intent of this article both to safeguard existing and potential development in appropriate locations and to preserve and promote a desirable ecological balance. Insofar as is reasonably practicable, subdivisions shall, therefore, be located, designed, and improved to:

1. Preserve important natural water areas and related vegetation and wildlife habitats;
2. Avoid the creation of upstream impoundments or downstream runoff harmful to such complexes or to existing or potential development in appropriate locations; and
3. Maintain desirable groundwater levels.

B. Maintenance of Natural Watercourses

Standards for maintenance of natural watercourses are as provided herein.

1. Where a proposed subdivision is traversed by or includes in whole or in part a natural watercourse, as defined herein, the following requirements shall apply:
 - a. Such natural watercourse shall be maintained in its natural state except for those vehicular or utility crossings which are necessary and deemed unavoidable by the approving authority;
 - b. Bordering lands within thirty (30) feet of the edge of any natural watercourse shall be maintained in a naturally vegetated and unaltered state;
 - c. Bordering lands likely to be inundated at the period of high water during periods of rainfall of ten-year return frequency shall be maintained in a naturally vegetated and unaltered state;
 - d. Any area designated as a floodway on the most recently adopted flood insurance rate map for the County shall be maintained in a naturally vegetated and unaltered state;
 - e. Any area designated as a special flood hazard area inundated by the one-hundred-year flood on the most recently adopted flood insurance rate map for the County shall be designated as open space on any plat for a major subdivision. It shall not be necessary

that it be maintained in a naturally vegetated and unaltered state except as required by subsection 2) of this section.

- f. Any other suitable protective strips deemed necessary by the Zoning Administrator shall be protected.
2. The Zoning Administrator and/or his/her designee, as a condition for plat approval, may make such requirements as are reasonable for the protection of such areas, including the following:
 - a. The Zoning Administrator may require that streets and/or parkways shall border such areas, setting them apart from residential or other intensive uses; or
 - b. The Zoning Administrator may require that all or part of such area shall be platted as part of permanent open space, residential, or other lots.
3. In making decisions concerning such requirements, the Zoning Administrator shall consider topography, drainage patterns, soil types, the character of existing and potential upland uses, ground cover, erosion control requirements, the character of the area to be protected, the adequacy of the proposed filter areas, and the like.
4. The development area for any lot shall be delineated on subdivision plats. Those areas described in Section B.1 above shall not be included in the area of any lot intended for development and shall be set aside for the common use and enjoyment of occupants of the subdivision, and arrangements for maintenance by a property owners' association, management group or other acceptable arrangements shall be made. These areas shall be designated for permanent protection on the subdivision plat and recorded deeds, with appropriate recorded deed restrictions for the use and protection of these areas stipulated, and all management responsibilities set forth in property owners' association bylaws or other appropriate and binding documents for the development.

C. Changes in Location or Extent of Significant Natural Waterways and Water Areas

The zoning administrator may approve plats depicting changes in the location or extent of significant natural waterways and/or water areas only in the following circumstances:

1. When necessary to accommodate unavoidable vehicular or pedestrian crossings;

2. When such changes will not adversely affect desirable ecological conditions, drainage or water retention or result in undesirable location or amount of upstream impoundment or downstream discharge;
3. The subdivider has obtained all necessary state and federal permits; and
4. No-rise certifications shall be required where regulatory floodways are concerned.

D. Minor Incursion for Recreational Purposes

Minor incursions into areas protected under this section may be permitted for the purpose of providing pedestrian and bicycle access for passive recreational activities. Such incursions shall be permitted only if shown on the preliminary and final plats and approved by the Zoning Administrator.

Section 6.20 Required Certifications

Certifications are required per North Carolina General Statutes.

ARTICLE 7

DEVELOPMENT STANDARDS

Section 7.1 Purpose

The site development standards set forth in this Ordinance are provided to protect life and property and to minimize nuisances through responsible development, design, and construction in the Town of Sylva.

Section 7.2 Design Standards for Lots

A. Applicability

The provisions in this Article shall generally apply to all development regardless of the underlying zoning district provisions. Terms applicable to all lots and methods of measurement can be found in Article 4, Section 4.6.

B. Principal Buildings per Lot

Every building hereafter erected, moved, or structurally altered shall be located on a lot. In no case shall there be more than one (1) principal building or use and its customary accessory buildings on any lot, except for uses where more than one building is customary such as an apartment building or shopping center, or within a planned unit development or as part of a conditional zoning district.

C. Orientation

1. All lots shall have a minimum road frontage of twenty (20) feet.
2. Buildings shall be oriented towards and front upon the roadway which provides the primary access to the lot. On corner lots, the building shall maximize the property consistent with transportation and utility rights-of-way and where possible, take access from the lower designated roadway. Building sides should appear similar to their fronts.

D. No Lot Modification Below Minimum Requirements

1. Setbacks and lots created after the effective date of this Ordinance shall meet the minimum requirements established herein and as outlines in Article 4.

2. No lot shall be changed in size so that the total area, minimum front, side, or rear setbacks, or other dimensions, areas, or open spaces required by this Ordinance are not maintained.
3. These prohibitions shall not be construed to prevent the purchase or condemnation of narrow strips of land or parcels for public utilities, substations, street rights-of-way, or similar purposes.

E. Through Lots and Flag Lots

Through lots and flag lots shall be avoided except where necessary to overcome specific disadvantages of existing, pre-development topography or lot configuration. Dimensional standards for these lots are outlined in Section 4.6.I.4.

Section 7.3 Design and Maintenance Standards for Buildings

A. Applicability

1. The building design standards of this section are applicable to all buildings except for structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.
2. All sides of a structure visible from the primary frontage road shall be in compliance with the design standards in this Section.

B. Street Level

1. The first floor of all buildings fronting directly on a major public street shall include transparent windows and doors arranged so that business uses are visible from the street on at least fifty (50) percent of the length of the first-floor building elevation along the first-floor street frontage. Reflective tinting is permitted up to thirty (30) percent. Blacked-out windows are prohibited.
2. The front of the building shall be oriented to the street and where parking is placed to the rear or side of a building, storage, loading, and preparation areas shall be screened from view. The use of false facades, landscaping, walls/fences, window treatments, and other architectural features shall be used to ensure such activities are hidden from view from any adjacent roadway.

C. Exterior Materials

1. Exterior materials permitted on non-residential buildings shall include, but may not be limited to, at least eighty-five (85) percent of wood, brick, stone, cement board, stucco, and high-quality metal products, when approved by the Planning Board. Additions and new construction shall

use facing materials that are compatible in quality, color, texture, finish, and dimension to those common on surrounding parcels. Under no circumstances shall metal siding, unfinished concrete block, or vinyl siding be allowed. Metal clad or covering may be used as an accent material and cumulatively may not exceed fifteen (15) percent of each exterior wall area with road frontage.

2. When two (2) or more materials are used on a façade, the heavier material shall be placed below the lighter material (e.g., siding over brick) to give the sense of support and grounding.

D. Walls and Façades

1. Blank walls may not exceed twenty (20) feet in length.
2. Ventilation grates or emergency exit doors located at the first-floor level in the building façade, facing any public street, shall be architecturally similar in nature.

E. Façade Elements

At least four of the following elements must comprise sixty (60) percent of front façade length and forty (40) percent of any façade length fronting a major public street and/or parking lot:

1. Parapets
2. Cornices
3. Roofline offsets
4. Openings such as doors or windows
5. Window hoods
6. Transoms
7. Bulkheads
8. Awnings or canopies
9. Ribs or columns
10. Changes in texture or masonry

F. Window Displays

1. Window displays shall not contain merchandise, products, or materials that are faded from the sun or refuse, debris, scarps, stored materials, dust, dirt, withered plants, etc. that are not currently promoting commercial or public activity and interests.
2. Store fronts with display windows that are visible by pedestrian traffic at street level and are vacant for more than fourteen (14) calendar days shall provide either a window screen that obscures the view of vacant space from pedestrians or a window display that shows arts, crafts, or merchandise from surrounding businesses or objects or information of general interest. In multi-story buildings, some form or type of window treatment shall be provided to obscure contents at all levels above grade.

G. Compatibility

Buildings constructed on the same lot shall be designed with similarities in scale, roof pitch, height, architectural elements, and/or lot configuration.

H. Outdoor Display

Commercial businesses shall not display merchandise outside the building in which said business is conducted, except for business with permitted outdoor storage or display for items such as construction and landscape materials, automobiles, etc. All such displays shall be set back five (5) feet from a sidewalk or fifteen (15) feet from the wear surface of any public thoroughfare. This provision shall not be applied to the occasional sidewalk display as allowed in Subsection I.1, below or by merchants in the DTB, Downtown Business District, provided the merchandise is not kept outside after business hours.

I. Commercial Activity

1. Except for restaurants, recreation facilities, electronic banking services, and coin-operated or free newspaper stands, all commercial activity, including the display of merchandise, shall be conducted within the enclosed confines of a building. Commercial activity, including the display of merchandise, may be conducted on the sidewalk and/or street only during special events that are recognized as allowing such activity by the Town Board. Commercial activity may be restricted at said events to protect public health, safety, and welfare.
2. No vending machine shall be placed on any sidewalk, lot, porch, or outside entry area within the DTB Downtown Business District or within twenty-five (25) feet of a sidewalk, except at designated kiosks.

3. Whether or not used for a commercial purpose, manufactured or mobile homes are prohibited within a commercial district.

J. Maintenance

1. Windows

Boarded or sealed window and door opening[s] create a health, safety, and fire hazard to adjoining property owners, tenants, customers, and emergency personnel.

- a. After the effective date of this Ordinance boarding up windows will be prohibited except as a temporary measure for no longer than thirty (30) days.
- b. Missing and broken windows shall be replaced with glass to allow for safe and rapid egress in case of emergency and shall not be boarded or sealed over unless:
 - (1) There is at least one (1) window opening for every room adjacent to the outside/exterior of the building, and
 - (2) The building complies with all current fire codes, and
 - (3) The sealed opening is constructed of the same material and architectural look to appear as if such opening never existed (i.e., windows missing in a brick building shall be sealed with a brick of similar color and style as the existing structure), and
 - (4) The architectural renderings of the material proposed to be used to seal such openings are approved by the Sylva Planning Board.
 - (5) Or the Town Board otherwise approves of the architectural and safety measures in place for such sealed opening.
- c. Boarded or sealed windows and door openings existing on October 2, 2014, the time of original enactment of this Ordinance, shall be brought into compliance at the rate of six (6) openings per year until completion with the following exception.
 - (1) A building owner that is unable to bring their building into full compliance with the terms and conditions of this Ordinance at the rate of six (6) openings per year may apply for an extension stating the estimated completion date that will have to be approved by the Town Manager. In the interim,

the property owner shall submit progress reports twice a year to the Town Manager regarding the repairs and the expected date of completion.

- (2)** Failure to take reasonable steps to make the repairs or submit progress reports twice a year to the Town Manager shall constitute a public health and safety nuisance and may be abated by the Town in accordance with the Nuisance Abatement proceedings contained within the Sylva Code of Ordinances and/or the North Carolina General Statutes. The costs incurred by the Town in the event of such abatement shall be assessed as a tax lien in accordance with the abatement process prescribed therein.
- (3)** The Town Board, at its discretion, may otherwise approve of the architectural and safety measures in place for existing sealed openings.

2. Façades

Building façades, including windows, doors, glass, awnings, siding, rails, steps, fixtures, signs, etc., shall be maintained as follows unless otherwise regulated:

- a.** Paint and material finishes shall be periodically applied to replace checked, cracked, peeled, or weathered surfaces.
- b.** All windows shall be clean, broken glass replaced and obstructions removed that are not part of a current window display or sign. This shall not apply to devices designed to facilitate the passage of air or light.
- c.** All exterior building parts shall be maintained in a safe and secure condition and all exterior parts that show signs of deterioration, obsolescence, or disrepair shall be removed, replaced, or renovated.

3. Planted Areas

All planters, gardens, green areas, etc. shall be kept free of weeds, litter, and plant material that is invasive, dead, dying, diseased, or infested by insects. Overgrown plants shall be trimmed and kept within designed planting areas. At the end of the growing season, not later than December 1st of each year, a continuous layer of shredded bark or pine needle mulch (2-3" deep) shall be applied to soil surfaces that are not planted with a ground cover.

Section 7.4 Design Standards for Streets

A. Applicability

The following design standards are applicable for all new streets and internal roadways constructed within the Town of Sylva.

B. Internal Access and Connectivity

1. All new internal streets built within any development shall be according to the NCDOT requirements and Subdivision Road Minimum Construction Standards. Internal street design should avoid cul-de-sacs and dead-end roads.
2. Internal streets must have sidewalks and street trees.
3. External connections to outside areas and adjacent developments should be created where possible.

C. Block Length

Block length may vary but shall not exceed five hundred (500) feet in length. For blocks on local streets that are three hundred and fifty (350) feet or longer, a mid-block pedestrian street crossing is required which may also include a parking lot driveway and/or pedestrian passageway between two or more buildings and shall have curb extensions (bulb-outs) for ease and safety of the pedestrian street crossing. Collector streets may also require mid-block pedestrian crossings as noted above and as approved by the Town.

D. Pedestrian Zone and Requirement to Construct Sidewalks

1. The pedestrian zone is the area between the street curb and the building edge or for access roads the area between the street curb and the ROW area. The pedestrian zone includes sidewalks, street trees, and other pedestrian amenities.
2. The pedestrian zone will generally be fifteen (15) feet in width but may be wider depending on the setback pattern.
3. Sidewalks shall be constructed along the full length of a parcel along thoroughfares, one side of access streets, and both sides of internal streets throughout the development. If appropriate to the design, greenway paths may be substituted for sidewalks in residential areas to provide connections. The sidewalk shall be a minimum of five (5) feet in width. Where institutional and public uses have an increased setback, a sidewalk

shall connect the building façade entrance with the street. The sidewalk may be as wide as the entire pedestrian area.

4. Arcades, awnings, outdoor dining, shelters, seating areas, fountains, street trees, additional landscaped areas, and other pedestrian amenities may be a part of this pedestrian area so long as seven (7) feet of clear walking space is maintained.
5. The pedestrian area may also be used to create an area for waiting, pick up, and drop off.
6. At locations such as intersections and other crosswalks, curb extensions (bulb-outs) are required to create safer pedestrian crossings.

Section 7.5 Off-Street Parking and Loading

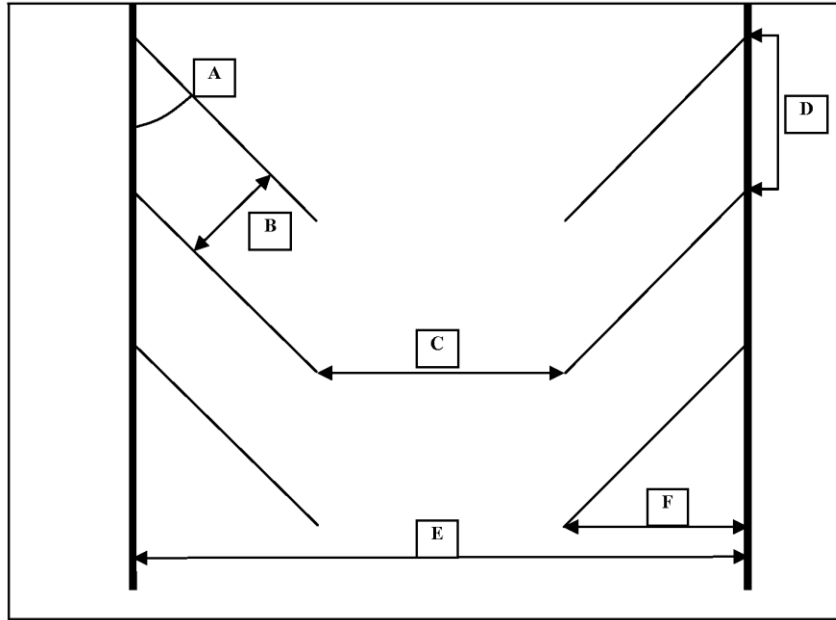
A. Applicability

The following standards shall be applicable to all parcels with the Town's jurisdiction. Parcels within the DTB district shall not be required to comply with the specific sections of this Article as they apply to the provision of turning areas, loading, parking, and buffering as current building patterns are established and adequate area is not available.

B. General Provisions

1. Every parcel abutting a thoroughfare maintained by the North Carolina Highway Department shall be provided with adequate space for turning so that no vehicle shall be required to exit from the premises by backing into the thoroughfare.
2. If the required automobile parking spaces cannot be provided on the same parcel on which the principal use is conducted, the spaces may be provided on other off-street property if the other property lies entirely within a four-hundred-foot radius of the main entrance of the principal use. The automobile parking spaces are associated with the principal use and shall not thereafter be reduced or encroached upon during the continuation of the principal use.
3. Any required non-residential parking spaces may extend up to one hundred twenty (120) feet into a residential district, provided that they:
 - a. Adjoin a commercial or industrial district;
 - b. Have their only access to or front upon the same street as the parcel in the commercial or industrial district for which the parking is being provided; and

TABLE 7-1 PARKING LOT DESIGN AND DIMENSIONS



(A) Parking Angle	(B) Stall Width	(C) Aisle Width	(D) Curb Length Per Car	(E) Center-Center Width 2 Row Parking w/Access		(F) Stall-Curb (19' Stall Length)
				Note 1	Note 2	
0°	9.0	12.0	28.0	30.0	0.0	9.0
20°	9.0	11.0	26.0	41.0	32.0	15.0
30°	9.0	11.0	18.0	45.6	37.8	17.3
40°	9.0	12.0	14.0	50.2	43.3	19.1
45°	9.0	13.0	12.7	52.6	46.2	19.8
50°	9.0	12.0	11.7	52.8	47.8	20.4
60°	9.0	18.0	10.4	60.0	55.3	21.0
70°	9.0	19.0	9.6	61.0	57.9	21.0
80°	9.0	24.0*	9.1	64.3	62.7	20.3
90°	9.0	24.0*	9.0	62.0	0.0	19.0
Note 1: Straight Pattern, all angles.						
Note 2: Herringbone Pattern, 45° Only						
*Two-way traffic pattern between parking rows.						

- 3. Handicapped Spaces.** In each new parking lot, at least one (1) parking space per twenty-five (25) spaces shall be ADA compliant. Such spaces shall be a minimum of twelve (12) feet wide, shall be marked with an ADA approved sign, and shall be located no further than two hundred (200) feet from the main public entrance. Refer to Volume 1-C of the North Carolina State Building Code for additional information.
- 4. Alternative Surfaces.** Unpaved parking areas shall be permitted as an alternative to the pavement under the following conditions:

 - a.** The unpaved areas shall be constructed of a uniform surface of gravel over a base of course or crusher-run gravel and shall be adequate for the specific sub-soil type and site conditions. The design of the parking area, together with stormwater drains as needed, shall be approved by the Zoning Administrator. The finished surface at all times shall be kept free from ruts, potholes, or other irregularities by periodic scraping and the addition of gravel. The maximum area for unpaved parking areas shall be one thousand (1,000) square feet.
 - b.** The driveway entrance between the thoroughfare and the parking area shall be paved with a hard surface such as asphalt, concrete, or paving brick.
 - c.** No portion of an unpaved parking area shall exceed a grade of seven (7) percent.
 - d.** Parking stalls in unpaved areas shall be delineated with concrete curb stops, railroad ties, or other suitable means approved by the Zoning Administrator. In addition, the dimensions of all unpaved parking spaces and access aisles shall be ten (10) percent greater than that of paved parking spaces and access aisles.
- 5. Driveways.** Driveways serving parking lots shall be so located that drivers of exiting vehicles can see far enough in both directions to be able to safely enter the roadway. No obstruction to vision, such as fences, walls, shrubs, or signs shall be permitted within ten (10) feet of the driveway, nor shall a driveway be permitted within twenty (20) feet of an intersection. Driveways shall not exceed fourteen percent (14%) in slope and shall be at least fourteen (14) feet in width for one-way traffic or at least twenty (20) feet for two-way traffic.
- 6. Responsibility to Construct Sidewalk.** In accordance with Section 7.4.C and when a commercial parking lot is constructed adjacent to a public thoroughfare, then it shall be the responsibility of the owner of the property to extend the sidewalk along the entire length of their property. The sidewalk shall be of the same type and width as the adjoining

sidewalk, and curb cuts for handicap access shall be placed at the driveway to the parking lot.

D. Parking Schedule

The number of minimum off-street parking spaces provided shall be at least as great as the number specified in the formula below for various uses. The number of maximum off-street parking spaces provided shall be no greater than one hundred fifty (150%) percent of the minimum off-street parking requirement. When the application of the formula results in a fractional space requirement, the fraction shall be rounded up to the nearest whole number.

TABLE 7-2 PARKING SCHEDULE

Use Category	PARKING (Minimums Unless Noted)
Agriculture	
Agricultural Uses	One (1) space per employee. If use contains sales, event space, or seasonal activities, a parking study is required
Residential Uses	
Single-Family/Duplex Uses	Two (2) per dwelling unit
Townhome	Two (2) per dwelling unit. May designate a portion as guest parking
Multifamily	One (1) per studio/bedroom, up to two (2) per unit, plus one (1) space per ten (10) units for guest parking
Manufactured Home Parks	One (1) per unit, plus one (1) space per five (5) units for guest parking
Accessory Dwelling	One (1) per unit
Home Occupations	One (1) per non-resident employee and one (1) per commercial vehicle. Max two (2)
Nursing Home	One (1) per two (2) patient beds
Family Care Home	One (1) per bedroom
Accommodations	
Bed and Breakfast/Inns	One (1) space for each guest room, plus two (2) spaces for the owner/employees
Hotels	One (1) per guest room
Short-term Rentals	Two (2) per unit. One (1) additional space for each bedroom over four (4).
Retail Sales/Service	
All Animal Facilities and Related Uses	One (1) per two hundred fifty (250) square feet
Automobile Repairs and Services	One (1) space per four hundred (400) square feet

Use Category	PARKING (Minimums Unless Noted)
Automobile Sales	Office/administrative area: One (1) per five hundred (500) square feet Indoor sales area: One (1) per two hundred (200) square feet Outdoor sales/display (five thousand (5,000) square feet or less): One (1) per one thousand (1000) square feet Outdoor sales/display (over five thousand (5,000) square feet): One (1) per two thousand five hundred (2500) square feet
Banks and Financial Institutions	One (1) per three hundred fifty (350) square feet
Bars, Nightclubs and Private Social Clubs	One (1) per five hundred (500) square feet
Brewery/Winery/Distillery	One (1) per two hundred fifty (250) square feet of floor area for tasting areas; One (1) per three thousand (3000) square feet of production area
Car Wash/Auto detailing	Two (2) per wash bay
Commercial Pharmacies/ Medical Equipment and Supply	One (1) per three hundred (300) square feet
Conference Centers and Theaters	Theater: One (1) per five (5) permanent seats Conference Center: One (1) space per five hundred (500) square feet
Convenience Store/Gas Station	One (1) per four hundred (400) square feet of building space in addition to spaces for pumps.
Electronic Gaming Establishment	One (1) for every terminal, machine, and computer in addition to one (1) per employee.
Fitness and Dance Centers	One (1) per five hundred (500) square feet
Flea Market/Open Air Markets	One (1) per seven hundred fifty (750) square feet
Funeral Parlors	One (1) per five (5) seats
Graphic Arts, Studios, Photography Galleries and Museums	One (1) per three hundred fifty (350) square feet
Laundry and Dry Cleaning	One (1) per five hundred (500) square feet
Mortuaries and Crematoriums	One (1) per employee on the greatest shift, plus two (2) spaces.
News/Telecommunication Services	One (1) per three hundred fifty (350) square feet
Restaurants	One (1) space per each four (4) seats, inclusive of outdoor seating areas, and one (1) space for each two employees on the greatest shift.
Retail Businesses	One (1) per three hundred (300) sq. ft. (sales) and one (1) per five hundred (500) square feet (storage/office)
Wholesale Business	One (1) per four hundred (400) square feet

Use Category	PARKING (Minimums Unless Noted)
Office, Research & Healthcare Uses	
Laboratory	One (1) per seven hundred fifty (750) square feet
Medical/Health Care Facilities	Offices/Clinic: One (1) per two hundred fifty (250) square feet Hospital: One (1) per hospital bed Other: One (1) per five hundred (500) square feet
Professional Offices	One (1) per three hundred (300) square feet
Public/Civic Uses	
Amphitheaters/Auditoriums	One (1) per five (5) seats
Cemeteries	Parking study Required.
Civic, Social Service, and Fraternal Facilities	One (1) per one hundred (100) square feet
Community Centers	One (1) per three hundred (300) square feet
Emergency Services	One (1) per employee on the largest shift plus one (1) per emergency vehicle.
Government Administrative Facilities	One (1) per three hundred (300) square feet
Institutional Shelter/Group Home	One (1) per bedroom
Libraries (Public)	One (1) per three hundred (300) square feet
Place of Worship	One (1) per four (4) seats in the main assembly area
Pre-school or Daycare	One (1) per six (6) participants at capacity
The school (Public or Private)	Primary or Secondary: One (1) per four (4) seats in assembly hall/gymnasium at capacity Other: Parking study required.
Recreational Uses	
Public Parks, Playgrounds, and Greenways	One (1) per one thousand (1,000) square feet of land area.
Indoor and Outdoor Recreation Facilities	Indoor: One (1) Space per five hundred (500) square feet Outdoor: One (1) space per five hundred (500) square feet of dedicated field, court, deck, etc. space.
Industrial/Storage Uses	
Manufacturing and Industrial Uses	Office: One (1) per two hundred fifty (250) square feet Non-Office Space: One (1) per one thousand (1,000) square feet
Outdoor Storage Yard	One (1) space per five thousand (5,000) square feet, minimum two (2) spaces.
Self-Storage, Storage, and Warehousing	Self-Storage: One (1) space per ten (10) rental units, plus one (1) employee on the largest shift Storage/Warehousing (no sales): One (1) space per two (2) employees on the largest shift, plus one (1) space for each vehicle used directly in conducting the business.

Use Category	PARKING (Minimums Unless Noted)
Truck Terminals/Distribution Facilities	Office: One (1) per two hundred fifty (250) square feet Non-Office Space: One (1) per one thousand (1,000) square feet
Planned Unit Developments	
Planned Unit Developments (PUD)/Conditional Zoning	Parking study required
Utilities	
Essential Services	Unmanned Facilities: None, unless required by the use or provider Manned Facilities: One (1) per employee on the largest shift.
Recycling Collection Centers and Processing Facilities	Office: One (1) per 250 square feet Collection Areas: One (1) space per one thousand (1,000) square feet
Miscellaneous Uses	
Mixed Uses	Parking study required. Need to provide for each use but may be reduced if parking can be shared.
Sexually Oriented Business	One (1) per two hundred fifty (250) square feet

Section 7.6 Bicycle Parking

A. Bicycle Parking Requirements

1. Multi-family residential uses shall provide bicycle parking at a rate of one (1) bicycle parking space for every twenty (20) motorized vehicle spaces; however, no more than thirty (30) total bicycle parking spaces shall be required for any single development.
2. Nonresidential uses with off-street parking for motorized vehicles of at least fifteen (15) spaces and not more than forty (40) spaces shall provide a minimum of two (2) bicycle parking spaces.
3. Nonresidential uses with off-street parking for motorized vehicles of more than forty (40) spaces shall provide bicycle parking at a rate of one (1) bicycle parking space for every twenty (20) motorized vehicle spaces; however, no more than thirty (30) total bicycle parking spaces shall be required for any single development.

B. Bicycle Parking Design Standards

Bicycle parking is required to encourage the use of bicycles for personal transportation and to provide bicycle access to employment, retail, and other destinations in Sylva.

1. Rack Design

Where bicycle racks are used, "Inverted U" type racks or other racks that support the bicycle at two points on the bicycle frame are required. Unique rack shapes and designs are encouraged.

2. Rack Siting and Dimensions

- a.** Racks shall be secured to the ground on a prepared hard surface such as concrete, asphalt or unit pavers, or rock dust gravel.
- b.** Each bicycle parking space shall provide six (6) feet by two (2) feet in area per bicycle plus the area needed for access.
- c.** Bicycle parking shall be located no closer than three (3) feet from any wall to provide adequate space for access and maneuvering.
- d.** At least four (4) feet between parallel racks shall be provided for access.
- e.** Bicycle racks installed on sidewalks should provide for a clear, unobstructed width of at least five (5) feet for pedestrians and should be installed parallel to and at least three (3) feet from the face of the curb.
- f.** Bicycle racks shall be placed a minimum of four (4) feet from existing street furniture (i.e., mailboxes, light poles, benches) and be no closer than twelve (12) feet from the edge of fire hydrants.
- g.** Racks should be placed along a major building approach line and clearly visible from the approach and no more than fifty (50) feet from building entrances. Rack placement should allow for visual monitoring by people within the building and/or people entering the building.
- h.** If required the bicycle parking is not visible from the street or main building entrance, a sign shall be posted at the main entrance indicating the location of the parking.

C. Shared Bicycle Parking

Any property owner required to have bicycle parking may elect to establish shared bicycle parking with any other property owner with a lot within five hundred (500) feet or within the same street block of the subject lot to meet the combined requirements.

Section 7.7 Loading Schedule

Every parcel on which a sales business, trade, or industrial use is hereafter established shall provide an area for the loading and unloading of vehicles off the street. The area shall have access to an alley or, if there is no alley, to a street and shall have minimum dimensions of twelve (12) feet by forty (40) feet. Such area may be located within an access aisle, off-street area, or other areas as designated by the Town, provided it is accessible to delivery vehicles. The number of off-street loading and unloading areas required on any parcel shall be determined according to the use for which the parcel is to be placed, all pursuant to the following schedule:

TABLE 7-3 LOADING SCHEDULE

Type of Use	Minimum Zone/Docks (Note 1)
Retail business use	One (1) area for each five thousand (5,000) square feet of gross floor area.
Wholesale and industrial uses	One (1) area for each ten thousand (10,000) square feet of gross floor area.
Truck terminals	Sufficient space to accommodate the maximum number of trucks to be stored or to be loading or unloading at the terminal at any one time.

NOTE: Designated Loading Zones/Docks within the DTB District shall be approved by the Town of Sylva Board of Commissioner and/or NCDOT.

Section 7.8 Landscaping Regulations

A. Purpose

The appropriate conservation of existing vegetation and installation of supplemental landscaping provides invaluable resources for the environment, reduces stormwater, provides shade and buffering, and further enhances the small-town character of Sylva. This Chapter is intended to establish minimum landscape standards for buffering, parking, street trees, and general planting. The landscaping and buffering standards set forth below require landscaping between dissimilar uses, along streets and roads, and in parking areas to:

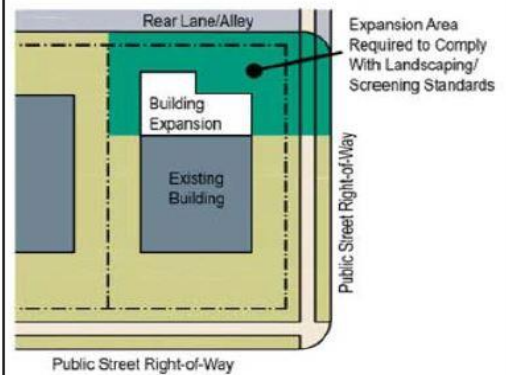
1. Encourage the preservation of existing trees and vegetation and replenish removed vegetation with native species.
2. Improve the visual quality of the Town of Sylva and minimize the potential impacts of development such as noise, dust, the glare of lights, parking lots, heat, and odor.
3. Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development, preserve the character and value of a property, and provide a sense of privacy.
4. Improve standards for quantity, location, size, spacing, protection, and maintenance of native plants to assure a high level of quality in the appearance of Sylva while allowing flexibility to promote well-designed and creative landscape plantings.
5. Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater run-off, decreased erosion, improved water and air quality, and protection of wildlife habitat.

B. Applicability

1. The standards contained in this Chapter shall apply to the following development conditions:

TABLE 7-4 LANDSCAPE THRESHOLDS: WHERE AND WHEN REQUIRED

<i>Development Condition</i>	<i>Applicability</i>
New Construction (Except Single-family and Two-Family Dwellings on Previously Platted Lots)	All standards apply
Expansion of Parking Areas (Less than 20% of Total Existing Area or less than 8 spaces)	All standards apply only to the parking lot expansion areas.
Expansion of Parking Areas (20% or Greater of Total Existing Area or 8 spaces or more)	All new and existing parking area conditions and non-conforming street frontages shall be made conforming.
Building Expansion/Reconstruction (Less than 50% of Existing Floor Area)	All standards shall apply only to the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge. (See diagram)
Building Expansion/Reconstruction (50% or Greater of Existing Floor Area)	The entire site shall be brought into full compliance with this Chapter.
Change of Use (From Residential to Non-Residential)	The entire site shall be brought into full compliance with this Chapter.



2. Landscape Plan Required

Applicants are encouraged to meet with Zoning Administrator prior to submitting a development plan to discuss applicable landscape requirements, other ordinance requirements, and coordination of planting installation with other construction activity. A landscape plan drawn to scale must be submitted with the development plan and prepared in accordance with Site Plan or Subdivision requirements.

3. Revisions to Landscape Plan

Due to lack of plant availability for the proposed area of planting, approved landscape plans may require minor revisions. Minor revisions to landscape plans may be approved by the Zoning Administrator if:

- a. The replacement vegetation is native to the area.
- b. There is no reduction in the quantity of plant material.
- c. There is no significant change in size or location of plant materials.

- d. The new plants are of the same general category (i.e., canopy trees, understory trees, shrubs, groundcover) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

4. Streetscape Plan Compliance

The Town of Sylva's Streetscape Plan (adopted September 19, 2013, and any revision thereafter) shall supersede the regulations contained herein for properties adjacent to the thoroughfares and areas depicted on the plan only. The Town of Sylva's Landscape regulations shall be applied to all other aspects of the parcel as required. The current Town of Sylva Streetscape Plan is available for review at Town Hall.

5. Alternative Compliance

- a. The landscape requirements are intended to set minimum standards for quality development and environmental protection; they are not intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with the landscape requirements. The Zoning Administrator may alter the landscape and buffering requirements if existing or added landscape features of the development site comply with the intent of this Article. Requests for alternative compliance may be accepted if one or more of the following conditions are met:
 - (1) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements.
 - (2) Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may justify alternative compliance when changing the use of an existing building in a developed area.
 - (3) An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements and exhibits superior design quality.

Existing Vegetation, Fences, Walls, and Berms: The use of existing trees or shrubs to satisfy the landscaping requirements of this Article is encouraged. Significant existing vegetation within landscaped areas shall be preserved and credited toward required landscaping. Existing berms, walls, or fences within the landscaped area, but not including chain link fencing, may be used to fulfill the standards for the type of landscaping required, provided that these elements are in good condition. Preserving existing trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved as well as individual trees. Existing trees and shrubs that are preserved may be credited toward required buffer trees, street trees, and parking lot trees as specified in Figure 7.7 below.

2. Credits and Other Incentives

- a. The preservation of existing trees, where possible is strongly encouraged. To encourage such preservation, preserved trees may be credited towards compliance with the requirements of this section at the rate of:

TABLE 7-5 LANDSCAPE EQUIVALENTS

2" - 6" caliper tree = 1 new tree
7" - 12" caliper tree = 2 new trees
13" - 18" caliper tree = 3 new trees
19" - 24" caliper tree = 4 new trees
25"+ caliper tree = 5 new trees

- b. In order to receive credit, existing vegetation that is preserved must be non-invasive, in good health and condition. Trees designated to be preserved must be indicated on the landscape plans. Protective barriers must be shown on the landscape and grading plans in accordance with the requirements of subsection 3 below. If a preserved tree dies within twenty-four (24) months of completion of the project, it must be replaced with the total number of trees that were credited to the existing one.

3. Protection of Existing Trees During Construction

- a. No grading or other land-disturbing activity can occur on a site with existing trees that are designated to be preserved to meet the landscape requirements until protective barriers are installed by the developer. Trees designated for preservation shall be protected by barriers. The diameter of existing trees to be preserved and the location of the protective barriers must be shown on the landscape and grading plans, with the dimension between the tree trunk and the barrier indicated.
- b. Barricades or barriers must be placed around the critical root zone of any existing trees to be preserved that are within fifty (50) feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one (1) foot radius for every inch of tree diameter. For example, an eight (8) inch diameter tree would have a barricade surrounding it located eight (8) feet from the trunk of the tree. All protective barriers must be maintained throughout the building construction process.
- c. Protective barriers shall consist of either:
 - (1) A fence that is at least three (3) feet high and constructed in a post and rail configuration; or
 - (2) A fence with posts placed no further than ten (10) feet apart with the perimeter wrapped with orange polyethylene laminar safety fencing.
- d. All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area including:
 - (1) Grading;
 - (2) Filling, unless an aeration system that is certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist is installed to protect the tree from suffocation;
 - (3) Parking;
 - (4) Storage of debris or material, including topsoil;
 - (5) Disposal of hazardous waste or concrete washout;

(6) Attaching of nails, ropes, cables, signs, or fencing to any tree to be preserved.

- e. If any area within the critical root zone will be disturbed for any reason, measures must be taken to minimize any potential impact. The developer should coordinate with utility companies early in the design process to resolve any potential conflict regarding the placement of utilities and landscape requirements. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of the tree protection zone to prevent sediment from accumulating in the critical root zone area.

4. Restrictions on Landscape Areas

- a. Nothing shall be planted or installed within an underground utility easement, overhead utility easement, or storm drainage easement without the consent of the Zoning Administrator, the easement holder, and utility owner at the time of site plan approval.
- b. Required building setbacks shall supersede any landscape yard requirements.

5. Tree Trimming and Removal

- a. Branches that overhang any roadway or right-of-way shall be pruned so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection. There shall be a clear space of eight (8) feet above the surface of the sidewalk or parking area and thirteen (13) feet above any travel way.
- b. All dead, diseased, or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public shall be removed.
- c. The Town is authorized to remove and/or trim trees and shrubs from public properties and public rights-of-way. The North Carolina Department of Transportation is authorized to remove and or trim trees and shrubs in the public rights-of-way owned by the State of North Carolina.
- d. Approval from the Zoning Administrator is required to trim a tree in a tree save area, required landscaping area, or buffer yard more than twenty-five (25) percent of its overall canopy.

- e. Trees to be removed from the public right-of-way by electric utilities and other overhead utilities must be replaced by such entity in equal quantity and minimum caliper size with an approved species.
- f. Tree topping and/or shearing shall be prohibited on all trees on public property, designated rights-of-way, required tree save areas, landscaping, and buffer yards unless otherwise approved by the Zoning Administrator. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this Article at the determination of the Zoning Administrator.

D. Buffer Yard and Screening Requirements

1. Requirement

Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. Buffer yards shall be required between the proposed development and dissimilar existing land use to provide a transition between them. A buffer yard is a strip of land with existing vegetation, planted vegetation, a landscaped earth berm or grade change, a fence, a wall, or a combination of the above. The buffer yard width and the number of plantings required will vary based upon the size of the proposed and existing land uses. Information on determining buffer yard width is provided in subsection 6.

2. Responsibility for Buffer Yard

The required buffer yard shall be the responsibility of the property owner to develop the property or change the land use. Buffer yards must be located on the property being developed or on which the land use is changing, between the property lines and any vehicle use areas, buildings, storage, service areas, or any other area of activity. The buffer yard shall extend along the entire property line that abuts the incompatible land use up to any required street tree planting strip.

3. Setbacks

If a setback requirement is less than the minimum buffer requirement, the buffer yard width requirement shall override the setback requirement.

4. Use of Buffer Yards

Required buffer yards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated trails or greenways, utilities, drainage ways, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Utility easements may be included in the width of the buffer yard with the following conditions:

- a. Utility lines should be located to cross perpendicular to a buffer yard, if possible, to minimize the impact.
- b. If utility lines must run with a buffer yard, they must be located along the edge of the buffer yard.
- c. The developer should minimize the number of plantings in the utility easement area so that they will not have to be removed or pruned if the utility line needs maintenance. If the developer plans to plant in the utility easement, approval must be obtained from the affected utility companies to ensure that the plantings will not interfere with the installation, operation, or maintenance of the utility lines. Trees and shrubs planted within the utility easement will not count toward the buffer yard planting requirement unless they are approved by the utility companies.

5. Placement of Buffer Yard Plantings

The exact placement of the required plants shall be the decision of the developer or designer but shall be approved by the Zoning Administrator. 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 should be planted at least five (5) feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property.

6. Buffer Yard Dimension and Placement

A minimum, ten (10) foot buffer yard shall be required against all property lines where a new use is developed or where an existing use is expanded (building size and/or parking area is increased by fifty percent (50%) or

more) and it is adjacent to use of a different land use category, except as outline in subsection 8, below.

For example, commercial use is planned next to a single-family dwelling. The commercial use will require a ten (10) foot buffer along the property line adjacent to the residential use.

7. Mixed Uses

When a lot has a combination of different land uses, buffers or alternative planting arrangements shall be incorporated into the design to provide the greatest protection to the uses of lesser intensity. The buffer placement shall be approved by the Zoning Administrator.

8. Buffer Not Required When a Street Separates Incompatible Land Uses

If a street or road is located between two (2) land uses that would require a buffer between them, no buffer shall be required along the street or road frontage of the property being developed if the right-of-way is sixty (60) feet or greater; however, street trees are required along the property to be developed.

9. Buffer Requirement When Development Site Abuts a Vacant Lot

If the property to be developed abuts a vacant lot, a ten-foot (10') buffer shall be provided to ensure buffering to and from future development

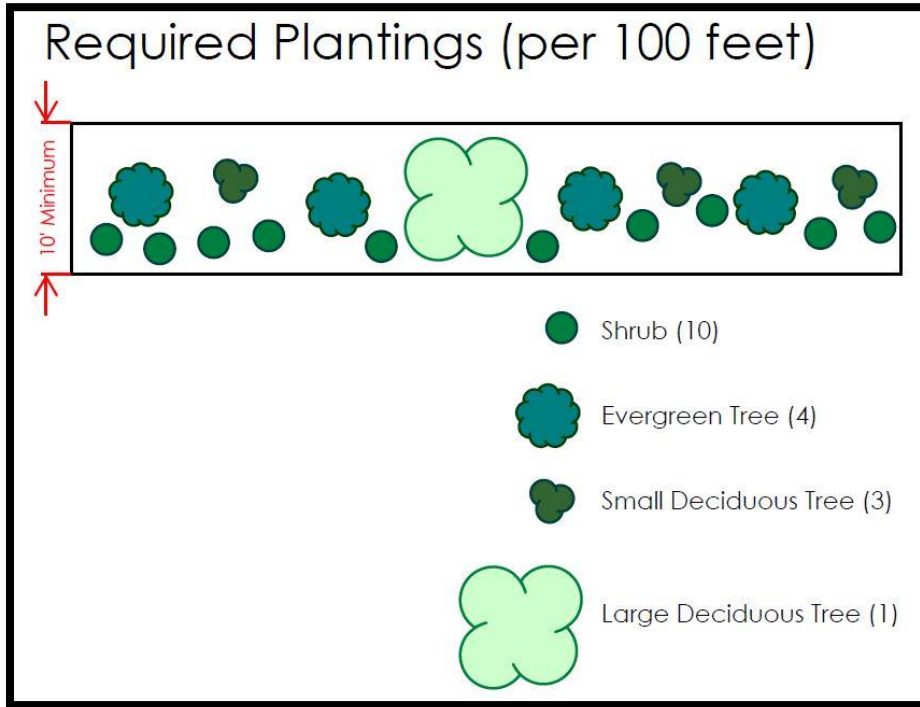
10. Buffer Description Table

TABLE 7-6 BUFFER REQUIREMENTS

	Buffer
Minimum buffer width	10 feet
Total number of plants per one hundred (100) linear feet	18
Number of evergreen trees	4
Number of large deciduous trees	1
Number of small deciduous trees	3

Number of shrubs (at least seventy-five percent (75%) must be evergreen)	10
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FIGURE 7-8 BUFFER ILLUSTRATION



11. Existing Vegetation in the Buffer

Existing vegetation in the buffer area may be counted toward the required plantings according to Section 7.8.D.2. The Zoning Administrator must approve the use of existing vegetation to meet the buffer requirement.

12. Fences or Walls within Buffers

The number of plantings may be reduced up to fifty (50) percent with the use of a fence or wall. Fences and walls must meet the following standards:

- a. Fences or walls shall be constructed of wood, brick, stone, or another masonry (except plain block) and be architecturally compatible with the proposed structure. Seventy-five (75) percent of the fence or wall must be opaque with any spaces evenly distributed. A detailed drawing of the fence or wall must be shown

on the site or landscape plan and approved by the Zoning Administrator.

- b. Fences and walls shall be a minimum of six (6) feet tall;
- c. The finished side of the fence or wall shall face the abutting property; and
- d. A planting strip with a minimum width of eight (8) 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 to screen at least fifty (50) percent of the fence or wall at maturity.

13. Screening of Dumpsters, Loading Docks, Outdoor Storage Areas, and Utility Structures

All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or buffer yard. Landscaping shall not interfere with the access and operation of any such structure or facility. All unenclosed outdoor storage areas greater than fifteen (15) square feet shall also be screened from adjacent properties and streets. Screen types include:

- a. A continuous hedge of evergreen and/or densely twigged shrubs planted in a five (5) foot strip with plants spaced no more than five (5) feet apart or a row of evergreen trees planted no more than eight (8) feet apart.
- b. A fence or wall with a minimum height of six (6) feet with the finished side of the fence or wall facing the abutting property or the street.

E. Additional Landscape Requirements and Standards

1. Street Trees

- a. Street trees are required for all new developments and on all new streets.
- b. Street trees, of native species, shall be required at the rate of one (1) large maturing (over thirty-five (35) feet in height at maturity) for every forty (40) linear feet of property abutting a street or road, or one small maturing tree (less than thirty-five (35) feet in height at maturity) for every thirty (30) linear feet of property abutting a street or road if overhead utility lines are present. This does not imply that

trees must be spaced exactly thirty (30) or forty (40) feet apart; they may be clustered together with a minimum spacing of fifteen (15) feet. Trees shall be spaced no more than sixty-five (65) feet apart.

- c.** Street trees shall be placed in a planting strip on private property and not within the street or road right-of-way. No street tree can be located farther than twenty (20) feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary but the minimum width cannot be less than seven (7) feet and the average width shall be at least ten (10) feet. The planting area must be covered with living material, including ground cover and shrubs, or mulch so that no soil is exposed. No stone mulch is permitted in the planting area.

2. Parking Lot Landscaping Requirements

a. Requirements for New or Expanding Uses and Developments

Native trees and shrubs are required in and around parking lots with more than six (6) spaces to enable the parking areas to blend in with the natural appearance of Sylva, to provide attractive views from roads and adjacent properties, to reduce stormwater runoff, and to help filter exhaust from vehicles. The following parking lot planting requirements apply to new development, new use, or to a building or parking lot that is expanding by more than fifty (50) percent of its existing square footage, depending upon its relation to other properties and public rights-of-way.

(1) Perimeter and Interior Plantings

- (a)** Parking lots, loading areas, and other vehicle use areas must be planted with one (1) deciduous tree and two (2) shrubs for every two thousand (2,000) square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas (including gravel surfaces).
- (b)** At least seventy-five (75) percent of the required deciduous parking lot trees must be large maturing trees.
- (c)** Trees and shrubs must be placed within twenty (20) feet of the vehicular use area to count as parking lot landscaping.

- (d)** When four (4) or more trees are required in a parking lot with interior rows, fifty (50) percent of the trees and shrubs must be planted in islands or medians located within the parking lot.
- (e)** Each parking space shall be located within forty-five (45) feet of a tree. In calculating this distance, measurements shall be taken from the trunk of the tree to the closest point of the parking space.
- (f)** Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.
- (g)** Trees and shrubs shall not impede vehicular or pedestrian visibility.

(2) Planting Strip

- (a)** A planting strip with a minimum width of ten (10) feet shall be planted between the vehicular use area and the abutting property when any vehicular use area is located within fifty (50) feet of abutting property and no buffer is required, except for the driveway openings that run perpendicular to the planting strip. This planting strip shall ensure that parking lots are separated from other uses and one another.
- (b)** One large evergreen or deciduous tree and five (5) evergreen or deciduous shrubs shall be planted for every forty (40) linear feet of the property line that parallels the vehicular use area. Fifty (50) percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in Subsection (1). (above) if the planting strip is located within twenty (20) feet of the vehicle use area.
- (c)** Adjacent businesses on separate properties that share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the use of the shared parking or driveway.

(3) Buffering from the Street

- (a)** Vehicular use areas greater than two thousand five hundred (2,500) square feet that are located within thirty (30) feet of a street or road must be buffered from the street or road.
- (b)** This buffer is required in addition to the street trees planted in a ten (10) foot planting strip as required by Section 7.8.E.1.
- (c)** The buffer must contain plants that will be at least three (3) feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changes combined with plant material. A vegetative buffer shall contain at least one (1) evergreen or deciduous shrub for every five (5) feet of vehicular use area buffer required. If a fence or wall is used, at least one (1) shrub must be planted for every eight (8) linear feet of fence or wall. Shrubs should be evenly distributed on each side of the fence. Berms and grade changes must be completely covered with vegetation.
- (d)** All shrubs planted can count toward the parking lot landscaping requirement.

b. Size of Planting Islands

Tree planting islands within vehicular use areas shall be a minimum of one hundred fifty (150) square feet and have no width less than nine (9) feet.

c. Protection of Trees

Planting areas and islands shall be protected by curbing, bollards, or parking barriers if a tree or shrub is within six (6) feet of the edge of the pavement. Trees in islands should be set back at least four (4) feet from the edge of the island so as not to interfere with vehicle access.

3. Compliance and Maintenance**a. Certificate of Occupancy**

Landscaping must be installed and inspected prior to receiving a certificate of occupancy for the construction. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in the amount of one twenty-five (125) percent of the cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of occupancy shall be issued. The financial surety shall be canceled and/or returned upon completion and approval of the required landscaping.

b. Maintenance

The owner or lessee of the property on which landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or to replace dead, damaged, or diseased plant material or to replace a broken fence or wall shall constitute a violation of this ordinance and shall be subject to the penalty provisions set forth in Article III if no corrective action is taken within thirty (30) days of receiving notice. If an act of God or other catastrophic event occurs that destroys a large quantity of vegetation, the owner or lessee shall have one hundred twenty (120) days to replant. Replaced plant material must comply with the minimum size, spacing, and quantity standards of this Ordinance.

4. Plant Specifications

a. Required Plant Species

In meeting the landscape requirements outlined in this Ordinance, the use of native plant materials is required. Native plants are indigenous to the region and are acclimated to the area, are better suited for survival, require less water and maintenance, provide shelter and sustenance for wildlife, and maintain the character and appearance of the Town of Sylva. See Appendix A for the required native plant species list.

b. Minimum Plant Size Requirements

(1) Large Maturing Deciduous Tree

Greater than thirty-five (35) feet in height at maturity. The minimum size at planting shall be two (2) inches caliper with a twelve (12) to fourteen (14) foot height.

(2) Small Maturing Deciduous Tree

Less than thirty-five (35) feet in height maturity. The minimum size at planting shall be one and one half (1 ½) inch in the caliper with an eight (8) to ten (10) foot height.

(3) Evergreen Tree

The minimum height at planting shall be six (6) feet.

(4) Deciduous Shrub

The minimum size at planting shall be a three (3) gallon container or ten (10) inch root ball with a height of eighteen (18) inches.

(5) Evergreen Shrub

The minimum size at planting shall be a three (3) gallon container or ten (10) inch root ball with a height of eighteen (18) inches.

c. Plant Standards

All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, by AmericanHort. Plants must be healthy, well-branched, and free of disease and insect infestation.

Section 7.9 Lighting Standards

A. Purpose

The purpose of this section is to regulate exterior lighting to enhance the areas being lit; ensure the safety of pedestrians, cyclists, and drivers; minimize light trespass and glare; and reduce skyglow.

B. Applicability

All lighting within the Town and ETJ shall be subject to the standards of this section.

C. Administration

A lighting plan shall be required as part of any landscape plan submitted through a site plan or design review process required as part of Article 3.

D. Exemptions

The following lighting types shall be exempt from the requirements of this section:

1. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires.
2. All hazard warning luminaires required by Federal regulatory agencies - all luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
3. Individual residential lighting that is not part of a site plan or subdivision plan for street or other common or public areas outdoor lighting.
4. Lighting associated with the holiday, festival, or other temporary uses.
5. Lighting of public art that has been permitted or otherwise approved by the Town.
6. Other municipal or state lighting installed for the benefit of public health, safety, and welfare.
7. All fixtures installed or temporarily used by public agencies, their agents, or contractors for the purpose of illuminating public streets.
8. Lighting of U.S. and North Carolina State Flags provided the flag standard does not exceed the maximum permitted building height for that planning area.

E. Prohibited Lighting Types

The following types of lighting are prohibited:

1. **Traffic Control Signals**
 - a. Lighting that imitates an official highway or traffic control light or sign, or,
 - b. Lighting in the direct line of sight with any traffic control light or sign

2. High-Intensity Lighting

- a. High-intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities; or
- b. High intensity LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure.

3. Flashing Lights

Flashing, revolving, or intermittent exterior lighting is visible from any lot line or street.

4. Upward-Facing Lights

Lights set upon the ground or mounted so as to face upwards toward the sky, except those which are required to light the U.S. Flag and the North Carolina State Flag, when displayed during evening hours.

F. General

The following standards are required of all exterior lighting except for street lighting (See Section 7-19):

1. Design

Exterior lighting shall be consistent with the architectural character of the building as determined by the reviewing body.

2. Quantity

The number of fixtures to be provided shall be based upon the desired level of uniform illumination as established in Section 7-13.G. and Section 7-13.H.

3. Location

Fixtures shall be placed to provide uniform distribution of light downward and to avoid intense lighting that produces excessive glare and skyglow.

- a. All lighting poles shall be located at least ten (10) feet from property lines defining rear and side setbacks.
- b. Light sources shall not be located within any perimeter-landscaped areas except for pedestrian walkways.

4. Shielding

- a. Building lighting and landscaping lighting shall be located, aimed, and shielded so that direct illumination is focused exclusively on the building facade, plantings, or other site features and shall not extend upward to the night sky. The source of illumination (the bulb) shall not be visible from any roadway or adjacent land use.
- b. Lights shall be shielded to prevent light spillage onto adjoining properties and the street right-of-way.
- c. Lighting used to illuminate pedestrian walkways and signage shall be downcast or cutoff type lighting fixtures. Upward-facing lights shall be prohibited, except when lighting the US or NC State flag at night, as required.

5. Maximum Height

The maximum height as measured from grade for outdoor lighting, except outdoor recreation and performance areas, shall be:

- a. Non-Cut-Off Lights: Twelve (12) feet.
- b. Cut-Off Lights: Twenty-Five (25) feet.

G. Average Maintained Foot-Candle Requirements

1. Measurement

The maximum permitted illumination shall be measured in average maintained foot candles from ground level. This average shall be arranged to prevent light spillage as specified in Section 7-13.H.

2. Level of Illumination

The level of illumination shall be based on the primary activity in each area to be lighted as shown in the table below. Foot-candle designations represent measurements for the average maintained intensity at grade.

TABLE 7-7 FOOT-CANDLE REQUIREMENTS

Average Maintained Foot-candle Requirements			
Lighting Type	Maintained Foot-candles		Additional Notes/Requirements
	Max	Min	
a. Utility Lighting			
(1) Street Lighting	2.0	0.5	Also, see Sec. 7.10. for additional street lighting standards.
(2) Pedestrian Paths/Sidewalks	1.0	0.5	<ul style="list-style-type: none"> As measured at the property line Outdoor lighting sources shall be shielded so as not be visible from a residential use.
b. Area Lighting			
(1) Commercial/ Mixed-Use	2.0	1.0	As measured at the property line.
(2) Residential	0.3	n/a	Lighting shall be focused exclusively on the plantings and away from adjoining properties and the street right-of-way.
(3) Landscaped Areas	2.0	n/a	<ul style="list-style-type: none"> Lighting shall be coordinated with trees and landscaping so as not to be obscured by such plantings. Lighting fixtures of more than two thousand (2,000) lumens shall be cut-off fixtures. Decorative lighting fixtures no more than eighteen (18) feet in height shall be installed along pedestrian walkways, as approved by the Zoning Administrator. Such lighting shall provide uniform distribution of lighting to produce minimal shadows.
(4) Parking Lots	4.0	1.0	<ul style="list-style-type: none"> Fixtures shall be directed to light the parking area and not to shine onto adjacent properties. All fixtures shall be fully shielded or installed with a manufacturer's glare control package to minimize up-light, spill-light, and glare.

Average Maintained Foot-candle Requirements			
Lighting Type	Maintained Foot-candles		Additional Notes/Requirements
	Max	Min	
			<ul style="list-style-type: none"> Fixtures must not exceed sixty(60) feet in height as measured from grade.
(5) Outdoor Recreation and Performance Facilities	n/a	n/a	<ul style="list-style-type: none"> Fixtures shall be directed to the primary playing or performance area and the immediate surroundings only so as not to shine onto adjacent properties. All fixtures shall be fully shielded or installed with a manufacturer's glare control package to minimize up-light, spill-light and glare. Fixtures must not exceed eighty (80) feet in height as measured from grade.
c. Building Exteriors			
(1) Patron Entrances	6.0	2.0	-
(2) Employee/Service Entrances	1.0	0.5	-
(3) Building Facade	5.0	2.0	Lighting shall be focused exclusively on the building features and away from adjoining properties and right-of-way.

This table is derived from recommendations of the Illuminating Engineering Society.

H. Light Spillage Requirements

Lighting intensities shall be controlled to assure that light spillage and glare are not directed at adjacent properties, neighboring areas, drivers, or the sky. The table below shows the maximum light permitted, as measured in foot candles, at the property line in order to prevent light spillage.

TABLE 7-8 MAXIMUM LIGHT SPILLAGE

Light Spillage Requirements	
Lighting Type	Maximum Foot-candles at Property Line
1. Commercial/Mixed-Use Areas	2.0
2. Residential Areas	0.3
3. Parking Lots	2.0
4. Outdoor Recreation and Performance Areas	2.0
5. All Other Areas	0.3 (non-cut-off lights); 1.5 (cut-off lights)

I. Lighting Color

The LED correlated color temperature (CCT) shall not be higher than 4,300 K (Kelvin degrees).

Section 7.10 Street Lighting**A. Require Improvements**

The owner, developer, or subdivider of property shall install street lighting along all proposed streets and along all adjoining existing streets in conformance with Duke Energy and Town of Sylva standards at the developer's expense.

B. Design and Maintenance**1. Type**

Pedestrian-scale street lighting shall be less than eighteen (18) feet in height and shall be provided using decorative lighting fixtures, as approved by the Zoning Administrator. Pedestrian lighting is encouraged in parking areas, along sidewalks, and other right-of-way used by pedestrians in the evening hours.

2. Location

The placement of street lighting fixtures in residential areas shall be at one hundred sixty (160) to two hundred (200) foot intervals (three hundred (300) to five hundred (500) foot intervals in the LDR), and at each intersection unless:

- a. The roadway length is less than two hundred (200) feet, a streetlight is placed at the intersection, and no natural features obstruct the light source, in which case a streetlight will not be required at the end of the street; or

- b.** The vertical and horizontal street alignment or natural features necessitate shorter spacing intervals.

ARTICLE 8

SIGN STANDARDS

Section 8.1 Purpose

The Town of Sylva is located in a unique mountain and natural scenic setting. Therefore, it is the desire and purpose of the Board of Commissioners of the Town of Sylva to regulate signs and outdoor advertising throughout the zoning jurisdiction of the Town of Sylva; to limit the size, height, and location of signs and outdoor advertising erected therein; to eliminate hazards to pedestrians and motorists brought about by distracting sign displays; to ensure orderly development; to protect and stabilize property values; to preserve the scenic natural environment by allowing signs which are consistent with an attractive Town appearance; to promote public health, prosperity, safety, and welfare; and to establish procedures through which these purposes can be fulfilled.

Section 8.2 Exempt Signs

The following signs are exempt from the requirements herein:

- A.** All classes of government signs including, but not limited to, traffic, health, and public safety; crime control and prevention; official notices or advertisements related to any court action; the location of underground utilities; historical markers or monuments; wayfinding signs; and any other community service sign approved by the Town of Sylva.
- B.** Temporary lighting and displays are located on the publicly owned property.
- C.** Signs posted on private property related to public safety that do not exceed three (3) square feet in size and not more than two (2) signs shall be placed on any parcel.
- D.** Signs are displayed on the inside of a structure that is not visible from any public street or walkway.
- E.** Signs attached to commercial vehicles via wraps, decals, or permanent paint.
- F.** For sale signs on private vehicles not exceeding three (3) square feet.
- G.** Manufacturer's signs displaying brand names or emblems located on gasoline pumps at service stations.
- H.** Incidental signs indicating charge card information, hours of operation, or general instructions, restrictions, etc., thereof.

- I. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this section until the certificate of occupancy is issued for the final portion of any construction at that site or twenty-four (24) months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of twenty-four (24) months from the time the fence wrap was installed, the Town will regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing.
- J. Barber Poles.

Section 8.3 Regulated Signs Not Requiring a Permit

The following signs are allowed and do not require a sign permit, provided each sign conforms to the requirements of this Article:

A. Temporary Signs

1. Not more than three (3) temporary on-premises signs advertising the rent, sale, or lease of a building, provided that the surface area of each sign does not exceed sixteen (16) square feet in surface area per non-residential building and not more than three (3) square feet in surface area per residential building.
2. Signs advertising the sale of produce out of a home garden on the premises where the produce is being sold, not to exceed two (2) non-illuminated signs per premises, provided that such signs do not exceed three (3) square feet in surface area per sign face, are not placed within the public right-of-way or within fifteen (15) feet of any roadway if no right-of-way is defined, and shall be displayed only during the months of March through October.
3. Residential yard sale signs, not to exceed two (2) non-illuminated signs per premises, provided they do not exceed three (3) square feet in surface area per sign face, and the maximum time for display does not exceed 48 hours.
4. Signs used prior to and during construction to identify the name of a new project and/or the principal contractor or developer, provided they meet the following requirements:
 - a. Each project site shall have no more than one (1) identification sign with one sign face.
 - b. Identification signs shall be either attached to the building under construction or affixed to a secure temporary post and located out of the public right-of-way or beyond fifteen (15) feet of any roadway if no right-of-way is defined.

- c. Identification signs shall be no greater than three (3) square feet in residential zoning districts and thirty-two (32) square feet in non-residential zoning districts.
- 5. National Flags, badges, or insignia shall be limited in size to not more than thirty-two (32) square feet.
- 6. Political Signs. Any sign that advocates for political action. The term does not include a commercial sign. Political signs shall be allowed without a permit if the following conditions are met:
 - a. Political signs within the Town limits of Sylva, meeting the requirements of this Section, are to be located entirely on private property, outside of any right-of-way of any local or Town-owned or maintained road, and placed with the permission of the property owner, no more than 30 days prior to an election, except as permitted in Subsection b., below.
 - b. Compliant Political Signs Permitted. - During the period beginning on the thirtieth day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the tenth day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this subsection. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the period prescribed in this subsection.
 - (1) Any political sign remaining in the right-of-way of the State highway system more than thirty (30) days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.
 - (2) Definition. - For purposes of this section, "political sign" means.
 - (3) Sign Placement. - The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:
 - (a) No sign shall be permitted in the right-of-way of a fully controlled-access highway.
 - (b) No sign shall be closer than three (3) feet from the edge of the pavement of the road.

- (c) No sign shall obscure motorist visibility at an intersection.
 - (d) No sign shall be higher than forty-two (42) inches above the edge of the pavement of the road.
 - (e) No sign shall be larger than eight hundred sixty-four (864) square inches or six (6) square feet.
 - (f) No sign shall obscure or replace another sign.
- (4) Penalties for Unlawful Removal of Signs. - It is a Class 3 misdemeanor for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under this section.

B. Permanent Signs

1. Private on-premises traffic signs, not exceeding four (4) square feet in surface area, indicating directions, entrances, or exits, which may also include the name and/or logo of the business. Such signs must be located outside of the right-of-way, or within fifteen (15) feet of any roadway if no right-of-way is defined, and may not exceed a height of forty-two (42) inches or infringe on the sight distance triangle.
2. Signs for service stations, or any businesses selling gasoline, in addition to signs allowed in Section 8.4, as follows:
 - a. Gasoline price signs located and secured to each pump island, not exceeding eight (8) square feet per sign face and sixteen (16) square feet per pump island;
 - b. Signs located at each pump island indicating self-service and full-service operation, not exceeding eight (8) square feet per sign face;
 - c. North Carolina inspection signs at any location on the business premises, not exceeding four (4) square feet per sign face.

Section 8.4 Regulated Signs Requiring a Permit

The following permanent signs are allowed, subject to the issuance of a permit by the Zoning Administrator. Application for a permanent sign shall be made on the proper form, obtainable at the Town Office or from the Zoning Administrator. The application shall include the name and mailing address of the owner of the sign, a drawing of the sign indicating its size and height, a site plan indicating the sign located on the premises and its relation to any adjacent rights-of-way, the proposed method of illuminating the sign, if any, and any other information the Zoning Administrator deems necessary to ensure compliance with these regulations. All signs must follow Section 8.5 regulations pertaining to construction, design, and maintenance. Any substantial change in the copy of a sign, such as a change of the name of a business, shall require an application for a new Sign Permit. No permit shall be issued in the event of such a change in copy unless the sign complies with the current provisions of this Article. An administrative fee shall be applied to all applications for a Sign Permit and payable according to the Town fee schedule.

A. Signage Types

1. Stationary Sandwich Boards

- a. Stationary Sandwich Board shall be allowed in the DTB, and GB districts.
- b. The signage shall not exceed eight (8) square feet per advertising surface area with no more than two (2) surface areas per sandwich board (total of sixteen (16) square feet) nor a total height to exceed four feet. The sandwich board structure (frame) shall be of a standard design approved by the Zoning Administrator. Signage shall be constructed of materials that do not rapidly deteriorate, easily deface, degrade, or become a hazard to the safety and general welfare of the public in any way.
- c. Each business is allowed one (1) sandwich board per property immediately adjacent to their place of business. The sandwich boards shall be placed no more than six (6) inches from the adjacent storefront in the DTB district, shall not impede the flow of pedestrian traffic, nor impede sightlines of motor vehicle traffic.
- d. Off-premises sandwich board signs shall be allowed if the adjacent business owner provides a written agreement for the placement of the sign, or the sign is located on property belonging to the Town of Sylva.
- e. Sandwich boards in the GB district shall not be in the public right-of-way or placed on sidewalks.

- f. Sandwich boards shall be allowed on sidewalks in the DTB district to promote special events for municipal, school, civic, or non-profit organizations. The use of a sandwich board shall be by permit only and placed either on the Town of Sylva property or by the written agreement of the adjacent business owner. All sandwich boards must be removed daily at dark.
- g. Permits for the placement of sandwich board signage shall be issued by the Zoning Administrator or his/her designee at his/her discretion. There is a fee for the initial permit as well as permit renewal. The application should be made to the Zoning Administrator.

2. Marquee Signs

- a. Marquee signs shall only be allowed in the DTB and GB districts.
- b. The size of a marquee sign shall not exceed one square foot for each linear foot of building frontage
- c. The lowest edge of a marquee sign shall be at least eight (8) feet above the finished grade.
- d. The sign shall be located over the principal public entrance on the architectural front of the building.
- e. If a marquee sign is installed on a building, it shall be utilized as the only permanent building sign for that building.
- f. No portion of the sign shall extend vertically above the eave or roof line, nor shall it extend horizontally into the right-of-way or closer to the curb than three (3) feet.
- g. Sign shall not be wider than the entrance to the building plus two (2) feet on each side thereof.
- h. Changeable Copy is permitted.
- i. Sign may only be internally lit.

3. Temporary, On-Premises Signs

Temporary on-premises signs, flags, or banners advertising the initial opening of a business establishment or special sales are allowed provided the location of such signs is approved by the Zoning Administrator. Such signs shall not exceed thirty-two (32) square feet in surface area on one side of any sign and shall be removed upon termination of a special sale. "Special Sale" banners and signs shall only be displayed for thirty (30)

consecutive days. Each business is allowed signage for five (5) such special sale events per year and two (2) signs per event. Grand Opening and Special Sale signage is subject to the "temporary sign permit" fee as set forth in the Town of Sylva's schedule of fees.

4. Accent Lighting

Illuminated tubing or strings of lights outlining rooflines, doors, windows, or wall edges of any building, or strung across permanent open spaces, outdoor eating areas, civic buildings, and civic spaces shall require a permit issued by the Zoning Administrator and are limited to two (2) features per property. High-intensity LED or flashing or intermittent lights are not allowed. Any sign or device displaying flashing lights, intermittent lights, or lights of changing degrees of intensity are prohibited. Illuminated "Open" signs in DTB District are allowed but may not blink or flash. All lighting must comply with the lighting requirements outlined in Article 7.

B. Signs Permitted by District

1. Residential Zoning Districts

- a.** Each subdivision, multi-family development, or manufactured home park is allowed one (1) freestanding sign at each major entrance, not to exceed two (2) freestanding signs for the entire subdivision, multi-family development, or manufactured home park. Such signs shall be adequately secured; shall not be located within any public right-of-way, nor within fifteen (15) feet of the roadway if no right-of-way is defined among the public records of Jackson County; shall not exceed six (6) feet in height; shall not exceed twenty-four (24) square feet in surface area per sign face, and maybe either non-illuminated or indirectly illuminated by white lighting.
- b.** Home occupations are allowed one (1) sign not exceeding six (6) square feet in surface area per sign face, which may be a freestanding, wall, or hanging in type and shall not exceed eight (8) feet in height.
- c.** B&B Homes and Inns are allowed up to two (2) signs, not to exceed a total of twenty-four (24) square feet in area. One (1) freestanding sign, not exceeding six (6) feet in height, maybe permitted and may be externally lit provided lighting is turned off after 11:00 PM. Other signs shall not be illuminated.

- 2. Single Tenants in the DTB district.** Every single business in the DTB district, not located in a shopping center, is allowed a selection of the following signs. However no more than two (2) building (wall, hanging, or canopy) signs are

permitted. If a marquee sign is permitted, no other signage shall be permitted on the building.

- a. No more than one (1) wall sign provided that the total area for all signs does not exceed a ratio of one (1) square foot for each linear foot of building frontage. Consistent with Section 8.7.A., no wall sign shall project above the roof or project more than twelve (12) inches from the building wall. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable sign square footage and are required to have a sign permit.
 - b. One (1) hanging sign is permitted and may be located either above or below a canopy.
 - (1) **Below the Canopy.** A clearance of at least eight (8) feet shall established between the bottom of the sign and any pedestrian walking surface. Such sign may extend no more than five (5) feet, including the width of the bracket, from the building and/or centered relative to the awning, but not to exceed six (6) square feet in surface area per sign face.
 - (2) **Above the Canopy.** A sign may be provided above the canopy or awning per street-level business, provided the sign does not exceed sixteen (16) square feet. Such signs may extend no more than five (5) feet, with the width of the bracket extending no more than five (5) feet from the building wall.
 - c. Awning Sign.
 - d. Window Signs. A window signs is permitted provided it does not occupy more than 55% of the area of the window in which the signs is located and meets the requirements of Section 8.6.
 - e. One (1) hanging OR one (1) wall sign is allowed for upper story businesses, but such sign must be shared with other upper story tenants and not exceed sixteen (16) square feet.
 - f. Marquee
3. **Single Tenants in the I, IN, and GB Districts.** Every single business in these districts, not located in a shopping center, is allowed the following signs:
- a. One (1) freestanding sign, provided it shall not be located within any public right-of-way, not within fifteen (15) feet of the roadway if no right-of-way is defined among the public records of Jackson County;

shall not exceed twelve (12) feet in height; and, one (1) double-sided sign shall not exceed thirty-two (32) square feet in surface area per sign face. Uses that adjoin more than one major highway and which are accessed by entrances along said highways, shall be allowed one (1) sign at each highway entrance. Monument signs shall not exceed eight (8) feet in height.

- b.** No more than two (2) wall signs for each surface area provided that the total area for all signs does not exceed a ratio of one (1) square foot for each linear foot of building frontage. Consistent with Section 8.7.A., no wall sign shall project above the mansard roof or project more than twelve (12) inches from the building wall at the base of the sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable sign square footage and must be permitted.
- c.** One (1) hanging sign provided clearance of at least eight (8) feet is established between the bottom of the sign and any pedestrian walking surface. Such sign may extend no more than five (5) feet, including the width of the bracket, from the building and/or centered relative to the awning, but not to exceed six (6) square feet in surface area per sign face.
- d.** New Car Dealerships that hold a franchise to sell new cars and used cars may have one (1) freestanding sign advertising the new car dealership franchise and a separate freestanding sign advertising used cars. The signs must comply with the size requirements herein.

4. Multi-Tenant or Mixed Uses in the DTB District

- a.** Each multi-tenant or mixed-use in the DTB district shall be allowed one (1) wall sign, not exceeding six (6) feet in height, provided it does not exceed twenty-four (24) square feet in total surface area. Such signs may also contain the names of the individual businesses in the shopping center.
- b.** Each individual business located in a multi-tenant or mixed-use in the DTB district shall be allowed the following:
 - (1)** No more than two (2) wall signs for each surface area provided that the combined total area for all signs does not exceed a ratio of one (1) square foot for each linear foot of building frontage. Building frontage is defined as being the side of the building that faces the main road or the primary business entrance. Consistent with Section 8.7.A., no wall sign shall project above the mansard roof or project more than twelve (12) inches from the building wall at the base of the

sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable sign square footage and must be permitted. Individual businesses which are not readily visible from the main thoroughfare on which the multi-tenant or mixed-use is located may locate any portion of their wall signs on another exterior wall of the said use facing the thoroughfare.

- (2) One (1) hanging sign provided clearance of at least eight (8) feet is established between the bottom of the sign and any pedestrian walking surface. Such signs may not exceed six (6) square feet in surface area per sign face.

5. Multi-Tenant Developments in the GB, I, and IN Districts

- a. Each multi-tenant development or shopping center in the GB district, I, and IN districts is allowed one (1) freestanding sign identifying the shopping center at each entrance to the shopping center, provided that it shall not be located within any public right-of-way, nor within fifteen (15) feet of the roadway if no right-of-way is defined among the public records of Jackson County.
 - (1) The freestanding sign may be double-sided and shall not exceed twenty (20) feet in height and fifty (50) square feet in surface area per sign face.
 - (2) Individual businesses within the shopping center may be identified with individual signs incorporated within the sign support structure. However, individual business/tenant signs shall not exceed ten (10) square feet each and the total maximum sign area of the freestanding sign, inclusive of the individual signs, shall not exceed one hundred (100) square feet. Each of the individual signs must apply for and receive a permit prior to installation.
 - (3) All signs, unless otherwise stated or implied, shall have no more than two (2) faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.
- b. Each individual tenant located in a shopping center in the GB, I, and IN districts shall be allowed no more than two (2) wall signs for each storefront provided that the total area for all signs does not exceed a ratio of one (1) square foot for each linear foot of building frontage. Consistent with Section 8.7.A., no wall sign shall project above the mansard roof or project more than twelve (12) inches

from the building wall at the base of the sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable square footage and must be permitted.

6. **Public Information Centers.** The Town may establish public information centers in the DTB district. At these locations, limited space may be provided for one-year periods, as space allows, for directional signs and/or maps; signs sponsored by municipal, school, civic, and other non-profit organizations; and temporary commercial signs. Any business unable to display a sign due to space limitations shall be given priority over other signs in subsequent display periods. The design and size of such signs shall be approved by the Zoning Administrator.
7. Every single tenant in the **PB district** is allowed the following signs:
 - a. One freestanding sign provided it shall not be located within any public right-of-way, nor within fifteen (15) feet of the roadway if no right-of-way is defined among the public records of Jackson County; shall not exceed eight (8) feet in height; and shall not exceed sixteen (16) square feet in surface area per sign face. Businesses that adjoin more than one (1) major highway and which are accessed by entrances along said highways shall be allowed one (1) sign at each highway entrance.
 - b. No more than two (2) wall signs provided that the total aggregate surface area of the wall sign does not exceed a ratio of one (1) square foot for each linear foot of building frontage. Consistent with Section 8.7.A., no wall sign shall project above the mansard roof or project more than twelve (12) inches from the building wall at the base of the sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable square footage and must be permitted.
 - c. One (1) hanging sign provided clearance of at least eight (8) feet is established between the bottom of the sign and any pedestrian walking surface. Such signs may extend no more than four (4) feet over a pedestrian surface and may not exceed six (6) square feet in surface area per sign face.

Section 8.5 Outdoor Advertising

Billboards or outdoor advertising signs are regulated separately and differently from on-premises business and identifications signs. It is intended that billboards or outdoor advertising signs be located away from residential areas. Outdoor advertising signs shall be regulated to protect the small-town character of Sylva, prevent over-concentration and improper placement, and ensure the safety and welfare of drivers, pedestrians, and adjacent property owners.

A. Authorization

The Town of Sylva may require the removal of an off-premises outdoor advertising sign that is nonconforming under the conditions outlined in this section and may regulate the use of off-premises outdoor advertising within its planning and development regulation jurisdiction in accordance with the applicable provisions of this N.C.G.S. 160D-912 and subject to G.S. 136-131.1 and G.S. 136-131.2.

B. General

No more than one (1) outdoor advertising sign is permitted on a lot of records with direct frontage on NC Highway 107 and US 23 Business. However, in the following areas with frontage on NC Highway 107 or US 23, NO outdoor advertising signs are permitted:

1. Fronting on West Main Street from the western entrance of Mark Watson Park east to Keener Street.
2. Fronting on Grindstaff Cove Road, from Mill Street north to Dillsboro Road.
3. Fronting on Mill Street.
4. Fronting on West Main Street from the intersection with Evalina Street east to Chipper Curve Road.
5. Fronting on Main Street from the intersection of West Main and Broad Street to the intersection of East Main Street and Asheville Highway (Business 23)
6. Fronting on Asheville Highway, from Main Street north to Skyland Drive.
7. In the area bounded by Keener Street to the west, Jackson Street to the South, Mill Street to the north, and Evalina to the east.

C. Placement of Outdoor Advertising

1. An eight-hundred-foot radial separation distance shall be maintained to any conforming or nonconforming billboard or outdoor advertising.

2. A four-hundred-foot separation distance shall be maintained from residential uses or districts, schools, churches, playgrounds, and cemeteries.
3. No sign shall be located closer than one hundred (100) feet from any structure located on or off-site.
4. Signs shall be installed no closer than five hundred (500) feet from any intersection, or interchange (on/off-ramp).
5. Signs shall meet all applicable setback requirements, but in no case shall an outdoor advertising sign be placed closer than twenty (20) feet from the right-of-way. Signs shall not be located within any sight triangle, shall not be located in any public right-of-way, and cannot cause traffic visibility problems.
6. Signs cannot be installed in residential districts. If located adjacent to a residential district, a twenty-five (25') foot opaque screen planting shall be installed.

D. Standards

1. Outdoor Advertising cannot exceed three hundred (300) square feet, nor can they be larger than thirty feet (30') in height.
2. Landscaping shall be provided at the base of all off-premises signs. Trees and shrubbery, including evergreen and flowering trees, of sufficient size and quantity, shall be used to achieve the purpose of this Ordinance.
3. Trees greater than four (4) inches in diameter removed for construction of the sign shall be replaced on-site at a ratio of one (1) replacement tree for each removed tree using native species no less than three (3) inches in diameter.
4. Angled projections shall not exceed thirty (30) degrees.
5. Signs shall be completed with similar sign faces on both sides.
6. Outdoor Advertising may be illuminated or digital in nature. All light sources are designed, shielded, arranged, and installed to confine or direct all illumination to the surface of the off-premises sign and away from adjoining properties. Light sources are not visible from any street or adjoining properties. All lighting must comply with the requirements outlined in Article 7.
7. Wood and beam frame structures are prohibited. All structures must be constructed of steel.

8. Audio or Pyrotechnics. Audio speakers and/or any form of pyrotechnics are prohibited.

E. Electronic Graphic Displays (Digital Billboards)

1. Messages. Any portion of the message must have a minimum duration of eight (8) seconds and must be a static display. Messages may change immediately or fade in and out only. No portion of the message may flash, scroll, twirl, twinkle, oscillate, rotate, blink, change color, or in any manner imitate movement. The video shall expressly be prohibited.
2. Default Mechanism. All signs must be equipped with a properly functioning default mechanism that will stop the sign and return to a solid black display should a malfunction occur.
3. Brightness (Luminance). The illumination and/or intensity of the display shall be controlled so as to not create glare, hazards, or nuisances. No sign shall be brighter than is necessary for clear and adequate visibility. Such signs shall have a maximum intensity of seven thousand (7,000) candelas per square meter (cd/m²) during daylight hours and one thousand (1,000) cd/m² during night hours. Such signs shall be equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions.
4. Emergency Messages. The applicant shall be required to coordinate/permit message access for local, regional, State and national emergency services during emergency situations. Emergency messages are not required to conform to message standards listed herein.

F. Application and Plan Requirements

1. A copy of the property owner's written permission allows the installation of the sign.
2. The location of the proposed sign on the lot with the required sign setbacks from the property line and ultimate right-of-way.
3. The location and species of existing trees.
4. The distance to the nearest existing off-premises advertising sign.
5. The distance to the nearest right-of-way, property line, building, structure, on-premises sign, off-premises sign, intersection, residential district, or institutional use, utilities, and easements.

6. Site plan containing all of the applicable requirements set forth in this Ordinance
7. Certification under the seal by a licensed engineer that the off-premises sign, as proposed, is designed in accordance with all federal, state, and local laws, codes, and professional standards.

Section 8.6 Window Signs

The following regulations shall apply to all commercial and non-commercial signage. When the standards of this section conflict with standards provided elsewhere in this Article, the stricter regulation shall apply.

- A. Window signs are not permitted in the LDR, MDR, or HDR districts.
- B. Window signs are permitted on the interior or exterior of glass, provided they do not exceed thirty-five (35) percent of the area of any given window or glass door and are not illuminated except by normal interior business lighting or by soft indirect lighting of an entire window unit. Displays of merchandise in windows and photographs of homes or other properties in the windows of real estate offices may be placed in commercial windows in addition to the thirty-five (35) percent area restriction.
- C. Window signage shall be permitted for each window facing the right-of-way.

Section 8.7 Sign Construction, Design, and Maintenance

- A. All signs, except those protected by glass or other transparent covers, shall be constructed of materials that will not rapidly deteriorate, fade, fall apart, or in any way become a hazard to the public health, safety, and general welfare.
- B. Any sign allowed under this Ordinance must comply with applicable requirements of N.C. State Building Code, National Electrical Code, and other applicable federal, state, or local codes.
- C. All signs shall be securely attached to a building, wall, or permanent posts, and its supports, frames, guys, anchors, and electrical equipment shall be securely fastened and placed to withstand adverse weather conditions.
- D. All signs, unless otherwise stated or implied, shall have no more than two (2) faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.
- E. All signs shall be kept free from defective or missing parts or peeling paint. The Zoning Administrator shall possess the authority to order the painting, repair, or

alteration of a sign which constitutes a hazard to the public health, safety, or general welfare by reason of inadequate maintenance, dilapidation, or obsolescence. Notice of such repair shall be given to the owner by personal service or registered mail, return receipt requested.

- F.** The immediate premises around a sign shall be kept free from litter and debris. However, no person other than persons authorized by the Town shall trim, destroy or remove trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of increasing or enhancing the visibility of a sign; nor shall such work be performed on a property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
- G.** The square foot area of all signs shall be calculated from the outermost points of the lettering and/or logo to form a "square" or "rectangle"; height × length = sign area (square footage). The area within the "square" or "rectangle" not used as part of the lettering or logo shall not be credited as an unused sign area. The sign background not within the "square" or "rectangle" shall not be more than two times the size of the sign area permitted.
- H.** Any digital sign or portion thereof must have a message with minimum duration of eight (8) seconds and must be a static display. Messages may change immediately or fade in and out only. No portion of the message may flash, scroll, twirl, twinkle, oscillate, rotate, blink, change color, or in any manner imitate movement. The video shall expressly be prohibited. Digital signs must dim based on the time of day so as not to provide to provide a glare or hazard to drivers.

Section 8.8 Prohibited and Illegal Signs

- A.** The following signs are not permitted in Town:
- 1. Roof Signs.** Any sign which is erected on a roof or which extends in height above the parapet or roofline of the building on which the sign is erected.
 - 2. Signs Resembling Traffic Signals.** Any sign which may be confused with or which obstructs the view of any authorized traffic signal or traffic sign or extends into the public right-of-way, obstruct the sight distance triangle, as determined by the North Carolina Department of Transportation, at any street intersection, or in any way constitute a hazard to traffic.
 - 3. Signs Obstructing Access.** Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any building.
 - 4. Signs on Roadside Appurtenances.** Any sign located within the public right-of-way, except for governmental signs described in Section 8.2.A. and non-

commercial signs described in Section 8.3.A. In the event a right-of-way is not defined among the public records of Jackson County, this prohibition shall apply to an area within fifteen (15) feet of the edge of the wear surface of any public thoroughfare.

5. **Signs Illegally Posted.** Any sign posted on utility poles, other officially placed signs, trees, rocks, ground, public furniture such as lamp posts, benches, etc.
 6. **Illuminated Signs in Proximity to Residential Zoning Districts.** Any sign illumination, with the exception of that allowed for subdivisions or multi-family developments in Section 8.4.B.1.a., is PROHIBITED between the hours of 10:00 p.m. and 6:00 a.m. if located within three hundred (300) feet of a residential zoning district.
 7. **Portable Signs.** Any sign that is designed to be moved on its own chassis or that is not permanently affixed to a building, stationary structure, or the ground or that is not designed to be permanently affixed to a building, structure, or the ground. This shall not apply to signs that are exempt from this Ordinance in Section 8.2 and to any category of temporary sign described in Sections 8.3.A. and 8.4.A.
 8. **Moving Signs.** Any moving sign or device, permanent or semi-permanent, designed to attract attention, all or any part of which moves by any means, including fluttering, rotating, or otherwise moving devices set in motion by the atmosphere, or by mechanical means, such as pennants, flags, propellers or discs, inflatables, whether or not any said device has a written message. No portion of the message of any digital sign may flash, scroll, twirl, twinkle, oscillate, rotate, blink, change color, or in any manner imitate movement. Traditional barber poles located at barbershops, however, shall not be prohibited.
 9. **Flashing Lights.** Any sign, portion of a sign, display, or device displaying flashing lights, intermittent lights, or lights of changing degrees of intensity, including high intensity LED or flashing lights. Any lights that blink intermittently to mimic or appear in motion.
 10. **Off-Premises Signs.** Except for billboard and way-finding signage as installed by the Town, no off-premises signs shall be located within the Town.
 11. **Other Non-Permitted Temporary Signage.** Any non-permitted, temporary sign (snipe), banner, painted signage, etc. shall not be allowed.
- B. Discontinuance of Use.** Whenever the use of a building or premises is discontinued by a business for reasons other than a normal seasonal shutdown for a period of thirty (30) days, any signs and nonconforming support structure pertaining to that business shall be removed within thirty (30) days of the discontinuance of use. The Zoning Administrator shall notify the property owner at the last known address that

said signs are in violation of this Article and must be removed within thirty (30) days; any signs not removed within that period may be removed by the Town at the owner's expense.

- C. Signs Located Within a Public Right-of-Way.** Consistent with Section 8.7.D., any sign found located within a public right-of-way shall be removed by either the owner or the Town at the owner's expense within twenty-four (24) hours of notification by the Zoning Administrator. If the ownership of a sign cannot be reasonably established, a notice shall be attached to the sign by the Zoning Administrator stating the need to remove it within twenty-four (24) hours, after which, the Town may remove the sign at the owner's expense. Temporary signs shall be removed by the Town upon discovery.
- D. Signs Erected Without a Permit.** The owner of any sign erected after the effective date of this Article without a permit shall obtain a permit for the sign and otherwise ensure that it complies with these regulations. Signs that do not comply with this process shall be removed by either the owner or the Town at the owner's expense within twenty-four (24) hours of notification by the Zoning Administrator.
- E. Enforcement.** Signs not meeting the requirements of this Article are subject to the enforcement procedures contained in Section 3.13. Signs shall be either brought into conformance or removed by the owner within thirty (30) days of written notice thereof, except where noted or said sign constitutes a public safety hazard. If the ownership of a sign cannot be reasonably established, a notice shall be attached to the sign by the Zoning Administrator stating the need to bring the sign into compliance or to remove it within thirty (30) days from the date of posting said notice, after which, the Town may remove the sign at the owner's expense.

Section 8.9 Nonconforming Signs

Please refer to Article 1, Section 1.10.E. Nonconforming Signs.

Section 8.10 Exceptions

In instances where a non-residential use is visible from a major roadway but does not have frontage along said roadway or where a use takes access from a roadway by way of easement but does not have road frontage, a single free-standing sign may be placed along the road frontage with the written permission of the property or easement owner with the road frontage, subject to the size restrictions of the underlying zoning district, required setbacks of this Article, and a permit issued by the Zoning Administrator who shall verify that the sign meets the intent of this Ordinance.

Section 8.11 Sign Summary Table



TABLE 8-1 SIGN SUMMARY TABLE


District/Type	Example	Permit Required?	Max. #	Max. Height	Max. Surface Area	Section
Signs (All Districts)						
Commercial/ Residential Sale, Rent, or Lease Advertising		No	3	n/a	16 Square Feet (Non-Residential Buildings) 3 Square Feet (Residential Buildings)	8.3.A.1
Home Garden Produce Sales		No	2	n/a	3 Square Feet	8.3.A.2
Yard Sale		No	2	n/a	3 Square Feet	8.3.A.3
Construction Signs Identifying New Project		No	1	n/a	32 Square Feet (Non-residential Zones) 3 Square Feet (Residential Districts)	8.3.A.4
Flags, Badges, or Insignia		No	1	n/a	32 Square Feet	8.3.A.5

District/Type	Example	Permit Required?	Max. #	Max. Height	Max. Surface Area	Section
Political Signs		No	n/a	42 inches or 3.5 feet	Six (6) square feet	8.3.A.6
On-Premises Traffic Signs		No	n/a	3.5 Feet	4 Square Feet	8.3.B.1
Gas Price on Service Station	n/a	No	n/a	n/a	8 Square Feet per Sign Face/16 Square Feet per Pump Island	8.3.B.2
Self-Service Sign at Pump	n/a	No	1 per Island	n/a	8 Square Feet	8.3.B.2
North Carolina Inspections Sign		No	1	n/a	4 Square Feet	8.3.B.2
Sandwich Boards (DTB and GB Zoning Districts only)		Yes	1	n/a	8 Square Feet per Sign Face/16 Square Feet Max.	8.4.A.1
Marquee (DTB and GB Zoning Districts Only)		Yes	1 (as only sign)	n/a	One (1) square foot of sign area for each linear foot of building frontage	8.4.A.2

District/Type	Example	Permit Required?	Max. #	Max. Height	Max. Surface Area	Section
Opening and Sale Signage		Yes	2 per event	n/a	32 Square Feet	8.4.A.3
Residential Districts (LDR, MDR, HDR, and PB)						
Subdivision Signage		Yes	1 per Major Entrance (limit 2)	6 Feet	24 Square Feet	8.4.B.1.a
Home Occupation Signage		Yes	1	8 Feet	6 Square Feet	8.4.B.1.b
B&B Signage		Yes	2	6 feet	24 square feet (total of two signs)	8.4.B.1.c
Single Business (DTB)						
Wall Signs		Yes	2 per Building	n/a	1 Square Foot per 1 Linear Feet of Building Frontage	8.4.B.2.a
Hanging Signs (Below Awning/Canopy)		Yes		n/a	6 Square Feet	8.4.B.2.b

District/Type	Example	Permit Required?	Max. #	Max. Height	Max. Surface Area	Section
Hanging Signs (Above Awning/Canopy)		Yes		n/a	16 Square Feet	8.4.B.2. b
Awning Sign		Yes		Clear ance: 8 feet	Logos or Emblems: Three (3) Square Feet Characters on faces not to exceed 75% of area of awning face.	8.4.B.2. c
Window Signs		Yes	n/a	n/a	May Not Exceed 35% of Window Area	8.6
Multi-Tenant or Mixed Uses (DTB)						
Wall Signs		Yes	2	n/a	1 Square Foot per 1 Linear Feet of Building Frontage	8.4.B.4. a
Hanging Signs		Yes	1	n/a	6 Square Feet	8.4.B.4. b

District/Type	Example	Permit Required?	Max. #	Max. Height	Max. Surface Area	Section
Single Tenant (I, IN, and GB)						
Freestanding Signage		Yes	1	12 Feet 8 Feet Monument	32 Square Feet	8.4.B.3.a
Wall Signs		Yes	2	n/a	1 Square Foot per 1 Linear Feet of Building Frontage	8.4.B.3.b
Hanging Signs		Yes	1	n/a	6 Square Feet	8.4.B.3.c
Single Tenant (PB)						
Freestanding Signage		Yes	1	8 Feet	16 Square Feet	8.4.B.8.a
Wall Signs		Yes	2	n/a	1 Square Foot per 1 Linear Feet of Building Frontage	8.4.B.8.b

District/Type	Example	Permit Required?	Max. #	Max. Height	Max. Surface Area	Section
Hanging Signs		Yes	1	n/a	6 Square Feet	8.4.B.8.c
Multi-Tenant (I, IN, and GB)						
Freestanding Signage (Shopping Center)		Yes	1	20 Feet	50 Square Feet + 10 Square Feet per Tenant Signage not to exceed 100 square feet total	8.4.B.5.a
Wall Signs (Individual Tenants)		Yes	2	n/a	1 Square Foot per 1 Linear Feet of Building Frontage per tenant	8.4.B.5.b
Public Information Centers (DTB)		Yes	Design and size of signs shall be approved by the Zoning Administrator		8.4.B.6	
Window Signs		Yes	n/a	n/a	May Not Exceed 35% of Window Area	8.6

ARTICLE 9

ENVIRONMENTAL REGULATIONS

Section 9.1 General

A. Purpose and Intent

The intent of this section is to protect the general health, safety, and welfare of the public by establishing criteria that define, regulate, prohibit, and mitigate activities that negatively affect the environment.

B. Jurisdiction

The provisions of this section shall apply to the areas within the Town's jurisdiction as established by the map entitled, "Zoning Map of the Town of Sylva, North Carolina."

C. Administration

The following environmentally related sections may be administered, reviewed, and decided by the Zoning Administrator.

D. Enforcement

Violations of this Article shall be remedied in accordance with the provisions set forth in Article 3.

Section 9.2 Hillside and Steep Slope Protection

A. Purpose

The purpose of this section is to regulate development on the hillside and steep slope areas in order to preserve the Town of Sylva's unique character, conserve the public health, safety, and general welfare, and promote environmentally sound design and planning.

B. Goals and Objectives

This section is intended to achieve the following goals and objectives:

1. To promote public safety by ensuring that development on hillside areas addresses slope stability issues in an effective manner;

2. To provide greater design flexibility and efficiency in the location of development and infrastructure, including the opportunity to reduce length and width of roads, utility runs, and the amount of grading and paving;
3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
4. To provide for the conservation and maintenance of hillside areas within city jurisdiction to achieve the above-mentioned goals;
5. To provide opportunities for developers to minimize impacts on hillside areas;
6. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties;
7. To preserve scenic views and vistas that are inherent to Sylva's character and to minimize perceived density by minimizing views of new development from within and outside of the development.

C. Establishment of the Hillside/Steep Slope Overlay

The "Official Zoning Map" of the Town of Sylva is hereby amended to establish a Hillside/Steep Slope Overlay for the Town of Sylva's land use and planning jurisdictions.

D. Application

Unless specifically exempt, the provisions of the Article shall apply to all slopes with a natural average grade of 15% or greater.

1. Any portion of a lot, parcel, or tract of land which has been approved for development or subdivision prior to the date of adoption of (the ordinance from which this Article is derived) shall not be required to comply with the provisions of this section if no further development or change to the approved subdivision or development plan is proposed within that portion of the lot, parcel, or tract of land. For the purpose of applying this provision, approval of a subdivision plat shall not constitute approval of a development plan for the individual lots in the subdivision.
2. New development where the average natural slope is 15% or greater.
3. Additions to structures greater than 1,000 square feet or new site disturbances encompassing more than 1,000 square feet of disturbed area.

4. Substantive amendments to an approved subdivision or development plan on slopes 15% or greater shall require full compliance with the requirements of this Article. For the purpose of this section, "substantive amendments" shall include increases in the number of lots or density or intensity of development by more than 10% over that previously approved, location of a structure or structures in areas of steeper slopes than originally approved, and similar amendments that substantively increase the extent of development impact.

E. Grading

The following requirements regulate the extent and technique of grading in the hillside and steep slope areas based on the existing grade. The existing grade is determined as follows.

1. Calculation of existing grade. The applicant may submit calculations of the existing grade; these calculations shall be sealed by a licensed surveyor, engineer, or landscape architect. If no calculations are provided, the Zoning Administrator will calculate the existing grade of any property using the following formula:

$$S = \frac{.0023(I)(L)}{A}$$

Where:

S = Existing grade of the parcel in percent.

I = Contour interval of the map in feet, with said contour intervals to be five feet or less.

L = Total length of the contour lines within the parcel in feet.

A = Area of the parcel in acres.

0.0023 = Product of two constants, one of which converts feet into acres and one of which converts a decimal fraction into a percentage.

Once "S" is calculated, it shall be rounded to the nearest whole number.

If the existing grade cannot be calculated using the above methods, it shall be estimated using the best available resources by the Zoning Administrator or designee whose determination shall be final.

2. Grading extent. The extent of grading on a property located in a hillside or steep slope area is governed by the following tables:

TABLE 9-1 MAXIMUM PERCENTAGE OF SITE GRADING BY EXISTING GRADE

Existing Grade	Maximum Percent of Site Graded
15%—19%	80%

20%—24%	70%
25%—29%	60%
30%—34%	45%
35%—39%	35%
40% +	20%

F. Road Construction

1. Subdivisions. Subdivision road construction shall comply with the requirements of this Ordinance.
2. Private Roads and Drives. In order to ensure emergency vehicle access to the property, a minimum 10-foot-wide access road with a 2-foot shoulder on each side is required for one unit.

G. Artificial Slopes

Artificial slopes shall be designed and landscaped to create natural appearing slopes and hillsides. The replacement of trees and other significant vegetation is imperative for maintaining the natural appearance and stability of artificial slopes. Artificial slopes shall not exceed the steepness and height parameters listed in the following table except in circumstances where stable exposed rock is the intended end result of the artificial slope, in which circumstance the cut and/or fill slopes may be increased at the discretion of the Zoning Administrator. The combined height of a cut and fill slope shall not exceed sixty (60) feet. Reforestation of artificial slopes ten feet or greater in height, other than stable exposed rock, shall consist of the placement of any native tree or shrub species, provided not more than 20% of anyone tree or shrub species is used, except that reforestation using entirely mountain laurel or rhododendron is acceptable. The following table describes the planting design and the amount of required plant material for reforestation. A maintenance plan shall be required for reforested areas and such plan shall include provisions for replacement of dead vegetation when greater than a 50% mortality rate occurs.

TABLE 9-2 ARTIFICIAL SLOPES

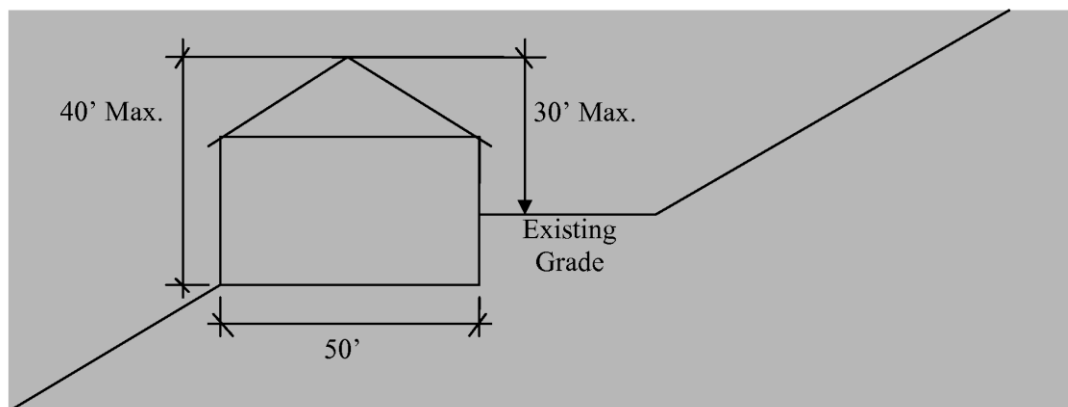
<i>Slope Type</i>	<i>Maximum Slope</i>	<i>Maximum Height</i>	<i>Required Reforestation</i>
Cut Slope	1.5:1	30 feet	Reforestation shall consist of rows of plantings spaced 10 feet apart (on center) in a checkerboard pattern.
	2:1	40 feet	
	<2.5:1	30 feet	
Fill Slope	2:1	40 feet	
	<2.5:1	30 feet	

H. Structure Height and Depth

(This section is not applicable to hillside areas with an average natural slope of less than 30%.)

The maximum height of principal structures in steep slope areas shall be limited to two stories (maximum thirty (30) feet) on the uphill side of the structure and three stories (maximum forty (40) feet) on the downhill side of the structure. Accessory structures shall not exceed twenty (20) feet in height on any side. For the purpose of this section, the height shall be calculated as the vertical distance from existing grade to the midpoint of the peak and eave for structures with pitched roofs and from the top of the parapet or roof surface, whichever is greater, for flat-roofed structures. An additional twelve (12) feet in height may be allowed on the uphill side and twenty (20) feet in height on the downhill side of the principal structure if any downhill-facing façade and the entire roof structure are installed and maintained with materials or paint having an average Light Reflectivity Value (LRV) of twenty-five (25) or less and a 50-foot deep area measured from the rear property line is designated in a vegetation preservation easement and existing vegetation in this area is maintained. An LRV of twenty-five (25) or less is strongly encouraged for all structures built on a hillside and steep slope areas regardless of their height. The maximum depth through anyone cross-section of a structure in the hillside and steep slope areas having a slope of 40% or more shall be fifty (50) feet in order to promote construction that is less intrusive on a slope (see illustration below).

**FIGURE 9-3
STRUCTURE DIMENSIONS**



I. Tree and Vegetation Preservation

All trees and other specified vegetation shall be preserved in the hillside and steep slope areas except in areas approved for grading in Section 9.2.E. above or within twenty feet of building footprints. Non-native or invasive species may be removed. For new development or additions, these preservation areas shall be

designated on plans submitted for development approval. For existing development, aerial photographs or other methods of determining the extent of tree cover shall be utilized to enforce this requirement. During construction, these preservation areas shall be clearly designated using tree protection fencing to protect them from disturbance. Fines shall be imposed for the removal of trees and other specified vegetation required to be preserved, unless such trees and vegetation are determined to be dead, dying, or represent a threat to property. In the event that a violator chooses to remedy the violation through the planting of replacement trees, it is recommended that replacement trees be of a native species of large maturing trees and shall be of a minimum of two inches diameter at breast height.

J. Alternative Landscape Plan

In the event a property owner desires to remove trees and other protected vegetation required to be preserved in Section 9.2.1. above, he may submit an alternative landscape plan for consideration by the Town. This alternative landscape plan must contain: a tree survey of the property showing which trees and other protected vegetation will be removed and which will remain; the location of any structures, driveways, and other impervious surfaces; and an explanation of the reason(s) for removal of required trees and other protected vegetation, including a statement of how the removal of the required trees and other protected vegetation supports the purposes of this section or how such removal can be mitigated consistent with the purposes of this section. The Board of Commissioners may approve, approve with conditions, or deny the alternative landscape plan. If conditions are established, they shall be enforceable in accordance with the provisions of the development permit. If the Board of Commissioners denies the alternative landscape plan, it shall set out its reasons in writing.

K. Site and Road Lighting

Street and parking areas for commercial development require lighting for the security and safety of pedestrians, residences and businesses. For all development on an existing grade of 15% or greater, low-intrusion lighting of a pedestrian scale (eight (8) feet) with a maximum of 100 watts and 50-foot spacing shall be used for residential and non-residential development. Commercial buildings shall incorporate security lighting in the building design, such as sconces.

L. Density

(This section is not applicable to hillside areas with an average natural slope of less than 30%.)

Densities of residential development shall be reduced in steep slope areas to support the goals and objectives of this section. Manufactured Home Parks are

prohibited in steep slope areas even if the underlying district permits. Multifamily development and single-family subdivisions shall require review and approval as a Special Use in accordance with Article 3.

1. The allowable density shall be as follows for the listed underlying zoning districts:

**TABLE 9-4
MAXIMUM NUMBER OF UNITS PER ACRE BY EXISTING GRADE**

<i>Existing Grade</i>	<i>LDR</i>	<i>MDR</i>	<i>HDR</i>	<i>All other districts allowing residential development</i>
30%-34%	0.8	2.7	2.7	2.7
35%-39%	0.6	1.9	1.9	1.9
40% or greater	0.3	1.0	1.0	1.0

Example: 30%-34% requires 1.25 acres per unit; 35%-39% requires 1.67 acres per unit; 40% or greater needs 3.33 acres per unit in the LDR district.

2. Existing lots or parcels. Construction of a single-family residence shall be permitted on any lawfully established lot or parcel existing as of the date of adoption of (the ordinance from which this Article is derived), even if the parcel does not meet the maximum density requirements listed in the table above.
3. Density bonus. A density bonus may be granted for each of the following items. A total density bonus of up to 60% of the allowable density may be achieved under this provision through accumulation. Bonus applications may result in administratively approved reductions in minimum setback requirements and minimum lot size if necessary to achieve site preservation, screening, or grading objectives. Such reductions shall be indicated on the development plans submitted to obtain the density bonus and the rationale behind the reductions shall be clearly demonstrated on the plans or other application materials. Buildings, parking, and other improvements are clustered on less steep and sensitive areas of the site to reduce the amount of grading and the steeper, more sensitive areas are preserved through a conservation easement that safeguards the property from future development; bonus of up to 60% based on the following table. Less sensitive areas may not exceed a 40% average natural slope and may include previously cleared areas, such as logging roads and pastures, provided such clearing predates the date of adoption of (the ordinance from which this Article is derived). Conservation areas may not be located on individually owned home lots and may remain as privately owned property.

**TABLE 9-5
DENSITY BONUSES**

<i>Percent of Site Preserved</i>	<i>Density Bonus</i>
30—40%	30%
>40—50%	40%
>50—60%	50%
>60%	60%

1. Grading is limited to 10% or more under the maximum allowed under subsection 2. above; bonus of 20%.
2. Buildings and parking areas are screened by vegetation to minimize the visual impact from key viewing areas, which include the downtown central business district, the Great Smoky Mountain Expressway, public parkland, and recreational areas, and major streets and highways; bonus of 20%.
3. Grading of roads and access drives are located outside of slopes exceeding 20% and/or is predominately located on existing cleared roadbeds; bonus of 20%.
4. Grading for the principal structure(s) is located completely outside of slopes exceeding 20%; bonus of 20%.
5. The Zoning Administrator determines that substantial stormwater management best management practices are met in the proposed development; bonus of 20%.

M. Nonresidential Development Intensity

(This section is not applicable to hillside areas with an average natural slope of less than 30%.)

The intensity of non-residential development shall be limited as follows in the steep slope areas to support the goals and objectives of the district. For the purpose of this section, "floor area ratio" shall mean the total gross floor area of the building or buildings on a lot divided by the gross area of the lot or site.

1. The allowable intensity shall be as follows for the grades below:

**TABLE 9-6
MAXIMUM FLOOR AREA RATIO BY EXISTING GRADE**

<i>Existing Grade</i>	<i>Maximum Allowable Floor Area Ratio</i>
30%—34%	0.05
35%—39%	0.025
40% or greater	0.01

- 2.** Intensity Bonus. An intensity bonus may be granted for each of the following items. A total intensity bonus of up to 60% of the allowable intensity may be achieved under this provision through accumulation. No intensity bonus shall allow a structure of greater size than allowed under the underlying zoning district. Buildings, parking, and other improvements are clustered on less steep and sensitive areas of the site to reduce the amount of grading and the steeper, more sensitive areas are preserved through a conservation easement that safeguards the property from future development; bonus of up to 60% based on the following table. Less sensitive areas may not exceed a 40% average natural slope and may include previously cleared areas, such as logging roads and pastures, provided such clearing predates the date of adoption of [the ordinance from which this Article is derived]. Conservation areas may not be located on individually owned home lots and may remain as privately owned property.

**TABLE 9-7
INTENSITY BONUSES**

<i>Percent of Site Preserved</i>	<i>Intensity Bonus</i>
30—40%	30%
>40—50%	40%
>50—60%	50%
>60%	60%

- a.** Grading is limited to 10% or more under the maximum allowed under subsection E.2 above; bonus of 20%.
- b.** Buildings and parking areas are screened by vegetation to minimize the visual impact from key viewing areas, which include the downtown central business district, the Great Smokey Mountain Expressway, public parkland, and recreational areas, and major streets and highways; bonus of 20%.
- c.** Grading of roads and access drives is located outside of slopes exceeding 20% and/or is predominately located on existing cleared roadbeds; bonus of 20%.

- d. Grading for the principal structure(s) is located completely outside of slopes exceeding 20%; bonus of 20%.
- e. The Zoning Administrator determines that substantial stormwater management best management practices are met in the proposed development; bonus of 20%.

N. Pedestrian Facilities

Sidewalks, greenways, or trails shall be provided for multi-family developments and single-family subdivisions. Pedestrian facilities constructed of pervious surfaces are encouraged. Pedestrian facility easement or right-of-way shall be identified on the development plans.

O. Geotechnical Analysis Required

Development in steep slope areas having an existing grade of 36% or greater shall be required to undergo geotechnical analysis by an N.C.-registered professional engineer to determine the stability of the underlying geology and soils to support the proposed development. The geotechnical analysis report shall be required to be submitted prior to the issuance of a building permit. If a geotechnical analysis has been performed for subdivision approval that includes building pad analysis for the individual lots, it is unnecessary to submit a new analysis for each lot, provided the location of structures on each lot does not change by more than 20 feet in any one direction.

P. Hillside/Steep Slope Review and Disposition

Developers seeking to schedule construction on the hillside and/or steep slope areas shall apply for a preliminary meeting with the Zoning Administrator or designee to determine whether the property's steepness makes this Article applicable. They must bring to the meeting a topography map of the parcel providing contours at five 5. foot intervals or less. If the parcel is determined to have a 15% slope, or greater, by the existing grade formula (Section 9.2.E), then the project's review and approval will be determined thusly:

1. For projects involving one- or two-family dwellings, the Zoning Administrator or designee may both review and approve the project in accordance with Article 3.
2. For projects involving a multi-family (three or more residential units per structure), two or more single-family dwellings on a single parcel, and non-residential development the Planning Board must conduct a review for the issuance of a Special Use Permit, pursuant to Article 3. Approval will be at the Zoning Board of Adjustment's discretion.

3. For projects involving planned unit developments, the Planning Board must conduct a review for a Conditional District for a Planned Unit Development, pursuant to Article 3 and Article 5.4.AA. Approval will be at the Board of Commissioners' discretion based upon a legislative hearing

Q. Appeals and Variances

Appeals of interpretation of or variances from the requirements of this Article shall follow procedures pursuant to Article 3.

R. Violations and Penalties

Violations and penalties thereof shall follow the procedures and assessment pursuant to Article 3.

Section 9.3 Stormwater Standards

A. Purpose

The stormwater standards set forth below are provided to protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas, and to protect water quality and natural ecosystems by requiring the filtering of sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

B. General Information

1. Applicability

The requirements set forth in this section shall apply to new and existing development as follows:

- a. New development: For new development where the impervious surface is up to 999 square feet, a stormwater management system plan is required that follows design guidelines given in the most recent edition of the Stormwater Best Management Practices Manual published by the North Carolina Department of Environment and Natural Resources.
- b. For new development where the amount of impervious surface being created is 1,000 square feet or more, the requirements for a stormwater management plan set forth in subsections C. and D. of this Section shall apply.

2. Existing Development

- a.** For existing developments where the amount of impervious surface is being expanded, by 25 percent or more of the original amount and the total amount of impervious surface is 999 square feet or less, a stormwater management system plan is required that follows the design guidelines given in the most recent edition of the Stormwater Best Management Practices Manual published by the North Carolina Department of Environment and Natural Resources.
- b.** For existing development where the impervious surface is being expanded and the total amount is 1,000 square feet or more, the requirements for a stormwater management plan set forth in subsections C. and D. of this Section shall apply.

C. Stormwater Management Measures Required

- 1.** For projects meeting the thresholds identified in 1.b. and 2. b. above, the property owner and/or developer shall provide a stormwater management plan that accommodates the stormwater run-off generated by a ten-year, twenty-four-hour rain event or if the property is located within a designated Outstanding Water Resource Area, the twenty-five-year storm. Stormwater measures shall be designed to remove, at a minimum, 85 percent of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event. Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.
- 2.** Stormwater measures shall be designed by an appropriately qualified engineer, landscape architect, or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted best practices. Innovative designs that utilize "low impact" and non-structural control and treatment measures are encouraged.
- 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.

D. Stormwater Management Plan Requirements

The stormwater management plan shall show:

- 1.** The existing site topography and proposed site drainage improvements in sufficient detail to facilitate plan review and construction. The plan drawings shall be presented at a scale no larger than 1 inch = 50 feet.

2. Engineering drawings showing plan, profile, and details of piping, drainage structures, swales, and channels tying into a network of pre-existing manmade or natural channels.
3. Written project specifications governing work performance and materials.
4. Computations and assumptions are sufficient to support the design of piping, drainage structures, retention/detention ponds, and permanent erosion control measures.
5. Location of proposed structural stormwater controls.
6. Low impact design elements.
7. Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains.
8. Flow paths.
9. Location of floodplain/floodway limits.
10. Relationship of the site to upstream and downstream properties and drainages.
11. Location of proposed stream channel modifications, such as bridge or culvert crossings.
12. Any other narrative statements that are necessary to adequately describe the proposed site improvements.

The stormwater management plan shall be submitted with the full set of site construction plans and reviewed by Zoning Administrator, and a copy shall be simultaneously submitted to the Jackson Soil and Water Conservation District, at least 30 calendar days prior to the commencement of the proposed activity.

E. Stormwater Permit Required

The Zoning Administrator shall review all stormwater plans required by this Ordinance to ensure compliance therewith. In making this determination, the Zoning Administrator shall use the Stormwater Best Management Practices Manual published by the North Carolina Department of Environment and Natural Resources or other commonly accepted information and engineering data. The Zoning Administrator will review each complete plan submitted to them, and within 30 calendar days of receipt will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Incomplete plans shall be returned for completion. The thirty-day review period will not begin until all required items are submitted.

Staff shall have five business days to check the plans for completeness. Failure to approve, approve with modifications, or disapprove a complete Stormwater Management System Concept Plan within 30 calendar days of receipt shall be deemed approval. Disapproval of a plan must specifically state, in writing, the reasons for disapproval. Staff must approve, approve with modifications, or disapprove a revised plan within 15 calendar days of receipt, or it is deemed to be approved. If, following commencement of land-disturbing activity pursuant to an approved plan it is determined that the plan is inadequate to meet the requirements of this ordinance, Staff may require any revision of the plan that is necessary to comply with this ordinance. Failure to approve, approve with modifications, or disapprove a revised Stormwater Management System Plan within fifteen calendar days of receipt shall be deemed approval of the plan. Staff shall establish an expiration date of three years for Stormwater Management System Concept Plans approved under this ordinance. Fees, as established by the Town of Sylva Board of Commissioners, shall be due and payable upon submission of the application. If a person initiates land-disturbing activity which would have required a permit without obtaining such a permit, Staff is authorized to double the regular permit fee.

F. As-Built Plans and Final Approval

For all developments subject to these standards, upon completion of a project, and before final 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 plans and designs. The applicant shall submit actual "as-built" plans for all stormwater management facilities or practices after final construction is completed. The plans shall show the final design specifications for all stormwater management facilities and practices, and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Zoning Administrator are necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.

G. Inspection and Maintenance of Measures

1. All stormwater improvements must be maintained so they will continue to serve their intended functions. If the stormwater improvements are to be turned over to a property owners association or a property owner, the developer must maintain stormwater improvements until accepted by a property owners association or property owner. The developer must disclose which party will be responsible for continued maintenance on the record plat and on the stormwater management plan. The developer will be responsible for the installation, operation, and maintenance of the stormwater controls until ownership is conveyed. The responsibility and agreement for the operation and maintenance of the stormwater system are transferred with title, as each property is conveyed.
2. The Zoning Administrator shall have the right to demand an inspection report at any time should there be a reasonable belief that any stormwater structure or feature is constructed or being maintained in violation of this ordinance. Such inspection report shall be prepared by a registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The report shall contain the following:
 - a. The name and address of the landowner.
 - b. The recorded Plat book and page number of a lot of each stormwater control.
 - c. A statement that an inspection was made of all stormwater controls and features.
 - d. The date the inspection was made.
 - e. A statement regarding the performance status and compliance of all inspected controls and features with the terms and conditions of the approved maintenance agreement required by this ordinance.
 - f. The signature and seal of the engineer, surveyor, or landscape architect.

Should the stormwater inspection reveal substantial maintenance or repair recommendations, it shall be the owner's responsibility to retain a registered professional engineer or landscape architect competent in the area of stormwater management to develop plans and specifications for such repairs within 30 days from finding that substantial maintenance or repair recommendations are necessary. Maintenance or repair work must commence within 60 days, and be completed within a reasonable amount of time, from finding that substantial maintenance or repair recommendations are necessary.

The owner of each stormwater measure, whether structural or non-structural in design, shall maintain it so as not to create or permit a nuisance condition.

Section 9.4 Watershed and Floodplain Protection

The flood-prone areas within the jurisdiction of the Town of Sylva are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood-prone areas of uses vulnerable to floods or other hazards. As such, the Town of Sylva, by this section, incorporates and adopts the procedures and regulations included within the Watershed Protection provisions of Section 5.4 of the Jackson County Unified Development Ordinance and the Flood Damage Prevention provisions of Section 5.6 of the Jackson County Unified Development Ordinance.

ARTICLE 10

DEFINITIONS

Section 10.1 General Terms

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

Accessory dwelling: See dwelling, accessory.

Addition: An extension or increase in the floor area or height of an existing building or structure.

Adjacent: One or more lots or tracts that abut or touch and have a boundary, or portion thereof, which is contiguous to the lot in question. Such determination shall be made by extending the exterior lot lines of the lot in question to adjacent lots and/or adjacent roads, streams, easements, or rights-of-way. The term "adjacent" or "adjacent property" shall also mean "contiguous" or "contiguous property", "abutting" or "abutting property", "adjacent or adjacent property".

Administrative modification/adjustment: A review mechanism that provides relief where the strict application of the Ordinance creates practical difficulties in allowing development.

Administrative review. A non-discretionary evaluation of an application by the planning department. This process is not subject to a public hearing.

Affiliate: A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Alley: A traveled way that affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Amortization: A method of eliminating nonconforming uses by requiring the termination of the nonconforming use after a specified period of time.

Antenna: Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Applicant: The person(s), whether the person is financially responsible, who submits a formal application to the Zoning Administrator or designee thereof, for a permit to

conduct an action under this Ordinance, or to initiate a procedure prescribed by this Ordinance. The term applicant shall include all partners, if the applicant is a partnership, and if the applicant is a corporation, shall include all corporate officers and directors. If the applicant is other than an individual, each individual who has a financial or other interest shall be considered an applicant.

Application: The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the applicable department, board, or commission for development review, approval, or permitting purposes.

Artificial slope: Any land-disturbing activity that creates or changes any slope or attempts to do so.

Awning: A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not to include a canopy.

Awning sign: A sign with a copy on the front and/or side of a shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials, such as fabric, flexible plastic, cloth, on a supporting framework.

Banner: A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational, or corporate organizations.

Base flow: Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides. Bearing Capacity. The maximum load that a material can support before failing.

Berm: An elongated earthen mound designed or constructed on a site to separate, screen, or buffer adjacent land uses.

Bedroom: A fully enclosed interior room as shown on the building plan for the structure having, as a minimum, a doorway, window, and closet.

Best Management Practice (BMP): For purposes of this ordinance, a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Billboard: An outdoor sign displaying a non-commercial message or identifying, advertising, and/or directing the public to a business, merchandise, service, entertainment, or product which is unrelated to the place, use of, products sold, or sale

or lease of the property on which such sign is located. These signs are also known as outdoor advertising signs.

Board of adjustment: An officially constituted body whose principal duties are to grant variances from the strict application of this Ordinance and to grant special use permits and hear appeals as provided by law.

Bona fide farm: Any tract of land used for the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental/flowering plants, dairy, livestock, poultry, and all other forms of agriculture defined in G.S. 106-581.1. See G.S. 160D-903 for additional information concerning bona fide farms.

Buffer: An area of natural or planted vegetation or an area of such vegetation in combination with berms, fences, and/or walls serving as a separation between two areas or land uses; and, an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

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

Building footprint: The outline of the total area of a lot or site that is surrounded by the exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

Building frontage: The length of the side of a building that abuts the required front yard as stipulated in this Ordinance. A building on a corner lot may have two building frontages, however, the primary building frontage shall be determined by the location of the front door or primary access to the structure.

Building height: The vertical distance measured from the lowest grade point (of the lowest habitable floor) adjacent to the building wall to the highest point of the roof surface or parapet for flat and shed roofs, to the highest break line of mansard/gambrel roofs, and to the median height between edge of eave and the highest ridge for pitched/gable and hip roofs. The existing natural grade of the property may not be raised around a new building or foundation in order to comply with the height requirements of this Ordinance. Chimneys, bell towers, steeples, copulas and other similar decorative elements may extend an additional ten feet above the highest point of the roof or parapet.

Building wall: An exterior bearing or non-bearing vertical structure encompassing the area between the final grade elevation and the eaves of a building, which is used as an enclosing wall for a building. A balcony, deck, awning, or porch is part of the building and may be considered as building wall space.

Caliper: A horticultural method of measuring the diameter of a tree trunk for the purpose of size grading. The caliper of the trunk is measured six (6) inches above the ground for trees up to and including four (4) inches in diameter, twelve (12) inches above the ground for trees greater than four (4) inches up to twelve (12) inches in diameter, and at breast height (4.5 feet) for trees greater than twelve (12) inches in diameter.

Canopy: A permanent structure other than an awning made of cloth, metal, or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy shall not be considered as being a completely enclosed structure.

Change of land use: Any proposed property use that is different from the current use of the property, or current use that is different than the use identified in a pre-existing permit.

Channel: A natural stream or excavated ditch that conveys water.

Civic event: An event held, organized, and/or sponsored by a governmental agency, an agency or organization funded by a local government, a recognized non-profit civic agency or organization, a religious organization, or similar agency or organization.

Completion of construction or development: No further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Compost: Organic residue or a mixture of organic residues and soil that has undergone biological decomposition until it has become relatively stable humus.

Conditional zoning: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Connectivity: A term used to infer connections between adjoining properties for vehicular and/or pedestrian usage.

Construction: Any new construction, reconstruction, alteration or expansion.

Construction, new: Structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Construction, start of: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the

installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Construction waste: Surplus materials resulting from on-site construction and disposed of at other locations.

Construction waste areas: Areas used for the stockpiling or burial of surplus materials resulting from on-site construction and disposed of at other locations.

Contour: An imaginary line on the surface of the earth connecting points of the same elevation.

Crest: The uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to lower elevation or elevations.

Critical Root Zone (CRZ): The circular area of ground surrounding a tree extends from the center of the tree to the greater of 1.5 feet per caliper inch DBH of the tree or the dripline (furthest extent of tree canopy).

Cul-de-sac: A road open at one end only, with a bulb end design of a specific turning radius for turning around.

Cut slope: The exposed ground surface resulting from the excavation of material.

Deck: A structure without a roof, either freestanding or attached to a building, which is supported by posts or pillars.

Detention: Managing stormwater runoff by temporary holding and controlled release.

Development: Any one or more of the following:

- Any activity requiring a building permit
- Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials
- Any land disturbing activity, which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil

- Any land disturbing activity requiring a permit pursuant to the county sediment control ordinance
- Any development proposed within a flood hazard area
- Any activity requiring a watershed protection occupancy permit
- Any other activity regulated by the Town's land use ordinances

Development, multi-family residential: Any housing development other than a single-family detached residence. This definition includes, without limitation, apartment complexes, townhomes and duplexes.

Development, nonresidential: All development other than residential development, agriculture and silviculture.

Development, single-family residential: Any development where: (1) No building contains more than one dwelling unit; (2) Every dwelling unit is on a separate lot; and (3) Where no lot contains more than one dwelling unit.

Disposal: As defined in G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Disturbed areas: Those areas where the ground cover on or above the soil surface is removed, including trees, grasses or pavements or other surfaces either natural or manmade.

Drainage: The removal of excess surface water or groundwater from land by means of ditches or subsurface drains.

Drainage, natural: The flow patterns of storm water runoff over the land in its pre-development state.

Drainageway: A natural or artificial depression that carries surface water to a larger watercourse or outlet such as a river, lake, or bay.

Drive-through lane: A travel lane that provides vehicular access to a customer service facility located within the principal structure or within an accessory structure, which is intended to enable the customer to transact business with a customer service person located with the principal structure (or with an automated service machine) without exiting the motor vehicle. The lane provides access to and egress from the drive through facility.

Driveway: An entrance used by vehicular traffic to access property abutting a street. As used in this Ordinance, the term includes private residential, nonresidential, and mixed-use driveways.

Dwelling: Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of Article 12 of GS 160D, it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

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

Earth material: Any rock, natural soil or fill or any combination thereof.

Easement: A grant by a property owner to the public, a corporation, or other person or persons of the right to use an identifiable piece of land for specified purposes.

Encroachment: The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Erosion: The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

- Accelerated erosion—Erosion much more rapid than normal or geologic erosion, primarily as a result of
 - land disturbing activity.
- Channel erosion—The erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- Gully erosion—The erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1 to 2 feet to as much as 75 to 100 feet.
- Natural erosion— the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- Rill erosion—An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils. See Rill.
- Splash erosion—The spattering of small soil particles caused by the impact of raindrops on wet soils. The loosened and spattered particles may or may not be subsequently removed by surface runoff.
- Sheet erosion—The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

Erosion control measure: A measure, structure, or device which controls the soil material within the land area under responsible control of the person conducting the land disturbing activity.

Evidentiary hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by this ordinance.

Excavation: A land-disturbing activity involving the mechanical removal of earth material.

Existing grade: The vertical elevation of the land as it exists.

Extraterritorial jurisdiction: The area adjacent to and beyond the municipal limits over which the municipality has been granted an exercise of municipal governmental powers, including but not limited to the power to regulate development, in accordance with North Carolina General Statutes, Section 160D-202.

Façade: The exterior wall of a building exposed to public view or that wall viewed by persons who are not in such building.

Fall zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Fill slope: The exposed ground surface resulting from deposition of material.

Flood Hazard Area, Special: The land in the floodplain subject to a one percent or greater chance of being flooded in any given year.

Flood insurance: The insurance coverage provided under the National Flood Insurance Program. Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood zone: A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

Floodlight: A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

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

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

Floor Area Ratio (FAR): The total gross floor area of the building or buildings on a lot divided by the gross area of the lot or site.

Foot Candle (FC): A quantitative unit measuring the amount of light falling onto a given point. One foot candle equals one lumen per square foot.

Foot candle, maintained: Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

Freestanding sign: A sign that is not attached to or supported by any building. Such signs shall include ground signs, signs mounted on poles or other supports.

Frontage. The length along the street right-of-way line of a single property tract or roadside development area between the edges of the property lines. Property at a street intersection (i.e., corner lot) has a separate frontage along each street.

Glare: The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance and ability.

Grade, existing: The grade prior to any land-disturbing activity.

Grade, finished: The final grade of the site, and that the topography of which will conform to the approved plan.

Grading: Any scraping, excavating or filling of the earth's surface or combination thereof.

Ground cover: For the purposes of this Ordinance, ground cover may be defined as:

- Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
- (Horticulture) Low-growing, spreading plants useful for low-maintenance landscape areas.

Habitat: The environment in which the life needs of a plant or animal are supplied.

Hanging sign: A sign attached to and suspended at right angles (unless on a corner) to the building and extending down over a sidewalk or walkway.

Hazardous material: Material in any form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or which poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hazardous waste: Any waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency.

Hillside area: Areas where the average natural slope is 15% to 29%.

Home occupation: Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

Illuminance: The amount of light falling on a surface, measured in lux or foot-candles.

Impervious: Not allowing infiltration.

Impervious surface: Areas developed and/or whose surface is treated or covered by impenetrable materials so as to prevent or limit the infiltration of rainwater. Examples of development and surface treatments that render a surface impervious include:

- Buildings (green roofs shall not count as impervious surfaces);
- Asphalt, BST, and other pavement materials;
- Concrete and cement;
- Stone, brick, concrete block, and similar materials;
- Gravel; and
- Compacted soil.

Impoundment: Generally, an artificial water storage area, as a reservoir, pit, dugout, sump, etc.

Indirectly illuminated sign: A sign that is illuminated by a white light source that is shielded and directed solely at the sign face.

Land disturbing activity: See below:

- Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation; and,
- Any grading of land, any clearing of vegetation, and any construction or rebuilding of a building or structure. This term shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, the upkeep of yard and grounds, repairs, and the cutting of firewood for personal use.

Light source: The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

Lighting, cutoff: A light distribution designation for a fixture that has no more than 2.5 percent of the lamp's light (intensity) emitted at or above a horizontal (plane) line drawn through the bottom of the fixture and no more than ten percent of the lamp's light (intensity) emitted (at an) in the area between that horizontal line and a line drawn

at an angle ten degrees below that horizontal (plane) line in all directions around the fixture.

Lighting, fully shielded: A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed. See also lighting, full cutoff.

Lighting, temporary: Lighting used for a limited duration, but in no case longer than 30 days.

Local government: Any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, including those acting through a joint program.

Lot: See "Parcel".

Luminaire: An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts. A luminaire is sometimes referred to as a lighting fixture.

Maintenance: The servicing, repairing, or altering of any structure, premises, appliance, apparatus, sign, or equipment to perpetuate the use or purpose for which such structure, appliance, apparatus, sign, or equipment was originally intended.

Major site plan: Any site plan with structures equal to or greater than 80,000 square feet. Major site plans are approved by the Board of Commissioners.

Major subdivision: A subdivision that does not meet the definition of a minor subdivision.

Minor site plan: Any site plan with structures less than 80,000 square feet. Minor site plans are approved administratively.

Minor subdivision: A subdivision where:

- A. Eight or fewer lots are created with adequate access to an existing state-maintained road; and
- B. No new public or community wastewater is proposed.

Natural ground surface: The ground surface in its original state before any land-disturbing activity.

Natural watercourse: Any perennial or intermittent surface water approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minutes) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). The term "natural watercourse" includes lakes and ponds, in addition to rivers, streams, and other watercourses, which are shown on the referenced maps. Notwithstanding the foregoing, the administrator may determine that a water body does or does not qualify as a natural watercourse depending upon the presence of surface waters in accordance with the provisions of 15A NCAC 2B.0233(3)(a) or other methods approved by the state division of water quality.

Open space: Land set aside and protected from development. Any area which cannot be divided into building lots, or improved as streets, rights-of-way, or parking, and is subject to a permanent open space easement. Open space may also include portions of private building lots subject to a permanent open space easement.

Outlet: Point of water disposal from a stream, river, lake, tidewater, or artificial drain.

Parcel: An area designated as a separate and distinct area of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official records of the county, as maintained by the county register of deeds. The terms "lot," "lot record," "a lot of records," "plot," "parcel," "property," or "tract," whenever used in this Article, are interchangeable.

Parking lots and decks: A private, off-street surfaced facility used for the temporary storage of automobiles.

Perennial stream: A natural or man-made surface channel maintains water in its channel throughout the year.

Person: An individual, corporation, partnership, firm, association, trust, and any other legally recognized entity.

Pervious: Allowing movement of water.

Plat: A map or plan of a parcel of land that is to be or has been subdivided showing such subdivision.

Point source: Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. (P.L. 92-500, Section 502(14)).

Pollution, nonpoint source: Pollution that enters a water body from diffuse origins on the watershed and does not result from discernible, confined, or discrete conveyances.

Porch: A projection from an outside wall of a dwelling that is covered by a roof and/or sidewalls (other than the sides of the building to which the porch is attached) for the purpose of providing shade or shelter from the elements.

Premises: A single tract of real property that is not divided by a street, right-of-way, or lot.

Prescriptive easement: A right to use another's a property that is not inconsistent with the owner's rights, and which is acquired by use, open and notorious, adverse and continuous for the statutory period. To a certain extent, it resembles title by adverse possession but differs to the extent that the adverse user acquires only an easement and not title.

Private street: A non-public right-of-way for vehicular traffic to access private property.

Professional engineer: A person duly registered and licensed in the state in accordance with National Society of Professional Engineers.

Public safety and/or nuisance: Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Quasi-judicial decision: A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

Recharge: Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

Recharge basin: A basin provided to increase infiltration for the purpose of replenishing groundwater supply.

Recreational Vehicle (RV): A vehicle, which is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- Reference Level. Top of the lowest floor for structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO.

Retaining wall: Any manmade (artificial) grade separation that is not a slope. A retaining wall may also be defined as a structure or device placed on the face of a cut

slope or fill slope that covers the slope face and that holds the earth material in place by use of properly designed external and internal structural components.

Retention: The storage of storm water to prevent it from leaving the development site; may be temporary or permanent.

Ridgeline: The line along which two sloping surfaces meet which diverge towards the ground.

Right-of-way (ROW): An area owned or maintained by the Town of Sylva or the State of North Carolina, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.

Road, collector: A road serving as the connecting street between local residential roads and the thoroughfare system.

Road, dead-end: A road that is more than 2,500 feet in length, open at one end only without special provisions for turning around and has collector characteristics.

Road, public: Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard surfaced or other dependable highways.

Runoff: That portion of precipitation that flows from a drainage area on the land surface, in open channels or in stormwater conveyance systems.

Runoff, surface: Precipitation that falls onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by the surface, but collects and runs off.

School: Any public or private institution for the teaching of children.

Sediment: Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

Sedimentation: The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.

Sensitive natural area: Any area, which is sensitive or vulnerable to physical or biological alteration, as identified now or hereafter by the North Carolina Natural Heritage Program and which contains one or more of the following:

- A. Habitat, including nesting sites, occupied by rare or endangered species;

- B. Rare or exemplary natural communities;
- C. Significant landforms, hydroforms, or geological features; or
- D. Other areas so designated by the North Carolina Natural Heritage Program, which are sensitive or vulnerable to physical or biological alteration.

Setback, minimum: A minimum distance specified for the various zoning districts measured inward, perpendicularly from a property line that shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this Ordinance. See Article 4.

Settling basin: An enlargement in the channel of a stream to permit the settling of debris carried in suspension.

Shared access driveway: A single driveway serving two or more lots. A shared access driveway may cross a lot line or be on a lot line, and the owners may have an easement for the shared use function of the driveway.

Shared drive: A road with a length of not more than 2,650 feet that provides access to and serves traffic generated by eight or fewer homes and/or subdivision lots.

Sight distance triangle: An area of land at the intersection of streets, or a street and a driveway, within which nothing may be erected, planted, placed, or allowed to grow in a manner that will obstruct the vision of motorists entering or leaving the intersection.

Sign: A visual display designed to advertise, identify, direct, promote, or in any way attract attention to a product, service, business, event, person, or specific location.

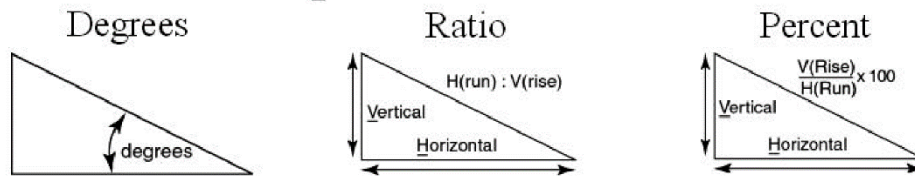
Site plan. A plan, prepared to scale, that accurately shows all information required by these regulations with respect to a development proposal.

Sleeping unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Smoke: The visible vapor and gases given off by a burning or smoldering substance.

Slope: The extent to which a landform deviates from the perfectly horizontal as expressed in percent, degree, or ratio. To ensure consistent conversion between these separate methods of expressing the extent of the slope, the following explanatory table is provided as part of this definition.

Slope Measurements



Degree	Ratio	Percent
45°	1H:1V	100%
39°	1.25H:1V	80%
34°	1.5H:1V	67%
30°	1:75H:1V	57%
27°	2H:1V	50%
22°	2.5H:1V	40%
18°	3H:1V	33%
14°	4H:1V	25%
8.5°	6.7H:1V	15%

Soil: For the purposes of this Ordinance, soil may be defined as:

- The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.
- Naturally occurring superficial deposits of earth material overlying bedrock.

Special use permit: A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”

Steep slope: Any areas where the average natural slope is 30% or greater.

Storm, ten-year: The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent moisture conditions.

Storm, twenty-five-year: The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent moisture conditions.

Stormwater Control Measures (SCMs): Structural or nonstructural devices used singularly or in combination to reduce stormwater runoff and associated pollutants to receiving waters in order to achieve water quality protection goals. Formerly termed Best Management Practices (BMPs).

Stormwater runoff: The direct runoff of water resulting from precipitation in any form. Stream. A natural or manmade surface channel in which water flows most of the year.

Street (road): A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure: Anything constructed or erected, including—in addition to buildings as defined by this Article—walls, fences, gates, mailboxes, reflectors or mirrors associated with driveways, residential parking decks (whether constructed of fill dirt or retaining walls, or other methods), and private bridges or tunnels.

Structure, accessory (appurtenant structure): A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

Structure, historic: Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the US Department
- of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) program; or
- Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) program.

Swale: An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

Subdivider: Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision: 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 divisions of land involving the dedication of a new street or a change in existing streets; provided that the following shall not be included within the term "subdivision" nor be subject to the regulations authorized by this Ordinance:

- A. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown in this Ordinance.
- B. The division of land into parcels is greater than ten acres where no street right-of-way dedication is involved.
- C. The public acquisition by purchase of strips of land for widening or opening of streets.
- D. The division of a tract in single ownership, the entire area of which is no greater than two acres, into not more than three lots, if no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the town, as shown in this Ordinance.
- E. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes

Surface area: The entire display area of a sign, including any border or accessory area, but excluding any base supports, posts, roofs, or other structural elements, provided they do not serve primarily to attract attention.

Topography: General term to include characteristics of the ground surface such as plains, hills, mountains, degree of relief, steepness of slopes, and other physiographic features.

Tract: All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Traffic Impact Analysis (TIA): A report produced by a qualified professional (i.e., Transportation Engineer, Transportation Planner, Traffic Engineer, etc.), in association with subdivision plat approval that, at a minimum, addresses the following items in relationship to the proposed subdivision:

- A. An estimation of traffic generated;
- B. An estimation of trip distribution to and from the development;

- C. An analysis of the existing road system serving the development (to the nearest major intersections) and the effect of the development on that system;
- D. A listing of proposed improvements, both on and off-site, and their effect on the existing system.

Traffic sign: A sign erected by Federal, State, or Municipal authority and regulating automobile, truck, bicycle, and pedestrian movement.

Tree, canopy: A tree, either single or multi-stemmed (i.e., in clump form) that has a height of at least ten (10) feet and is of a species which, at maturity, can be expected to reach a height in excess of forty (40) feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper of at least one (1) inch at the time of planting.

Tree, understory: A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least five (5) feet and is of a species which at maturity, can be expected to reach a height of 10 to 40 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper at the time of planting of at least three-quarters (3/4) of an inch.

Trees and other specified vegetation: For purposes of the Hillside and Slope Protection Overlay District only, 'trees and other specified vegetation' refers to native trees of six (6) or more inches in diameter at breast height (DBH) and any mature grouping of rhododendron or mountain laurel of 250 square feet or more in area. Invasive and/or non-native species shall not be included in this definition.

Undertaken: The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Use, accessory: A use that is customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

Utility pole: A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Variance: A grant of relief from the requirements of this Ordinance, including requirements adopted by the State of North Carolina that are incorporated into this Ordinance.

Vehicular use area: All portions of the site or property designed to receive vehicular traffic, including parking, driveways, dumpster pads, loading and unloading areas.

Violation: The failure of a structure or other development to be fully compliant with this Ordinance.

Violation, continuing: Violations of this Ordinance or an approved application, permit, plan or plat which are occurring after the date for compliance as set forth in a notice of violation served upon the person responsible for an activity covered under this Ordinance.

Wall sign: A sign placed flat against and projecting no more than 12 inches from a building wall. Mansard roofs, or any roof portion thereof with an angle of 60 degrees or more from the horizontal, shall be considered wall space for sign purposes.

Water quality: A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Watercourse, natural: Any perennial or intermittent surface water approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). This term shall include any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment. Notwithstanding the foregoing, the administrator may determine that a water body does or does not qualify as a natural watercourse depending upon the presence of surface waters in accordance with the provisions of 15A NCAC 2B.0233(3)(a) or other methods approved by the state division of water quality.

Watershed: The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

Watt: The standard unit of power in the International System of Units (SI), equivalent to one joule per second and equal to the power in a circuit in which a current of one ampere flows across a potential difference of one volt.

Zoning administrator: The official responsible for the overall administration of this ordinance. Such individual shall be, approved by the town manager.

Zoning districts: Zoning districts established by this Article and designated on the Zoning Map of the Town of Sylva.

Section 10.2 Use Definitions

Accessory dwelling: Residential use is subordinate and customarily incidental to the primary use and may be contained in its own structure or within the same structure as another use, provided it has its own separate entrance. For purposes of this Ordinance, accessory dwellings within the same building as a civic/public, commercial, or office use, shall be considered a mixed-use when the square footage dedicated to the accessory residential use exceeds the total square footage of the other uses or when five (5) or more residential units are provided.

Accessory structure (building): A structure located on the same lot as the main building, detached or attached, and is subordinate and customarily incidental to the use of the main building.

Accessory structure, commercial: An accessory structure that is incidental to the primary commercial use of the lot. This may include a garage, storage shed or building, pergola, or other permanent structure for shade, pavilion, public restrooms, etc.

Accessory structure, public/civic: An accessory structure that is incidental to the primary civic or public use of the lot. This may include mobile or temporary classrooms, meeting halls, sheds or storage buildings, recreation buildings, garages,

Agricultural uses, level 1: The production, principally for use or consumption of the property owner or community members, of plants, animals, or their products and for sale to others where such sales are incidental, including but not limited to: gardening, fruit production, beekeeping, and poultry and livestock products for household use only.

Agricultural uses, level 2: The employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, by any other horticultural, floricultural or viticultural use, by animal husbandry, or by any combination thereof. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines including, but not limited to, providing riding lessons, training clinics and schooling shows. This definition does not include the following: fat rendering, bone distillation, meat processing, sawmills, etc.

Amphitheaters and auditoriums: An indoor or outdoor structure, used for dramatic, operatic, motion pictures, or other performances.

Animal hospitals without kennels: A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment, but not provided overnight lodging.

Apartment: A room or suite of rooms, with toilet and culinary accommodations, used or designed as an independent, self-contained dwelling unit and is located within a building that contains two (2) or more such rooms or suites

Automated banking services: An automated device that performs banking or financial functions at a location remote from the controlling financial institution.

Automobile repairs and services: A facility that provides repair and cosmetic services for automobiles.

Automobile sales: The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new motor vehicles, or used motor vehicles as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.

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

Bars, nightclubs and private social clubs: Any place devoted primarily to the selling, serving, or dispensing and drinking of malt, vinous, or other alcoholic beverages, or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon, and where such beverages are consumed on the premises.

Bed and breakfast home: A business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:

- Does not serve food or drink to the general public for pay.
- Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
- Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay.
- Is the permanent residence of the owner or the manager of the business.

Bed and breakfast inn: A business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period of less than one week, and that meets all of the following requirements:

- Does not serve food or drink to the general public for pay.
- Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business.
- Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as separate charge on the overnight guest's bill at the conclusion of the guest's stay.

- Is the permanent residence of the owner or the manager of the business.

Bona Fide Farm: The production and activities relating or incidental to the production of crops, fruits, vegetables, sod, or ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market meeting one of the present use value criteria: 1) Agricultural land, consisting of at least 10 acres, or horticultural land, consisting of at least 5 acres, both of which may be in one or more tracts that are in actual production; 2) A minimum of twenty (20) acres of forestland for which a woodland management plan has been prepared by the U.S. Forest Service.

Brewery/winery: A facility used for the commercial purpose of producing wine or beer. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery, and warehousing. Retail sales, tasting facilities, related promotional items may be permitted as part of the operations.

Car wash/auto detailing: A facility that provides automobile-related services such as applying paint protectors, interior and exterior cleaning and polishing as well as installation of aftermarket accessories such as tinting, auto alarms, spoilers, sunroofs, headlight covers, and similar items.

Cemeteries: A place used for the interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

Civic, social service, and fraternal facilities: Facilities other than offices providing a social service directly to the adjacent community, such as food banks, blood banks, emergency shelters, crisis centers, etc.

Commercial, artistic, manufacturing, and repair services: Services related to the manufacturing and/or repair of commercial products such as furniture.

Commercial indoor recreation: An indoor facility in which recreational entertainment is conducted, either for profit or not.

Commercial medical equipment and supply: A business substantially devoted only to the sale of medical, supplies, and similar equipment.

Community center: A building to be used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages nor meals are normally dispensed or consumed.

Conference centers and theaters: A structure used for meetings, organized events, or performances, for admission to which entrance money is received.

Convenience store/gas station: A small retail establishment that offers the sale of convenience goods and can include the sale of gasoline products for automobiles.

Daycare center: An institution and arrangement, where at any time, there are three (3) or more preschool-aged children, or nine (9) or more school-aged children receiving childcare. Also known as a Child Care Center.

Electronic gaming establishment: A business where persons utilize electronic machines or devices, including, but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion including sweepstakes, and where cash, prizes, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds.

Emergency services: The conduct of publicly owned safety and emergency services, such as, but not limited to, fire stations, police stations, and emergency medical and ambulance services.

Essential services, class I: Transmission lines (above and below ground) including electrical, natural, gas, and water distribution lines; pumping stations, lift stations, telephone switching facilities (up to 200 sq. ft.), and wireless communications facilities.

Essential services, class II: Elevated water storage tanks; package treatment plants, telephone switching facilities (over 200 sq. ft.), substations, or other similar facilities in connection with a telephone, electric, steam, and water facilities

Essential services, class III: Generation, production, or treatment facilities such as power plants, water and sewage plants, and landfills.

Facilities with kennels: An establishment where dogs or cats are boarded for compensation.

Family care home: A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.

Fitness and dance centers: A school where classes in the various arts and fitness classes are taught.

Flea market/open air markets: An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures.

Funeral parlors: A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation.

Government administrative facilities: A building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

Graphic arts photography galleries and museums: A building for exhibiting, or an institution in charge of, a collection of books, or artistic, historical, or scientific objects.

Group home: A facility providing temporary room and board for up to (12) individuals who require personalized or supervised care due to age, illness, or handicap.

Hobby classes and “Do It Yourself” instruction: A building dedicated to the sale and instruction related to specialized hobbies.

Home occupation: An occupation use customarily conducted on the same site as, and by members of the family residing in, the primary dwelling. The use is clearly incidental and secondary to that of the residential dwelling and does not change the residential character of the structure or neighborhood.

Home occupation, level 1: A home occupation that is conducted entirely within the primary residence requiring no more than one (1) additional parking space.

Home occupation, level 2: A home occupation that is conducted in an accessory structure located on the same site as the primary residence or requires the use of up to two (2) service vehicles related to the home occupation.

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

Laboratory: A building or group of buildings that contain facilities that process and evaluate blood, bone, and tissue samples of humans and animals and those that evaluate the quality of water, soil, or air samples. It shall not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Laundry and dry cleaning: An establishment that launders or dry cleans articles dropped off on the premises directly by the customer or where articles are dropped off, sorted, and picked up but where laundering or cleaning is done elsewhere.

Libraries (public): A public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility but are not normally offered for sale.

Medical and health care facilities: A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical condition, including but not limited to a general hospital, diagnostic center, treatment center, rehabilitation

center, extended care center, nursing home, intermediate care facility, outpatient laboratory, or central services facility serving one or more such institutions.

Manufactured home: A manufactured home is a single-family dwelling, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. Manufactured homes must have a permanent label affixed to each transportable section certifying that the manufactured home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards and the North Carolina Manufactured/Mobile Home Regulations. A recreational vehicle (RV) shall not be considered manufactured housing.

Manufactured home park: Any lot, tract, or parcel of land used, maintained, or intended to be used, maintained, leased, or rented for occupancy by four (4) or more mobile homes, together with accessory structures provided in connection therewith. This definition shall not include manufactured home sales lots upon which unoccupied manufactured homes are parked for the purpose of inspection and sale.

Manufactured housing: See Manufactured Home.

Manufacturing and industrial use: Facilities relating to the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.

Mixed-use: A building that contains a residential use and at least one of the following: a public or civic use, a commercial use, or office use. For purposes of this ordinance, where less than five (5) residential units are provided and the total square footage of the residential uses is less than the public/civic, commercial, or office use. the residential use may be classified as an accessory dwelling.

Mobile food vendor, food truck: A readily movable trailer or motorized wheeled vehicle, currently registered with the North Carolina Division of Motor Vehicles, designed and equipped to serve and sell food and beverages to the general public on a recurring basis.

Mobile food vendor, pushcart: A mobile piece of equipment used by a person that prepares or serves proportioned food for sale to the general public on a recurring basis. The food has been prepared at a restaurant or commissary or on-site.

Mobile home: See "Manufactured Housing".

Mobile vending: The act of selling food and/or non-alcoholic beverages from a mobile food and beverage vending unit.

Modular home or structure: A modular home or structure consists of a series of rooms and/or panels constructed and inspected off-site in accordance with the North Carolina State Building Code and is transported to its ultimate site and assembled on a permanent foundation. Modular structures may consist of one or more stories. If less than two stories, it shall have no less than two separate roof lines intersecting at a 90-degree angle with both roof pitches being a minimum of 5:12, whether the structure is used for residential or nonresidential uses.

Mortuaries and crematoriums: A place for the storage and or cremation of human bodies.

News and telecommunications services: Include radio stations, newspaper offices, internet and computer service providers, teleconferencing, and electronic message and answering services.

Outdoor storage yard: The storage of any material for a period greater than 24 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

Pharmacy: Any place where prescription drugs are dispensed or compounded.

Place of worship: A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

Pre-school: An educational establishment that provides care, activity, and supervision with academic instruction for children, in preparation for elementary school.

Professional offices: Offices including those of accountants, appraisers, architects, attorneys, auctioneers, detectives, development contractors, doctors, engineers, insurance agents, land surveyors, news media, real estate brokers, sales and management representatives, non-profit and philanthropic organizations, government licensed physical and mental health practitioners.

Public or community potable water and wastewater system: Any potable water distribution system and any wastewater collection system that is owned or operated by a unit of government or other public entity, private enterprise, community association, or other similar organization.

Public parks, playgrounds, and greenways: A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

Recreational Vehicle (RV): A motorized or non-motorized vehicle that combines transportation and temporary living quarters for travel, recreation, or camping. Does not include manufactured homes or off-road vehicles nor does it include van campers and truck campers as they may be used for non-travel-recreation or non-camping trips,

such as commuting to work or school. May be referred to as a motorhome or travel trailer. See diagrams below:

Recreational Vehicle, motorized: A motorhome built on a truck or bus chassis or a van chassis. The following diagrams represent examples and are not meant to be a complete list of examples:



Motorhome Type A



Motorhome Type C

Recreational Vehicle, non-motorized: A towable recreational vehicle, combining transportation and temporary living quarters for travel, recreation, or camping, that can be unhitched. Examples include conventional travel trailers, fifth-wheel travel trailers, travel trailers with expandable ends, folding camping trailers, and sport utility trailers. Boats, horse trailers, utility trailers for storing recreational vehicles, equipment, and all-terrain vehicles (ATVs), motorcycles, or personal watercraft stored on trailers utilized for recreational purposes are also considered as non-motorized recreational vehicles. Pickup camper shells that have been removed from the vehicle and stored are considered non-motorized recreational vehicles. The following diagrams represent examples and are not meant to be a complete list of examples:



Travel Trailer



Fifth-Wheel Travel Trailer



Travel Trailer with Expandable Ends



Folding Camping Trailer



Sport Utility Trailer (Toy Hauler)



Utility Trailer Enclosed



Utility Trailer Open



Utility Horse Trailer



Boat on Trailer



Personal Watercraft Stored on Trailer



All-Terrain Vehicle (ATV) Stored on Trailer

Recycling collection centers and processing facilities: A facility that is not a salvage yard and in which recoverable resources, such as newspapers, magazines, books, and other paper products, glass, metal cans, and other products are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production.

Restaurants with outside seating: A facility where food is commercially prepared and served that does include seating outside of the facility.

Restaurants without outside seating: A facility where food is commercially prepared and served that does not include seating outside of the facility.

Retail business: Businesses that include the merchandising, display, and/or sale of goods, products, and/or services. Includes but is not limited to those businesses related to clothing; shoes; home and office furnishings; decorations; florists; crafts; health and beauty; pets (not including veterinaries, kennels, or animal shelters); electronics; fitness;

convenience and food sales; books; paper products; children's toys; sports; hardware; gifts; travel; photography; and business services.

The school (public or private): An institution providing full-time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state.

Self storage: A building used for the storage of personal property where individual owners control individual storage spaces.

Sexually oriented business: Any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in G.S. 14-202.10 as amended. This term may be used interchangeably with the adult establishment.

Shelters, institutional: A facility providing temporary protective sanctuary for supervised care of victims of crime, abuse, or similar causes including emergency housing during crisis intervention for individuals.

Shopping center or planned commercial development: A commercial development where more than one principal building is developed or used on a lot or tract in single or unit ownership.

Short-term rental (Airbnb, VRBO, etc.): A dwelling unit, or portion thereof, that is used for the accommodations or lodging of a guest or guests, paying a fee or other compensation, for less than thirty (30) days. Commonly referred to as a vacation rental.

Single-family home, frame constructed: A dwelling unit, constructed on-site, with a wood or metal frame, intended for use by one (1) family unit. It is detached from other units, having yards on all sides.

Single-family home, zero lot line: A dwelling unit, intended for use by one (1) family unit, constructed on, or with less than one (1) foot setback from, the property line.

Storage and warehousing: A use engaged in storage and distribution of manufactured products, supplies, and equipment.

Tourist home: A building in which not more than five guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

Townhome: A single dwelling unit in a townhouse group, located or capable of being located on a separate lot, and being separated from the adjoining dwelling unit by an approved wall extending from the foundation through the roof and structurally independent of the corresponding wall of the adjoining unit.

Truck terminals: Any premises used by a motor freight company for the purpose of storing, transferring, loading, and unloading goods.

Wholesale business: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard sales: The temporary sale of miscellaneous used items commonly associated with residential use. Yard sales shall not be for the sale of primarily a single commodity. A yard sale shall be limited to a period of no more than three (3) consecutive days.

APPENDIX A

RECOMMENDED NATIVE LANDSCAPE SPECIES LIST

Intent:

This document does not regulate planting on private property that is not undergoing site plan or development review by the Town of Sylva. The species listed here are not intended to be all-inclusive and other species may be approved if selected for climate appropriateness, Native designation, and functional suitability. Developers are highly encouraged to consult local landscape architects, nurseries and/or landscape contractors.

The term "Native" in these lists refers to plants native or indigenous to Eastern North America and not just Western North Carolina. Some plants in this greater area may or may not perform in a particular landscape due to the specific ecosystem or microclimates that may be encountered.

TREES Large, Medium and Small Maturing and SHRUBS for screening

This list of plants includes large, medium, and small trees along with shrubs that may be used to meet the landscaping requirements of the Town of Sylva Zoning & Subdivision Ordinance.

UNSUITABLE PLANTS

This list of plants has either been deemed as invasive exotic plants by various governmental agencies or institutions or have been found to be structurally unsound in icy or windy conditions. Use of these plants for new planting is not an option for plans undergoing review by the Zoning Administrator for the Town of Sylva.

PLANTING UNDER UTILITY LINES

Many times, trees are planted without considering their height at maturity. Mature trees conflicting with overhead utility lines cause power outages and present public safety hazards. To avoid this problem, utility companies prune tree limbs to maintain a safe distance between the tree canopy and utility lines. This pruning often results in an unbalance appearance and can impact the overall health of a tree. A better solution is to plant trees below utility lines that will not interfere with those lines as the tree matures. Please refer to the list for small- maturing trees for ideas on appropriate trees; these particular tree(s) will be reviewed and approved by the Planning Staff on a case-by-case basis, depending on specific site conditions present at the time of project review.

DROUGHT TOLERANT/XERISCAPE PLANTS

This list of plants has been researched and proven to tolerate prolonged periods of drought without substantial supplemental irrigation. As with any planting design, the location, soil type, and local climate will play a role in their performance. As with any new planting, any plant in this list will require some supplemental irrigation for the first 3-6 months after they are planted to become established.

PLANTS THAT PREFER DAMP SOIL

These plants are appropriate for areas that will remain damp for prolonged periods of time, such as along creek/riverbanks, and in rain gardens. **They are marked in the lists below with two asterisks (**).**

Large Maturing Trees > 50' tall:

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>	<u>Native</u>
<i>Acer rubrum</i> 'Armstrong'	Armstrong Maple	Yes
<i>Acer rubrum</i>	Red Maple	Yes
<i>Acer saccharum</i>	Sugar Maple	Yes
<i>Betula nigra</i>	River Birch	Yes
<i>Fagus grandifolia</i>	American Beech	Yes
<i>Fraxinus americana</i>	White Ash	Yes
<i>Liquidambar</i> s. 'Rotundiloba'	Sweet Gum, Fruitless	Yes
<i>Liquidambar styraciflua</i>	Sweet Gum, Fruitless	Yes
<i>Liriodendron tulipifera</i>	Tulip Tree	Yes
<i>Magnolia grandiflora</i>	Southern Magnolia	Yes
<i>Pinus strobus</i>	Eastern White Pine	Yes
<i>Platanus occidentalis</i> **	Sycamore	Yes
<i>Quercus alba</i>	White Oak	Yes
<i>Quercus borealis</i>	Northern Red Oak	Yes
<i>Quercus coccinea</i>	Scarlet Oak	Yes
<i>Quercus rubra</i>	Red Oak	Yes
<i>Taxodium distichum</i>	Bald Cypress	Yes
<i>Tilia americana</i>	American Basswood	Yes
<i>Tsuga canadensis</i>	Canadian Hemlock	Yes
<i>Tsuga caroliniana</i>	Carolina Hemlock	Yes

Medium Maturing Trees 25' - 50' tall:

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>	<u>Native</u>
<i>Carpinus caroliniana</i>	American Hornbeam	Yes
<i>Cladrastis lutea</i>	American Yellowwood	Yes
<i>Crataegus phaenopyrum</i>	Washington Hawthorn	Yes
<i>Franklinia alatamaha</i>	Franklinia, Franklin Tree	Yes
<i>Halesia caroliniana</i>	Carolina Silverbell	Yes
<i>Ilex attenuata</i>	Savannah Holly	Yes
<i>Ilex opaca</i>	American Holly	Yes
<i>Nyssa sylvatica</i>	Black Gum	Yes
<i>Ostrya virginiana</i>	American Hophornbeam	Yes

<i>Oxydendrum arboreum</i>	Sourwood	Yes
<i>Thuja occidentalis nigra</i>	Arborvitae	Yes

Small Maturing Trees < 25' tall:

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>	<u>Native</u>
<i>Amelanchier canadensis</i>	Serviceberry	Yes
<i>Asimina tribola</i>	Paw	Yes
<i>Cercis canadensis</i>	Eastern Redbud	Yes
<i>Chionanthus virginicus</i>	Fringe Tree	Yes
<i>Cornus alternifolia</i>	Pagoda Dogwood	Yes
<i>Cornus florida</i>	Flowering Dogwood	Yes
<i>Crataegus virdis</i>	Winter King Hawthorn	Yes
<i>Hamamelis virginiana</i>	Witch Hazel	Yes
<i>Ilex attenuata</i>	Foster Holly #2	Yes

Shrubs for Screening:

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>	<u>Native</u>
<i>Aronia arbutifolia</i> **	Red Chokeberry	Yes
<i>Aronia melanocarpa</i> **	Black Chokeberry	Yes
<i>Calycanthus floridus</i>	Carolina Allspice	Yes
<i>Clethra alnifolia</i>	Sweet Pepperbush	Yes
<i>Corylus americana</i>	American Hazelnut	Yes
<i>Ilex verticillata</i>	Winterberry Holly, Black Alder	Yes
<i>Kalmia latifolia</i>	Mountain Laurel	Yes
<i>Malus angustifolia</i>	Wild Crab Apple	Yes
<i>Myrica cerifera</i>	Southern Wax myrtle	Yes
<i>Pieris floribunda</i> **	Mountain Andromeda, Fetterbush	Yes
<i>Prunus americana</i>	American Plum	Yes
<i>Rhododendron arborescens</i>	Sweet Azalea	Yes
<i>Rhododendron atlanticum</i>	Coast Azalea	Yes
<i>Rhododendron austrinum</i>	Florida Azalea	Yes
<i>Rhododendron calendulaceum</i>	Flame Azalea	Yes
<i>Rhododendron canescens</i>	Sweet-Piedmont/Florida Pinxter	Yes

<i>Rhododerdron carolinianum</i>	Carolina Azalea	Yes
<i>Rhododendron prinophyllum</i>	Roseshell Azalea	Yes
<i>Rhododendron viscosum</i>	Swamp Azalea	Yes
<i>Rhus typhina</i>	Staghorn Sumac	Yes
<i>Viburnum acerifolium</i>	Mapleleaf Viburnum	Yes
<i>Viburnum bracteatum</i>	Bracted Viburnum	Yes
<i>Viburnum dentatum</i>	Arrowwood Viburnum	Yes
<i>Viburnum lentago</i>	Nannyberry Viburnum, Sheepberry	Yes
<i>Viburnum nudum</i>	Smooth Witherod, PossumHaw	Yes
<i>Viburnum prunifolium</i>	Black Haw Viburnum	Yes
<i>Viburnum rufidulum</i>	Rusty Blackhaw, Southern Blackhaw	Yes

Unsuitable Plants:

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
<i>Acer platanoides</i>	Norway Maple
<i>Acer saccharinum</i>	Silver Maple
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Albizia julibrissin</i>	Mimosa
<i>Ampelopsis brevipedunculata</i>	Porcelain-berry
<i>Buddleja davidii</i>	Summer Lilac, Butterfly Bush
<i>Celastrus orbiculatus</i>	Oriental Bittersweet
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Elaeagnus pungens</i>	Autumn Olive
<i>Eleagnus umbelata</i>	Thorny Olive
<i>Euonymus alatus</i>	Burning Bush Euonymus
<i>Euonymus fortunei</i>	Wintercreeper
<i>Hedera helix</i>	English Ivy
<i>Ligustrum japonicum</i>	Japanese Privet
<i>Ligustrum sinense</i>	Chinese Privet
<i>Lonicera japonica</i>	Japanese Honeysuckle
<i>Mahonia bealei</i>	Oregon Grape
<i>Microstegium vimineum</i>	Japanese Stilt grass
<i>Miscanthus sinensis</i>	Chinese Silvergrass
<i>Paulownia tomentosa</i>	Princess Tree

<i>Prunus calleryana</i> "Bradford"	Bradford Pear
<i>Rosa multiflora</i>	Multiflora Rose
<i>Vinca minor</i>	Common Periwinkle
<i>Vinca major</i>	Large leaf Periwinkle
<i>Wisteria floribunda</i>	Japanese Wisteria
<i>Wisteria sinensis</i>	Chinese Wisteria

Drought Tolerant Plants (Woody):

Shrubs:

<u>Botanical Name</u>	<u>Common Name</u>	<u>Native</u>
<i>Aronia arbutifolia</i>	Red Chokeberry	Yes
<i>Callicarpa americana</i>	American Beautyberry	Yes
<i>Diervilla sessilifolia</i>	Southern Bush-Honeysuckle	Yes
<i>Fothergilla gardenii</i>	Dwarf Fothergilla	Yes
<i>Ilex verticillata</i>	Winterberry Holly	Yes
<i>Ilex vomitoria</i>	Yaupon Holly	Yes
<i>Itea virginica</i>	Virginia Willow, Virginia Sweetspire	Yes
<i>Myrica cerifera</i>	Wax Myrtle	Yes
<i>Physocarpus opulifolius</i>	Ninebark	Yes
<i>Rhododendron canescens</i>	Piedmont Azalea	Yes
<i>Rhus typhina</i>	Staghorn Sumac	Yes
<i>Viburnum dentatum</i>	Arrowwood Viburnum	Yes

Large Trees (larger than 50'):

<u>Botanical Name</u>	<u>Common Name</u>	<u>Native</u>
<i>Carya glabra</i>	Pignut hickory	Yes
<i>Carya tomentosa</i>	Mockernut hickory	Yes
<i>Quercus alba</i>	White oak	Yes
<i>Taxodium distichum</i>	Bald Cypress	Yes
<i>Ulmus americana</i> 'Urban'	Urban American elm	Yes

Medium to Small Trees (smaller than 50'):

<u>Botanical Name</u>	<u>Common Name</u>	<u>Native</u>
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<i>Aesculus pavia</i>	Red Buckeye	Yes
<i>Cercis canadensis</i>	Eastern Redbud	Yes
<i>Chionanthus virginicus</i>	White Fringetree	Yes
<i>Cladrastis kentukea</i>	American Yellowwood	Yes
<i>Cotinus obovatus</i>	American Smoketree or C. x 'Grace'	Yes
<i>Crataegus viridis</i> 'Winter King'	Winter King Green Hawthorn	Yes
<i>Pinus taeda</i> 'Nana' dwarf	Loblolly Pine	Yes

Plants that Prefer Damp Soil:

<u>Botanical Name</u>	<u>Common Name</u>	<u>Native</u>
<i>Arundinaria gigantea</i>	Canebreak bamboo or River Cane	Yes
<i>Cephalanthus occidentalis</i>	Buttonbush	Yes
<i>Clethra alnifolia</i>	Summersweet/Sweet pepperbush	Yes
<i>Cornus amomum</i>	Silky Dogwood	Yes
<i>Lindera benzoin</i>	Spicebush	Yes
<i>Salix caroliniana</i>	Coastal Plain Willow	Yes
<i>Salix Sericea</i>	Silky Willow	Yes

Planting Trees Near Distribution Lines

