

**CITY OF CHERRYVILLE ZONING ORDINANCE
JANUARY 14, 2002**

**AMENDED THROUGH
JANUARY 2, 2024**

CHERRYVILLE CITY COUNCIL

Henry L. Beam III, Mayor
Jill Puett, Mayor Pro-tem
Janice Hovis
Gary Freeman
Jon Abernethy

CHERRYVILLE PLANNING AND ZONING BOARD

Ed Yount, Chairman
Frank Morehead, Vice Chairman
Reid Huss
Wade Stroupe
Mark Mauney
Matthew Mauney
Veda Jackson

Brian Dalton, City Manager
Richard Elam, Planning Director

Technical Assistance Provided by Centralina Council of Governments, Charlotte, NC

ZONING ORDINANCE

**CITY OF CHERRYVILLE
CHERRYVILLE, NORTH CAROLINA**

An Ordinance regulating the uses of buildings, structures, and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts, and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures; the density and distribution of population; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein providing the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of said board; replacing conflicting ordinances; and for other purposes.

PART 1

AUTHORITY AND ENACTMENT CLAUSE

Pursuant to authority conferred by North Carolina General Statutes Chapter 160D as amended, and for the purpose of promoting the health, safety, morals, and general welfare of the inhabitants of the City of Cherryville, the City Council of the City of Cherryville with the authority vested in them by the citizens hereby ordains and enacts into law the following Article Parts and Sections.

PART 2

SHORT TITLE

The Ordinance shall be known and may be cited as The Zoning Ordinance of the City of Cherryville, North Carolina or the "Zoning Ordinance."

PART 3

JURISDICTION

Section 3.1 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the City of Cherryville and within the territory beyond such corporate limits as now or hereafter fixed, said territory being more particularly described on the City's Official Zoning Map as certified by the City Clerk. The boundary lines shown on said map shall be incorporated and made a part of this Ordinance as if fully set out herein. The Official Zoning Map shall be maintained for public inspection at City of Cherryville Town Hall.

Section 3.2 Purpose

The purpose of these regulations shall be to regulate the height, number of stories, and size of buildings and other structures; the size of yards, and other spaces, the density of population; the location and use of buildings, structures and land for trade and residence, and other purposes, so as to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote desirable living conditions and the sustained stability of neighborhoods; to discourage blight; to conserve the value of buildings and land; to facilitate the adequate and economic provision of transportation, water, sewerage, schools, parks and other public facilities and services; and to encourage the most appropriate use of land, buildings, and other structures within the area of jurisdiction of this Ordinance.

- 3.2.1** The zoning districts and maps have been made with due consideration of future growth, development, and change in land development as well as with due consideration of existing development and uses of land in the City of Cherryville and vicinity.
- 3.2.2** These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment and/or assuring the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

PART 4

DEFINITIONS OF TERMS USED IN THIS ORDINANCE

For the purpose of interpreting this Ordinance, certain words or terms are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

Section 4.1 Interpretation of Terms and Words

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context of the particular usage clearly indicates otherwise.
- (3) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel".
- (5) The word "building" includes the word "structure".
- (6) The words "shall" and "must" are always mandatory and not merely directory.
- (7) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- (8) The word "Map", or "Zoning Map", or "Cherryville Zoning Map" shall mean the "Official Zoning Map of the City of Cherryville, North Carolina".
- (9) Any word denoting gender includes the female and the male.
- (10) The term "City Council" shall mean the "City Council of Cherryville, North Carolina".
- (11) The term "Planning Board" shall mean the "Planning and Zoning Board of the City of Cherryville, North Carolina".
- (12) The term "Board of Adjustment" shall mean the "Board of Adjustment of the City of Cherryville, North Carolina".
- (13) The term "Cherryville Land Development Plan" shall mean the Cherryville Land Development Plan adopted by the Cherryville City Council on, and any amendments thereto.

- (14) The term "Zoning Administrator" shall mean the Zoning Administrator of the City of Cherryville, North Carolina.

Definitions of Specific Terms and Words

Abandonment. A use shall be deemed to be abandoned when:

- (a) The use is discontinued; or
- (b) The premises are devoted to another conforming use; or
- (c) When the characteristic equipment and furnishings of the nonconforming nonresidential use have been removed from a premises.

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

Accessory Structure. A structure detached from the principal structure on the same lot and customarily incidental and subordinate to the principal structure.

Adult-Oriented Business. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually oriented device business or any combination of the foregoing or any similar business. As used in this Ordinance, the following definitions shall apply:

Adult Arcade (also know as "peep show")

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projects, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas".

Adult Bookstore or Adult Video Store. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
- 2. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities".

Adult Cabaret A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

1. Persons who appear nude or semi-nude or
2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe "specified sexual activities" or specified anatomical areas".

Adult Motel. A motel, hotel or similar commercial establishment that offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes.

Adult Motion Picture Theater. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regular shown which depict or describe "specified sexual activities" or specified anatomical areas".

Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict "specified sexual activities" or "specified anatomical areas".

Escort. A person who, for any tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency. A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

Nude Model Studio. Any place where a person appears nude or semi-nude, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A "Nude Model Studio" shall not include a proprietary school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Nude or A State of Nudity.

1. the appearance of a human anus, male genitals or female genitals; or
2. A state of dress that fails to opaquely cover a human anus, male genitals or female genitals.

Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Devices. Any artificial or simulated "specified anatomical area" or other device or paraphernalia that is designed principally for "specified sexual activities" but shall not mean any contraceptive device.

Specified Anatomical Areas. Human genitals in a state of sexual arousal.

Specified Sexual Activities. Is and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1-3 above.

Agriculture Uses. The commercial production, keeping or maintenance, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all or such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including nuts; vegetables; nursery, floral and ornamental products; or lands devoted to a soil conservation or forestry management program. Irrespective of the above, a home garden and the sale of produce at a home produce stand shall not be considered to be an "agricultural use."

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

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

Amateur Radio Tower. A freestanding or building-mounted structure, including any base, tower, pole, antenna, and appurtenances, intended for amateur radio (HAM) airway communication purposes.

Animal Hospital. A place where animals are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use. All facilities associated with an animal hospital shall be located indoors.

Animal Kennel. A commercial enterprise where more than six (6) dogs or other domesticated animals are groomed, bred, boarded, trained, or sold.

Arcade or Amusement Center or Game Room. An establishment operated for profit where two (2) or more billiard tables or ten (10) or more other type amusement devices/or games of skill such as video games, pinball, or table games, are provided for public use. This definition shall be construed to include facilities for the conduct of bingo gaming as a principal use.

Atrium House. Attached or semi-attached one-story house on a small lot, said lot having a small yard space, which is surrounded by the house and its privacy walls. As distinguished from the patio house, an atrium house is always one-story, its yard space and lot size is usually smaller, and it is always attached (to another unit) in some fashion.

Auto Body Shop. Any building, premises and land in which or upon which a business is conducted that primarily involves the painting of vehicles or external repairing of damaged vehicles.

Auto Hobbyist. One who collects, repairs or alters automobiles to which he holds title for enjoyment and not for commercial purposes, as an incidental use on the premises where the person resides.

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

Auto Repair Garage. Any building, premises and/or land in which or upon which a business is conducted involving the maintenance or servicing of vehicles.

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 a canopy.

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.

Bar, Nightclub and Tavern: An establishment primarily engaged in serving alcoholic beverages and providing entertainment for patrons.

Bed and Breakfast. A use that **(i)** takes place within a building that at any time prior to such establishment, was designed and used as a single-family residence, **(ii)** that consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers and similar transients, **(iii)** where the provision of meals, if provided at all, is limited to the breakfast meal, available only to guests, and **(vi)** where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of two (2) full-time employees.

Boarding House. A building where, for compensation, rooms and/or meals are provided for not less than three (3) persons and not more than twelve (12) persons, provided however, the operator or owner must reside within a separate dwelling unit within said building.

Brewpub: An establishment where beer and malt beverages are made on premises in conjunction with a restaurant or bar and where 40% or more of the beer produced on-site is sold on premise. Where allowed by current Alcoholic Beverage Control System (ABC) rules and regulations and by current North Carolina laws, brewpubs may sell beer "to go" and or distribute to off-site entities.

Building. Any structure temporary or permanent, having a roof or other covering supported by columns or walls and intended for the shelter, housing or enclosure of any person, animal, process, equipment, goods, materials or chattels of any kind or nature. The term "building" shall be construed as if followed by the words "or parts thereof".

Building, Accessory. A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

Building Height. The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

Building, Principal. A building in which is conducted the principal use on the lot on which said building is situated. In a residential district any structure containing a dwelling unit shall be deemed to be the principal building on the lot where it is located.

Building Setback Line. A line establishing the minimum allowable distance between the nearest portion of any building, including porches, and the nearest edge of the street right-of-way when measured perpendicularly thereto.

Building Wall. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this Ordinance, the area of a wall will be calculated for a maximum of fifty (50) feet in height of a building.

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

Business Park. A development on a tract of land that contains two (2) or more separate office buildings, constructed and managed in an integrated and coordinated basis. A business park may also be cited as an office park.

Campground. Temporary or permanent buildings, tents, or other structures established or maintained as a temporary living quarter, operated continuously for a period of three (3) or more days for recreation, religious, education, vacation, or therapeutic reasons.

Canopy. A permanent structure, other than an awning, 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 is not a completely enclosed structure.

Carnival. A traveling enterprise offering amusements.

Cemetery. Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts, or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or gravesite.

Certificate of Compliance. A document issued by the City of Cherryville allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Ordinance and all other applicable regulations.

Church/House of Worship. A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead. A school or day care center affiliated with a church/house of worship and located on the same premises as such shall be considered a special use in a residential (R) zoning district.

Circus. A large enclosed area used especially for sports and animal exhibitions.

Cluster Housing. A development pattern where the dwelling units are grouped or "clustered" on a density basis for the total land area of the development, rather than spread evenly throughout the site on a lot by lot basis. A cluster housing development includes permanent open space and greenways usually owned and maintained by a homeowners' association or the developer.

Common Open Space. Land and/or water areas within the site designated for development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development but not including any lands occupied by streets, street rights-of-way, or off-street parking.

Common Open Space, Improved. Common open space which has been improved with recreational areas and amenities such as, but not limited to, ball fields, tennis courts, swimming pools, nature trails, clubhouses, etc.

Community Center. A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

Condominium. A building, or a group of buildings, in which units are owned individually and the structure, common areas and facilities are owned by all of the owners on a proportional basis.

Construction Trailer. A structure standing on wheels towed or hauled by another vehicle which is used for neither overnight nor year round occupancy and is used exclusively at a construction project on a temporary basis for office or storage purposes.

Contiguous. Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous including properties traversed or separated by a road, stream, right-of-way or similar man-made or natural configuration.

Continuing Care Communities. Also called "life care communities" and "continuing care retirement communities", these complexes include independent living units (apartments, condominiums, or cottages), assisted living (domiciliary care) facilities and/or nursing home beds. Residents may pay an entry fee which purchases a housing unit that can be used for the rest of their lives or units may be made available on a rental basis. If owned, the unit often reverts back to the development owner upon the death of the resident or surviving spouse.

Convenience Store. A one-story retail store containing less than three thousand six-hundred (3,600) square feet of gross floor area that is designed and stocked to sell primarily fuel, food (packaged and/or prepared), beverages and other household supplies to customers who purchase a relatively few items (in contrast to a "super market"). It is designed to attract and depends upon a large volume of stop-and-go traffic. If fuel is sold, the sale of fuel shall be limited to the hours of 6:00 a.m. and 12:00 midnight (See definition of Express Fuel/Mini-Mart.)

Country Club. A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests.

Cultural arts center. Any institution, organization, foundation, or establishment that provides services for the display, performance or enjoyment of heritage, history, or the arts. These uses may include, but are not limited to, museums, art galleries, performance art venues, and interpretive sites.

Customary Home Occupation. Any use of commercial service customarily conducted within a dwelling (except as otherwise provided) by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior physical, visual, audible or other sensory evidence of such secondary use; where no power other than that used in the home is used; where no signs other than one unlighted sign not in excess of two (2) square feet is displayed; where no merchandise or other articles are stored in the open or in accessory resident buildings or are displayed for advertising purposes; where no more than one (1) non-resident is employed or otherwise reports for work; and which an area equivalent of not more than twenty-five (25) percent of the principal building is used.

Day Care Center. A place where daytime care is provided to six (6) or more children unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult, within an occupied residence. Children who are related by blood or marriage to the attendant adult shall not be counted as patrons of the day care center.

Day Care Center, Accessory. A day care center facility located on the premises or adjacent to the premises of an office use, institutional use, commercial use, industrial use or group development for the primary purpose of care for the dependents of employees of such commercial, office, institutional or industrial use or of persons employed within a group development. Two (2) or more businesses may jointly operate or sponsor one accessory day care center. At least fifty (50) percent of the clients enrolled shall be dependent of employees of the establishment(s) or of businesses within the group development sponsoring such facility.

Day Care Center, Small Group. A place where daytime care is provided to not more than five children unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult, within an occupied residence. Children who are related by blood or marriage to the attendant adult shall not be counted as patrons of the small group day care center.

Density, Gross. A ratio 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 (in acres) used or proposed to be used for purposes such as buildings, roads, public facilities, and open spaces.

Duplex. Two dwelling units, including modular homes, attached along and sharing one or more common walls and located on a single lot.

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. For the purposes of Article 12 of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling, Attached. A single-family dwelling attached to two or more single-family dwellings by common vertical walls.

Dwelling, Detached. A dwelling unit that is developed with open yards on all sides including modular homes but not including manufactured homes.

Dwelling, Multi-Family. See “Development, Multi-family”.

Dwelling, Single-Family. A detached building designed for or occupied exclusively by one (1) family, but not to include manufactured homes as defined by this Ordinance.

Dwelling, Two-Family. A building arranged or designed to be occupied by two (2) families living independently of each other.

Electronic Gaming Accessory Use Any business enterprise, as an accessory use, where persons utilize four (4) or less electronic machines, including, but not limited to computers and gaming terminals, to conduct games including but not limited to sweepstakes, lotteries, games, and/or games of chance, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. The term includes, but is not limited to internet sweepstakes, video sweepstakes, or cybercafés. This definition does not include any lottery endorsed, approved or sponsored by the State of North Carolina, or arcade games of skill. This use requires a separate privilege license. Hours of operation shall be Monday thru Saturday - 10 a.m. – Midnight. Sunday 1 p.m. thru 6 p.m.

Electronic Gaming Operation Any business enterprise, as a principal use, where persons utilize five (5) or more electronic machines, including, but not limited to computers and gaming terminals, to conduct games including but not limited to sweepstakes, lotteries, games, and/or games of chance, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. The term includes, but is not limited to internet sweepstakes, video sweepstakes, or cybercafés. This definition does not include any lottery endorsed, approved or sponsored by the State of North Carolina, or arcade games of skill. This use requires a separate privilege license. Hours of operation shall be Monday thru Saturday - 10 a.m. – Midnight. Sunday 1 p.m. thru 6 p.m.

Essential Services. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Essential services are divided into the following three classes:

- (a) **Class 1.** Transmission lines - whether, subterranean or overhead - including electrical, natural gas, and water distribution lines, sewer gravity lines, lift stations and pressure mains; underground septic tanks and drain fields, cable television and telephone transmission lines; or similar utility lines.
- (b) **Class 2.** Booster stations, pumping stations, switching facilities, substations, water or gas, or other similarly required facilities in connection with telephone, electric steam, water or sewer, or other utilities.
- (c) **Class 3.** Generation, production, or treatment facilities such as power plants, sewage treatment plants, radio, television and telephone transmission towers and antennae and public or private utilities operations centers.

Express Fuel/Mini Mart. A one-story retail store containing less than three thousand six-hundred (3,600) square feet of gross floor area that is designed and stocked to sell a large volume of fuel and may also sell prepared and/or packaged foods, beverages, and household and picnic supplies, and automobile incidentals. It is designed to attract and depends upon a large volume of fueling and stop-and-go traffic. Automotive mechanical and/or maintenance services are not provided. Any retail business which generally meets the forgoing description and which sells fuel between the hours of 12:00 midnight and 6:00 a.m. shall be deemed an Express Fuel/Mini-Mart.

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

Family Care Home. A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons, said handicapped persons defined in NCGS, 168-21(2).

Farmer's Market. An outdoor market at which fruits and vegetables are sold on a retail basis on a nonresidential lot.

Feed and Flour Mills. An establishment at which feed and grain are milled and stored.

Feed and Seed Store. A retail establishment at which animal feed, crop seeds and related products are sold. The milling or grinding of feed or flour at such establishments shall be prohibited, as shall the storage of milled product.

Finance Company. A commercial establishment that makes short and long term loans to individuals.

Financial Institution. A commercial bank, a mortgage bank, a savings bank, a saving and loan association, or a credit union any of which are licensed, insured or chartered by the United States of America or the State of North Carolina.

Flag. A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.

Flea Market. An open-air market for new and/or second-hand articles and goods sold by one or more merchants, which is conducted on an open non-residential lot. Occasional yard sales conducted by individuals or non profit organizations shall not be deemed flea markets, provided such yard sales are not conducted on more than six (6) days per year or in the case of non-profit organizations, not more than ten (10) days per year.

Floor Area Ratio (FAR). The gross floor area of all buildings on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

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

Frontage. All the property abutting on one side of a street between two (2) intersecting streets measured along the street line.

Food Truck. A readily-movable (motorized and self-propelled, or towable) wheeled vehicle, licensed to operate on or travers the public streets of the State of North Carolina designed and equipped to serve and sell, to the general public, ready-to-eat food prepared using equipment and facilities fully contained therein.

Golf Course. A tract of land for playing golf, improved with tees, fairways, hazards and which may include clubhouses, shelters, and golf course maintenance facilities.

Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the side of the street at which grade is being measured.

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale.

Greenhouse, Commercial. An establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

Gross Floor Area. The sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the centerline of the party walls, including the floor area of accessory structures. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, elevator shafts and maintenance crawlspaces or unused attics. This term also excludes pedestrian walkway common areas within enclosed shopping areas.

Group Development. A group of two (2) or more principal structures built on a single lot, tract or parcel of land not subdivided into the customary streets and lots and which will not be so subdivided, and designed for occupancy by separate families, businesses, or other enterprises. Examples would be: cluster-type subdivisions, row houses, apartment complexes, housing projects, school and hospital campuses and shopping centers.

Hotel. A facility offering transient lodging accommodations to the general public and may provide additional services such as restaurants, meeting rooms and recreation facilities.

Impervious Surface. Any material which reduces and prevents absorption of storm water into previously undeveloped land.

Impervious Surface Ratio. The gross area of all impervious surfaces on a lot divided by the lot area.

Junk Yard. The use of more than six-hundred (600) square feet of the area of any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery furnishing any or parts thereof.

Large Tree. A tree which, at the time of planting, has a caliper of at least one and three-fourths (1-3/4) inches and a height of at least ten (10) feet and of a species which, at maturity, can be expected to reach a height of at least forty (40) feet under normal growing conditions in the local climate.

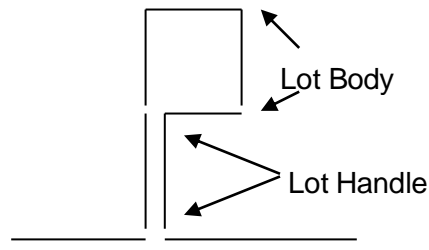
Livestock. All cattle or animals of the bovine species; all horses, mules, burros, and animals of the equine species; all goats or animals of the caprine species; all swine or animals of the porcine species; and, all sheep or animals of the ovine species.

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

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

- a. **Lot Area (Size).** The total horizontal area within the legal lot lines of a lot exclusive of any portions of the lot which lie within street rights-of-ways.
- b. **Lot, Corner.** A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one-hundred and thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning permit.
- c. **Lot Depth.** The average horizontal distance between the front and rear lot lines.
- d. **Lot, Interior.** A lot other than a corner lot.
- e. **Lot Line.** A line of record bounding a lot which separates one lot from another lot or separates that lot from a public or private street or any other public space.
- f. **Lot Line, Front.** The lot line separating a lot from a street right-of-way.
- g. **Lot Line, Interior.** A lot line which does not have street frontage.
- h. **Lot Line, Rear.** The lot line opposite and most distant from the front lot line.

- i. **Lot Line, Side.** Any lot line abutting another lot and which is not a front or rear lot line.
- j. **Lot of Record.** A lot or combination of contiguous lots described pursuant to the most current plat or metes and bounds description or descriptions recorded in the office of Gaston County Register of Deeds.
- k. **Lot, Panhandle.** A lot that has the appearance of a “frying pan” or flay and staff in which the lot “handle” is most often used as the point of access. An illustrative example of a panhandle lot is as follows:



The area of the lot “handle” as illustrated above, shall not be used in determining minimum lot area. Only the lot “body” may be used in determining lot area. In addition, the lot handle shall not be used in computing minimum setbacks with setbacks being determined using the lot body only. The length of the panhandle (i.e., that part of the lot that is too narrow to accommodate a dwelling unit and meet all setback requirements) can not exceed one-hundred (100) feet.

- k. **Lot, Through.** A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.
- l. **Lot Width.** The distance between side lot lines measured at the required minimum front yard setback.
- m. **Lot Line House.** A single-family detached dwelling unit that is placed against one of the side lot lines. The dwelling unit has a front and rear yard but only one side yard.

Maintenance Services. A base of operations for building maintenance services including exterminator, carpet cleaning, janitorial service and minor repair services rendered off-site.

Manufactured Home (Mobile Home). A dwelling unit that: **(i)** is not constructed in accordance with the standards set forth in the North Carolina State Building Code (uniform residential building code for one and two-family dwellings), and **(ii)** is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and **(iii)** exceeds forty feet in length and eight feet in width. A structure that would otherwise be characterized as a manufactured home except that it is not used or held ready for use as a dwelling unit (e.g., is used as an office or some other business use) shall not be deemed a manufactured home.

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

- (a) The minimum width (the width being the narrower of the two overall dimensions) of the main body of the manufactured home as assembled on the site shall be at least twenty-two (22) feet. The minimum length of the manufactured home shall be at least twenty (20) feet greater than its width.
- (b) The pitch of the roof of the manufactured home has a minimum vertical rise of one foot for each four feet of horizontal run, the roof is finished with a type of shingle that is commonly used in standard residential construction and which does not exceed the reflectivity of gloss white paint, and the roof has an overhang (eave) extending at least ten (10) inches from each vertical exterior wall.
- (c) The exterior siding consists of wood, hardboard, vinyl, brick or aluminum and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, and which does not exceed the reflectivity of gloss white paint.
- (d) A continuous, permanent masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, shall be installed upon a poured concrete footer after placement on the lot, and before occupancy.
- (e) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (f) The manufactured home is set up on the site in accordance with the standards set by the N.C. Department of Insurance.
- (g) Stairs, porches, entrance platforms and other means of entrance and exit to the manufactured home shall be installed and constructed in accordance with the standards set by the N.C. Department of Insurance.
- (h) The manufactured home is oriented on the site in such a manner that the side having the main entrance, and by design intended to be the front of the manufactured home is generally parallel to a public street abutting the site.

Manufactured Home (Mobile Home), Class B. A manufactured home that meets all of the criteria of a Class A manufactured home, except criteria (a), (b), (c), (d), or (h).

Manufactured Home (Mobile Home), Park. A parcel of land under single ownership on which two or more manufactured homes are occupied as residences.

Medical Clinic. A facility where one or more medical professionals (medical doctor, dentist, osteopath, chiropractor, optometrist, podiatrist, physical therapist) provide outpatient treatment services.

Memorial Sign or Plaque. A sign commemorating the erection and/or dedication of a building including name of building, date of erection, and other information such as architect, contractor, or others involved in a building's creation, cut into or attached to a building surface.

Microbrewery. An establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than 15,000 barrels (approximately 31 gallons in a barrel) of beer per year.

Mini-Warehouse. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis for indoor storage purposes. No outdoor storage shall be allowed in conjunction with the facility.

Mobile Home. See "Manufactured Home".

Modular Home. A dwelling unit constructed in accordance with the standards set forth in North Carolina State Building Code (uniform residential code for one and two-family dwellings), and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home shall be deemed a single-family dwelling as defined in this Ordinance.

Motel. An establishment providing transient accommodations containing six (6) or more rooms.

Multi-Family Development. A tract of land under single individual, corporate, firm, partnership or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a programmed series of development operations. Such development shall consist of two or more duplex buildings, or three (3) or more dwelling units sharing one (1) or more common walls. The development shall have a unified or coordinated design of buildings and a coordinated organization of service areas and common open space area.

Nonconforming Lot. Any lot of record that does not meet the minimum area or width requirements established in these regulations or any amendment thereto.

Nonconforming Sign. Any sign, that on the effective date of this Ordinance or the date of any subsequent amendment thereto, does not conform to one or more of the regulations set forth in this Ordinance.

Nonconforming Structure. Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of this Ordinance or any amendment thereto.

Nonconforming Use. A use or activity that does not conform to the use regulations of this Ordinance for the district in which it is located either at the effective date of this Ordinance or as a result of any subsequent amendments to this Ordinance.

Nursery. A commercial enterprise on land used to raise flowers, shrubs and plants for sale. Nurseries may use greenhouses for the raising of such items.

Nursing Care Facilities. A facility that serves people who need nursing and supportive domiciliary care. Nursing care is provided for eight or more hours per day.

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

Office Building. A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services primarily for office workers such as a restaurant, coffee shop, newspaper or candy stand.

Office Trailer. A building manufactured in a plant and transported to the site and used exclusively for business or office purposes on a temporary basis.

Open Storage. An unroofed area for the storage of bulk materials or discarded items whether fenced or not but not including items and non-bulk materials openly displayed for the purpose of retail sale.

Outlet Store, Accessory. A sales facility located on the same premises and accessory to a principal manufacturing, distribution, or shipping facility. The accessory outlet store must be clearly incidental to the principal use. If open to the general public, at least fifty percent (50%) of the value of goods sold must either:

- (1) be manufactured by the owner of the store if owner is manufacturer; or
- (2) be salvage goods distributed from the principal use, if principal use is a distribution facility; or
- (3) be salvage goods obtained by the owner of the principal use if owner is a freight carrier business

If open only to employees of the owner or operator of the principal use the requirement to meet either criteria (1) (2) or (3) above does not apply.

Parapet. That portion of a building wall or false front that extends above the roofline.

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

Parking Space. A storage space of not less than nine (9) feet by nineteen (19) feet for one (1) automobile, plus the necessary access space. All off-street parking spaces shall be located outside the dedicated street right-of-way.

Patio House. A single-family house built on a small lot enclosed by garden walls that provide privacy. Dwelling units themselves are detached but may be connected to other dwelling units by means of garden walls. Dwellings may be located with one or two sides on lot lines and in such cases the outside wall of the dwelling forms the privacy wall for the adjoining lot.

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

Permit, Building. Written permission issued for the construction, repair, alteration or addition to a structure.

Permitted Use. A use allowed within a zoning district as a matter of right (as opposed to a "special use")

Postal Store. A commercial establishment that specializes in the sale of postal and packaging items and mailing and parcel expressing services. Private mail boxes, rental service, photocopying and facsimile transmission (FAX) services may also be offered.

Premises. A parcel of real property with a separate and distinct number of designation shown on a recorded plat, record of survey, parcel map or subdivision map. When a lot is used together with one or more contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered a single premises for purposes of these regulations.

Principal Use. The primary or predominant use of any lot.

Private Residential Quarters. An accessory dwelling either attached or part of the principal residential use or separate from the principal use in the form of a guest house or garage apartment provided that such dwelling is not rented or occupied for gain and provided that no accessory building containing such use is constructed on a lot until the construction of the main building has commenced. All private residential quarters shall require a permit to be issued annually by the Zoning Administrator. The principal dwelling on the lot containing the private residential quarters shall be owner-occupied.

Produce Stand, Home. The sale of or agricultural or horticultural products at a free-standing retail stand structure that is located on the lot upon which these products are grown. Such lot shall contain a residential structure. A "home produce stand" shall be considered a "customary home occupation" and shall be governed by regulations contained in Section 5.1.

Public Safety Station. A facility operated by a public agency, a private contractor thereof, or by a private non-profit volunteer organization and used for the base of operations and/or housing of equipment or personnel for the provision of dispatched public safety services including law enforcement, fire protection, rescue services, and/or emergency medical services. Such a facility may contain living quarters for on-duty personnel. It may also contain up to four holding cells for the temporary custody of persons under arrest. Facilities for the maintenance of equipment housed at the operation site are also permitted.

Recycling Depository. A structure at which newspapers, aluminum cans, glass, corrugated paper or backyard waste (i.e., grass cuttings, tree limbs, etc.) are deposited for the purpose of being recycled. All such goods shall be housed at all times within the structure. The outdoor \ storage of all goods to be recycled shall be prohibited. Closed bins shall be deemed to be a structure for the purpose of this definition.

Recycling Sorting Facility. A facility at which recyclable goods (e.g., newspapers, aluminum cans, backyard waste, paper products, etc) are deposited and sorted for shipment. A limited amount of goods processing (e.g., glass crushing) may occur on-site. In no case, however, shall any manufacturing of usable goods take place on-site.

Rest Home (Home for the Aged and Infirm) - Facilities licensed to provide domiciliary care for more than six (6) elderly or disabled adults who do not need nursing care but are no longer able to remain in their own homes because they need assistance in meeting their day-to-day basic needs. Such facilities serving six (6) or fewer people are deemed family care homes.

Restaurant. A commercial establishment other than a drive-in or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building.

Restaurant, Drive-In. A building or portion thereof where food and/or beverage are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

Restaurant, Fast Food. An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises.

Satellite Dish. An apparatus capable of receiving a communications signal from a transmitter relay located in planetary orbit.

Service Station. Any building, land area or other premises, or portion thereof, primarily used or intended to be used for the retail dispensing or sales of fuels for vehicles and for any minor repair work conducted as an accessory use. Wrecker service shall be considered an accessory use provided that any inoperative vehicle towed to the service station by a wrecker vehicle is stored on premises either inside or outside the service station. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, or other work involving an excessive amount of noise, glare, fumes, or smoke.

Setback. A distance measured inward from a property line which remain unoccupied and unobstructed upward except as may be permitted elsewhere in this Ordinance.

Setback, Front. That portion of the front yard that shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this Ordinance.

Setback, Rear. That portion of the rear yard that shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this Ordinance.

Setback, Side. That portion of the side yard that shall remain unoccupied and unobstructed from the ground upward except as may be permitted in this Ordinance.

Shopping Center. Three (3) or more principal retail uses planned, developed and managed as a unit and related in location, size and type of shop to the needs of the trade area which is being serviced and with customer and employee parking provided on site and the provision of goods delivery separated from customer access. Shopping centers shall be construed to include all out parcels, whether or not developed, located within the shopping center. Shopping centers are divided into three classes - Class A, Class B, and Class C.

Shopping Center, Class A - A small neighborhood shopping center that does not exceed a total of 10,000 square feet in gross floor area.

Shopping Center, Class B - A community shopping center that has at least 10,000 but no more than 50,000 square feet of gross floor area.

Shopping Center, Class C - A shopping center that is designed to serve the entire community and has over 50,000 square feet of gross floor area.

Shrub. A woody bush-type plant that has branches that is at least two (2) feet tall above the highest root at the time of planting.

Sign. Any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letter, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

Sign, Abandoned. A sign which no longer identifies or advertises a bona fide business, leaser, service, owner, product, or activity, and/or for which no legal owner can be found.

Sign, Above Roof. A sign which is displayed above the roof line.

Sign, Advertising. A sign that directs attention to or communicates information about a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is displayed.

Sign, Animated. Any electronic message board/panel that displays a moving message, lights, symbol, or scene, or change of lighting to depict action or to create a special effort or scene. Animated signs may also be characterized by displays moving across, or within the message board or panel, or around the perimeter of the sign frame.

Sign, Attached. Any sign attached to, applied on, or supported by any part of a building (such as a wall, roof, window, overhang, canopy, awning, arcade or marquee) which encloses or covers usable space.

Sign, Campaign or Election. A sign, other than a billboard or off-premise advertising sign, that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Canopy or Awning. A sign attached to or painted or printed onto a canopy or awning. For the purposes of this Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be deemed a wall sign.

Sign, Changeable Copy. Any sign that is characterized by changeable characters or symbols without regard to the method of attachment. Electronic changeable copy signs (electronic message boards/panels) that display periodic static messages, symbols, or scenes.

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

Sign, Detached. A sign supported by one (1) or more upright poles, columns or braces permanently anchored or secured in or upon the ground surface and not attached to any building or structure; or any sign, whether it is on a trailer, wheels or otherwise, which is not permanently anchored or permanently attached to the ground or building.

Sign, Directional. A sign fronting on a road containing only the name of the principal use, directional arrow and mileage to the principal use. Such principal use shall not be visible to the motorist at the location at which the sign is placed.

Sign, Directory. A sign on which the names and locations of occupants or the use of a building or property is identified.

Sign, Double-faced. A sign with two (2) faces.

Sign, Electric. Any sign containing electric wiring. This does not include signs illuminated by an external source of light.

Sign, Flashing. A sign that uses an intermittent or flashing light source or windblown and/or mechanical moved reflective materials to attract attention.

Sign, Freestanding. Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, pole sign, or monument sign.

Sign, Government. Any temporary or permanent sign erected and maintained for any government purposes.

Sign, Ground Mounted. A sign which extends from the ground or which has a support which places the bottom thereof less than 2-1/2 feet from the ground directly beneath the sign.

Sign, Identification. A sign which displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.

Sign, Incidental. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.

Sign, Instructional. An on-premise sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

Sign, Kinetic. A wall-mounted computer-programmable lighting system that displays changing and moving colors.

Sign, Illegal. A sign which does not meet the requirements of this Chapter and which has not received nonconforming status.

Sign, Illuminated. A sign either internally or externally illuminated.

Sign, Integral. Names of buildings, dates of erection, monumental citations, tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the building.

Sign, Lighted. A sign illuminated only by light cast upon the sign from an external light source.

Sign, Luminous. A sign lighted by or exposed to artificial lighting either by lights on or in the sign.

Sign, Marquee. See definition for "Canopy or Awning Sign".

Sign, Memorial or Plaque. A sign commemorating the erection and/or dedication of a building including a name of building, date of erection, and other information such as architect, contractor, or others involved in a building's creation, cut into or attached to a building surface.

Sign, Monument. A monolithic sign in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.

Sign, Multi-unit. A freestanding sign which contains three (3) or more identification signs for a multi-occupancy premises, such as a shopping center.

Sign, Neon. Any sign with characters made of exposed neon tubing. This definition does not include illuminated signs whose interior source of light is made of neon tubing or signs that are back lighted with neon tubing.

Sign, Off-premise. A sign that directs attention to a business, commodity, service, establishment, or other activity conducted, sold, or offered at a location other than the premises on which the sign is erected.

Sign, On Premises. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

Sign, Nonconforming. Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this Ordinance, and which fails to conform to all applicable standards and restrictions of this Ordinance.

Sign, Pole. A detached sign erected and maintained on a freestanding frame, mast, or pole and not attached to any building but not including ground-mounted signs. The bottom of such signs shall be greater than two and one half (2-1/2) feet from the ground directly beneath the sign.

Sign, Political. A sign that advertises a candidate or issue to be voted upon a definite election day.

Sign, Portable. Any sign not permanently attached to the ground or other permanent structure, nor specifically constructed for such attachment; or a sign designed to be transported, including but not limited to the following: signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; gas or hot air filled balloons; umbrellas used for advertising. These type signs shall be classified as either Temporary or Special Purpose Signs.

Sign, Portable Changeable Copy. A non-lighted portable sign not exceeding thirty-two (32) square feet in area designed so that letters or numbers attached to the sign can be periodically changed to indicate a different message.

Sign, Primary. The main or principal sign located on a premises.

Sign, Projecting. Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.

Sign, Protective. A sign less than one hundred (100) square inches in area and with letters less than four (4) inches in height, which is commonly associated with safeguarding the permitted uses of the occupancy. Examples include "bad dog," "no trespassing," and "no solicitors."

Sign, Public Interest. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as "Warning" and "No Trespassing" signs.

Sign, Real Estate. A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Sign, Revolving. A sign which revolves three hundred sixty (360) degrees.

Sign, Roof. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Sign, Roof Sign, Integral. Any sign erected or constructed as an integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches. Chimneys or other similar features are not an integral part of a normal roof structure. An integral roof sign shall be considered to be a wall sign and shall be subject to the regulations pertaining to wall signage.

Sign, Sandwich board. A temporary "A"-frame or easel sign listing specials of the establishment.

Sign, Setback The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member whichever is nearest to the property line or right-of-way.

Sign, Portable sidewalk A temporary "A"-frame, "T"-frame, or easel sign listing specials of the establishment. Sign shall be displayed only during the business operating hours of the business/use being advertised. Such signs shall be sufficiently weighted so as to be stable in windy conditions.

Sign, Single Face. A sign, only one (1) side of which is visible.

Sign, Special Purpose. A temporary sign to announce sales, new products, openings or closeouts and other special events.

Sign, Subdivision or Neighbor Identification. A sign containing the name of the subdivision or neighborhood in which it is located.

Sign, Time and/or Temperature. A changeable copy sign containing numerals which may be alternately displayed to show time and/or temperature. It shall continuously show one message a minimum of three (3) seconds time before switching to the other message.

Sign Skirt. A sign skirt is a decorative covering of the post(s) or pole(s) which supports a freestanding sign. The area of a sign skirt which is less than fifty (50) percent of the allowable area of the freestanding sign to which the sign skirt is attached shall not be counted toward the sign area requirements of this Chapter. No advertising copy shall be permitted on a sign skirt.

Sign Support. Any pole, post, strut, cable or other structural fixture or framework necessary to hold and secure a sign.

Sign, Temporary. See definition for "Special Purpose Sign".

Sign, Vehicular. Signs on parked vehicles or trailers visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this Ordinance vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business or recreational purposes.

Sign, Wall. Any sign directly attached to an exterior wall of a building or dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Signs directly painted on walls shall be deemed wall signs.

Sign, Window. A sign in a building window intended to be seen primarily or entirely from outside the building.

Small Tree. A tree which, at the time of planting has a caliper of at least one and one-half (1-1/2) inches and a height of at least five (5) feet and of a species which at maturity, can be expected to reach a height of at least twenty (20) feet under normal growing conditions in the local climate.

Special Use. Any use authorized by a special use permit.

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.

Street. A right-of-way on which is constructed a road surface for vehicular traffic which affords the principal means of access to abutting properties.

Street Property Line. An area of land occupied or intended to be occupied by a public street, including areas offered for dedication to the public for such purpose, areas claimed by the City of Cherryville or the State of North Carolina for such purposes, or actually used for such purposes.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water, provided however, a surface parking area along with its appurtenant fixtures (curbs and gutters, parking and traffic regulation signs, storm drainage) shall not be deemed a structure.

Structure, Accessory. A building separate and subordinate to the principal building on the same lot as the principal building used for purposes customarily incidental to the principal building.

Structure, Principal. A structure in which is conducted by principal use on which it is located.

Taproom: A room that is ancillary to the production of beer at a microbrewery, brewpub, or large brewery, as distinguished from a bar, night club, or tavern, where the public can purchase and/or consume beer only produced on-site as approved by the NC Alcoholic Beverage Control System (ABC) and as allowed by current North Carolina law.

Tattoo Parlor/Body Piercing Establishment. An establishment whose principal business activity is: (1) Placing ink under the skin using needles that result in the coloration of the skin or, (2) for piercing of the body (other than for the ear).

Telecommunication Tower and Facilities. A structure or structures (including any accessory structures required to house transmitting or maintenance equipment) designed to support antennae used for transmitting or receiving communication transmissions. A “telecommunication tower” shall not be deemed to be an “amateur radio tower” or television broadcast station tower.

Town House. Attached dwellings on separate lots that share common walls at the side lot lines. Yards are small.

Twin House. Two dwelling units on separate lots joined by a common building wall along the property line.

Unobstructed Open Space. Land not covered by buildings or structures.

Village House. A single-family detached dwelling built on a small lot (typically smaller than the minimum lot size for the zoning district). Land saved by use of smaller lots is dedicated for common use. Houses may be placed close to the street to maximize rear yards. Shared driveways with separate parking areas may be utilized.

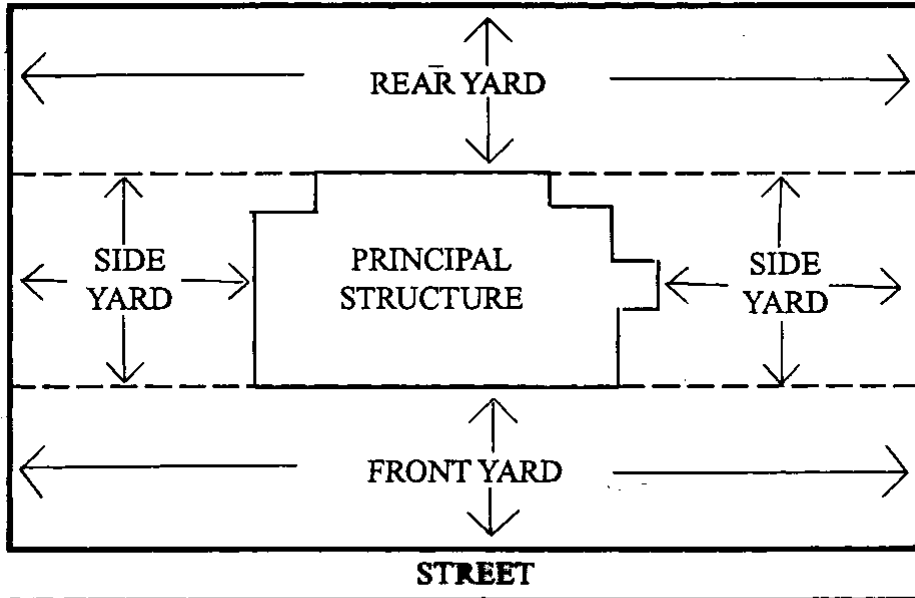
Wholesale Sales Establishment. A business where more than fifty (50) percent of its gross sales are for resale purposes as evidenced by sales tax reports submitted to the State of North Carolina Department of Revenue.

Yard, Front. An area measured between the edge of the public street right-of-way line, and the front of a building, projected to the side lot lines.

Yard, Rear. A yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto and passing through the point of the principal building nearest the rear lot line.

Yard, Side. A space extending from the front yard to the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

Illustration of Lot Yards:



Yard Sale (Garage Sale, Attic Sale, Rummage Sale). An occasional sale on a residential lot conducted by a household or a group of up to four (4) households, or by a nonprofit organization, at which surplus and primarily used household goods and/or clothing are sold. In a case where such sales are conducted on the same property more than twelve (12) days per year (or in the case of non profit organizations more than twelve (12) days per year) or, in cases when new or used merchandise, purchased for resale, are resold it shall be deemed a flea market and not a yard sale.

Zoning Administrator. The administrative official appointed by the City Manager of the City of Cherryville to administer the Zoning Ordinance, issue zoning permits and issue zoning citations.

PART 5

GENERAL PROVISIONS

Section 5.1 Customary Home Occupations

Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this Ordinance for the district in which such uses are located:

- 5.1.1 The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling. (The operator of the customary home occupation must reside on the same lot as where the customary home occupation takes place.)
- 5.1.2 No accessory buildings or outside storage shall be used in connection with the home occupation with the following exceptions:
 - a. Home produce stands are allowed as freestanding structures as permitted under this section.
 - b. Otherwise, customary home occupations may take place in fully enclosed accessory structures that are located in the rear yard only, provided such structure is located at least twenty-five (25) feet from any lot line and at least one-hundred (100) feet from any principal residential structure located on another lot. Said structure shall have a maximum area of five hundred (500) square feet and shall also be in conformance with all other accessory structure requirements contained in Section 5.11.
- 5.1.3 Use of the dwelling for the home occupation shall be limited to twenty-five percent (25%) of the area of the principal building.
- 5.1.4 Residents of the dwelling plus a maximum of one (1) non-resident may be engaged in a home occupation or otherwise report to work at the dwelling.
- 5.1.5 Except for products for sale associated with home produce stands, no display of products, goods or materials associated with the customary home occupation shall be visible from any adjoining lot or street (shall be permitted) and only articles made or reconditioned on the premises may be sold; except that nondurable articles incidental to a service conducted at the home occupation may be sold on the premises.
- 5.1.6 No external alterations inconsistent with the residential character of the principal building or accessory structure shall be permitted.

- 5.1.7** Only vehicles used primarily as passenger vehicles (i.e., automobiles, vans and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation. Provided however, the parking of tractors for freight trucking without the trailer shall be permitted.
- 5.1.8** No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way in the manner and in the amount provided for in Part 10 of this Ordinance.
- 5.1.9** Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling (or accessory structure) shall be prohibited.
- 5.1.10** Home occupations shall be conducted between the hours of 7:00 A.M. and 9:00 P.M. Non-resident workers may only be engaged during these hours and customers and deliveries relative to the business may also be only made during these hours.
- 5.1.11** All customary home occupations shall require the issuance of a certificate of compliance by the Zoning Administrator.
- 5.1.12** Tutoring or home instruction classes shall be limited to a maximum of ten (10) students at a time.
- 5.1.13** Signage requirements for home produce stands are found in Section 5.1.14. Otherwise, external signs associated with a customary home occupation are allowed in the R-0 district and all other non-residential zoning districts only. The following sign regulations shall apply:
- a. One (1) non-illuminated professional name plate, occupational sign, or business identification sign mounted flush to the dwelling unit and not more than two (2) square feet in area shall be allowed per customary home occupation.
 - b. In lieu of a flush mounted sign, a free-standing sign of up to two (2) square feet and not higher than five (5) feet may be erected in the front yard not closer to the street than a line located equidistant between the front of the principal dwelling and the street right-of-way. In no case shall a freestanding sign be located within a sight triangle.

5.1.14 Home produce stands shall be governed as follows:

- a. The stand structure shall not be placed in a road right-of-way. If a freestanding structure is used, it shall be no closer than ten (10) feet from any side lot line [or twenty feet, if the side lot line abuts a Residential (R) zoning district, except R-40].
- b. Screening shall not be illuminated for any freestanding structure.
- c. A freestanding produce stand structure may not be a permanent structure and shall be removed nightly. An unlit temporary sign, not greater than two (2) square feet, that advertises the produce sales may be placed on the property each day upon which sales take place.
- d. The maximum display area for the produce stand shall be two-hundred (200) square feet, except a maximum of four-hundred (400) square feet shall be allowed in the R-40 zoning district.

Section 5.2 Screening

The intent of these screening requirements shall be to create a screen between zoning districts and other zoning districts or to screen certain uses in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; and to establish a sense of privacy. Any screening required under this Section shall materially screen the subject use between the ground level and the height of the required screening from the view of the adjoining property.

5.2.1 Screening shall be required under the following situations:

- a. When a B-1, B-2, B-3 or GMC District abuts a Residential (R) District, screening shall be provided on the lot(s) which are located in the B-1, B-2, B-3 or GMC District at the time such lots are developed (except with a residential use) or when any existing and/or accessory structure on such lot is expanded. In no instance shall screening be required for any residential use located in a B-1, B-2, B-3, or GMC District except as herein provided.
- b. In an R-O District where a non-residential use adjoins a residential use, screening shall be provided on the non-residential use lot, except that screening shall not be required where the adjoining residential use is located in a B-1, B-2, B-3 or GMC District.
- c. All multi-family developments shall be screened from all other lots that lie in a Residential (R) District except that screening shall not be required around a multi-family development whose side and rear boundaries abut another multi-family development.

- d. Within any B-1, B-2, B-3 or GMC District, screening shall be required for the open storage of any non-retail goods or any unenclosed structure consisting of a roof, but no walls used for storage of materials, products, wastes or equipment, whenever such storage or structure is located within one-hundred (100) feet of the street right-of-way line. Screening shall be placed on the property so as to effectively screen such open storage or structure from the public view from any street right-of-way. The use of a fence or wall constructed pursuant to 5.2.2-b of this Ordinance shall be considered an acceptable method (as with planting) for screening outdoor storage.
- e. Other situations as specifically listed in the Zoning District Regulations (Part 7 of this Ordinance) or in the Special Use Regulations (Part 13 of this Ordinance).

5.2.2 Location of Screening

Any screening required by Subsection 5.2.1 shall be located along side and/or rear property lines of the lot(s) in question except that screening shall not be required along any street right-of-way unless otherwise stipulated in this Ordinance.

Wherever an industrial use is located on the opposite side of a street right-of-way from a (R) residential zone, screening shall be installed on the industrial use property along said street right-of-way.

5.2.3 Specifications for Screening

Screening may be in the form of natural plantings, berms or walls or fences. Screening shall be encouraged, however, in the form of natural plantings. Where sufficient room exists to place a screen consisting of natural plantings or maintain an existing screen of natural plantings, such natural plantings shall be used as the required form of screening. Otherwise, screening in the form of a berm, wall or fence may be used. The Zoning Administrator may approve a combination of natural planting, berm, wall or fence, if he determines that the spirit and intent of this section are met by such combination.

- a. Natural Plantings. Where natural plantings are used, a buffer strip of at least twenty (20) feet in width [ten (10) feet for a non-residential use in the R-O District] shall be planted. This strip shall be free of all encroachment by structures, parking areas or other impervious surfaces. The amount and type of buffer materials to be planted per one hundred (100) linear feet shall be as indicated in Figure 5.2.2. At least 75 percent of the Natural Plantings shall be evergreen species which are locally adapted to the area. See Figure 5.2.3 for acceptable plant species.

All materials planted shall be free from disease, installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy

growth, properly guyed or staked and planted in a manner which is not intrusive to utilities and/or pavement and planted in accordance with Section 5.2.6 of this Ordinance.

- b. Walls or Fences. Any wall shall be constructed in a durable fashion with a finish surface of brick, stone or other decorative masonry material approved by the Zoning Administrator. Fences shall be constructed of wood in a durable fashion and of durable, weather resistant wood fencing materials of consistent pattern, vinyl, or masonry or any combination of the above. No wall or fence shall be less than six (6) feet nor greater than eight (8) feet in height above grade. All walls and fences shall be constructed in accordance with Section 5.2.6 of this Ordinance. This shall exclude the use of Chain-Link Fences from being considered buffer material. (amend from June 2023)

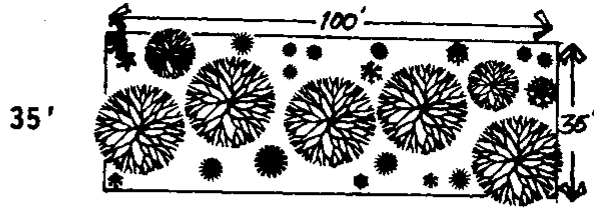
- c. Berms. All berms shall be grassed and/or planted with other plant materials. If grassed alone, the berm shall be no less than six (6) feet nor greater than nine (9) feet in height. If landscaped, the berm shall be at least three (3) feet in height and contain at least twenty (20) shrubs per one hundred (100) linear feet. Said shrubs shall be a species that can be expected to materially screen the development site within five (5) years of planting. No slope of a berm shall exceed a slope greater than one (1) foot of rise for every three (3) feet in plane.

FIGURE 5.2.2

REQUIRED BUFFER STRIP ALTERNATIVES (PER 100 LINEAR FEET) FOR NATURAL PLANTINGS

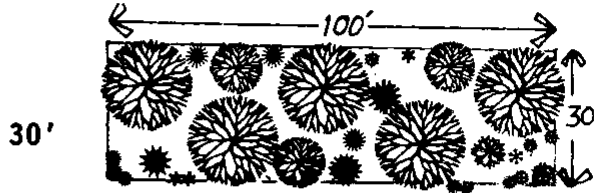
ALTERNATIVE

1. 5 LARGE TREES (L)
2 SMALL TREES (T)
19 SHRUBS (S)



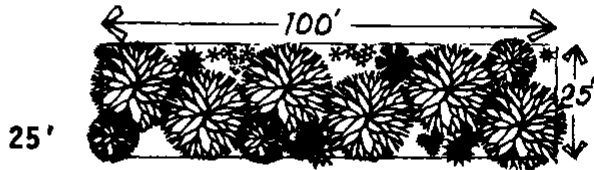
OR

2. 5 LARGE TREES (L)
3 SMALL TREES (T)
22 SHRUBS (S)



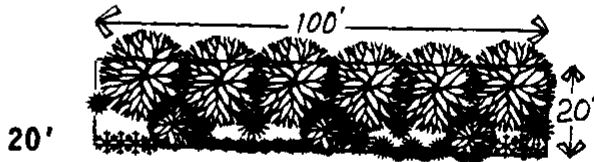
OR

3. 6 LARGE TREES (L)
3 SMALL TREES (T)
24 SHRUBS (S)



OR

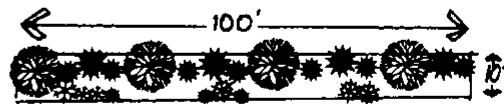
4. 6 LARGE TREES (L)
3 SMALL TREES (T)
28 SHRUBS (S)



OR

5. (FOR R-0 DISTRICT ONLY, AS)
SET FORTH IN 5.2.1-B)
4 SMALL TREES (T)
20 SHRUBS

10'



LEGEND

Large Tree



Small Tree



Shrubs



FIGURE 5.2.3

At least 75 percent of the Natural Plantings shall be evergreen species which are locally adapted to the area.

APPENDIX 1: LIST OF ACCEPTABLE PLANT SPECIES

TABLE INSET: Large Maturing Trees

Botanical Name	Common Name
Acer rubrum	Red maple
Acer saccharum	Sugar Maple
Amelanchier Canadensis	Serviceberry
Betula nigra	River birch
Carya illinoensis	Pecan
Carya ovata	Shagbark hickory
Carya glabra	Pignut hickory
Carya cordiformis	Bitternut hickory
Cedrus deodara	Deodar Cedar
Celtis occidentalis	Hackberry
Cupressocyparis leylandii	Leyland cypress
Diospyros virginiana	Persimmon
Fagus grandiflora	American beech
Fraxinus americana	White ash
Fraxinus pennsylvanica	Green ash
Ginkgo biloba	Ginkgo
Juniperus virginiana	Eastern red cedar
Liquidambar styraciflua	Sweetgum
Liriodendron tulipifera	Tulip poplar
Magnolia grandiflora	Southern magnolia
Nyssa sylvatica	Black gum
Pinus echinata	Short leaf pine
Pinus nigra	Austrian pine
Pinus thunbergi	Japanese black pine
Pinus taeda	Loblolly pine
Pinus virginiana	Virginia pine
Platanus acerifolia	London planetree

<i>Quercus acutissima</i>	Sawtooth oak
<i>Quercus alba</i>	White oak
<i>Quercus bicolor</i>	Swamp white oak
<i>Quercus coccinea</i>	Scarlet oak
<i>Quercus falcata</i>	Southern red oak
<i>Quercus laurifolia</i>	Laurel oak
<i>Quercus nigra</i>	Water oak
<i>Quercus phellos</i>	Willow oak
<i>Quercus borealis</i>	Northern red oak
<i>Quercus shumardi</i>	Shumard oak
<i>Quercus velutina</i>	Black oak
<i>Quercus virginiana</i>	Live oak
<i>Sophora japonica</i> regent	Japanese pagoda tree
<i>Taxodium distichum</i>	Bald cypress
<i>Tsuga Canadensis</i>	Eastern hemlock
<i>Ulmus parvifolio</i>	Lacebark elm
<i>Ulmus alata</i>	Winged elm
<i>Zelkova serrata</i>	Japanese zelkova

TABLE INSET: Small Maturing Trees

Botanical Name	Common Name
<i>Acer campestre</i>	Hedge maple
<i>Carpinus betulus</i>	European hornbeam
<i>Carpinus caroliniana</i>	American hornbeam
<i>Cornus florida</i>	Flowering dogwood
<i>Cornus kousa</i>	Kousa dogwood
<i>Cercis canadensis</i>	Eastern redbud
<i>Crataegus phaenopyrum</i>	Washington hawthorne
<i>Eleganus angustifolia</i>	Russian olive
<i>Eriobotrya japonica</i>	Loquat
<i>Halesia carolina</i>	Carolina silverbell
<i>Hammamelis mollis</i>	Chinese witch-hazel
<i>Ilex fosteri</i>	Foster holly
<i>Ilex opaca</i>	American holly
<i>Ilex opaca hume</i>	Hume holly

Ilex x attenuata savannah	Savannah holly
Koelreutaria paniculata	Golden rain-tree
Magnolia soulangeana	Saucer magnolia
Magnolia stellata	Star Magnolia
Malus floribunda	Flowering crabapple
Ostrya virginiana	Ironwood
Oxydendrum arboreum	Sourwood
Prunus cerasifera pissardii	Purpleleaf plum
Prunus serrulata kwanzan	Kwanzan cherry
Prunus subhirtella pendula	Weeping cherry
Prunus yedoensis	Yoshino cherry
Prunus caroliniana	Carolina cherry laurel
Pyrus calleryana Bradfordi	Bradford pear
Pyrus calleryana `Redspire`	Redspire pear
Pyrus calleryana `Capital`	Capital pear

TABLE INSET:

Shrubs

Botanical Name	Common Name
Abelia grandiflora	Glossy abelia
Aucuba japonica	Japanese aucuba
Azalea hybrida	Glenn dale azalea
Azalea indica	Indian azalea
Azalea obtusum Kaempferi	Kaempferi azalea
Bambusa multiplex	Hedge bamboo
Berberis julianae	Wintergreen barberry
Berberis thunbergii	Japanese barberry
Camellia japonica	Camellia
Camellia sasanqua	Sasanqua Camellia
Chaenomeles speciosa	Flowering quince
Cleyera japonica	Cleyera
Euonymus alatus	Winged euonymus
Euonymus japonicus	Evergreen euonymus
Eleagnus pungens	Eleagnus
Forsythia intermedia	Forsythia
Hammamelis virginiana	Witch-hazel

Hydrangea quercifolia	Oakleaf hydrangea
Ilex aquifolium	English holly
Ilex cornuta	Chinese holly
Ilex cornuta burfordi	Burford holly
Ilex cornuta burfordi nana	Dwarf burford holly
Ilex crenata `convexa`	Convex Japanese holly
Ilex crenata `hetzi`	Hetzi Japanese holly
Ilex crenata `rotundifolia`	Roundleaf Japanese holly
Ilex "Emily Brunner"	Emily brunner holly
Ilex glabra	Inkberry holly
Ilex latifolia	Lusterleaf holly
Ilex pernyi	Perny holly
Ilex vomitoria	Yaupon holly
Jumperus chinensis pfitzeriana	Pfitzer jumper
Jumperus chinensis hetzi	Hetzi jumper
Laurus nobilis	Laurel
Ligustrum japonicum	Japanese privet
Ligustrum lucidum	Glossy privet
Ligustrum vicaryi	Vicary golden privet
Loropetalum chinense	Loropetalum
Mahonia bealei	Leatherleaf mahonia
Myrica cerifera	Wax myrtle
Nandina domestica	Nandina
Osmanthus fortunei	Fortune tea olive
Osmanthus fragrans	Fragrant tea olive
Osmanthus heterophyllus	Holly osmanthus
Osmanthus heterophyllus rotundifolius	Curly leaf tea olive
Photinia glabra	Fraser photinia
Photinia serrulata	Chinese photinia
Pieris floribunda	Mountain andromeda
Pieris japonica	Japanese andromeda
Pittosporum tobira	Pittosporum
Prunus laurocerasus	English laurel
Podocarpus macrophyllus maki	Podocarpus
Prunus laurocerasus angustifolia	Narrow leafed English laurel
Pyracantha coccinea	Scarlet firethorn

Raphiolepis umbellata	Yeddo-hawthorn
Spirea cantoniensis	Reves spirea
Spirea thunbergi	Thunberg spirea
Spirea prunifolia plena	Bridalwreath spirea
Spirea vanhouttei	Vanhoutte spirea
Taxus cuspidata	Japanese yew
Viburnum rhytidophyllum	Leatherleaf viburnum
Viburnum tinus	Laurestinus viburnum

5.2.4 Relief to Screening Requirements

In the event that unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impossible to install and/or maintain the required screen, the Zoning Administrator may alter the requirements of this Ordinance provided the spirit and intent of the screening requirement as outlined in Section 5.2 of this Ordinance are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Zoning Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer will plant or construct to screen the proposed use. The Zoning Administrator shall have no authority to provide said relief unless the developer demonstrates that existing site features and any additional screening materials will screen the proposed use as effectively as the required screen.

5.2.5 Existing Screened Areas

In cases where an existing screened area exists, further plantings and or improvements shall not be required provided said screened area is of sufficient width and depth and contains adequate and sufficient materials to meet the requirements of this Ordinance. If the screened area is deficient, the developer shall make needed improvements and/or additions to satisfy the screening requirements and intent of this Ordinance.

5.2.6 Screen Construction and Installation Maintenance

The plantings, fences, walls or berms that constitute a required screen shall be properly installed and maintained in order for the screen to fulfill the purpose for which it is established. Walls, fences and berms shall be constructed in a durable and attractive fashion in accordance with any applicable codes and generally accepted construction and workmanship practices and meet all specifications herein. Plant species shall be recommended for healthy growth under local climate conditions, not highly prone to disease and be expected to grow in a

manner to meet the spirit and intent of this section. Plant materials shall be planted in accordance with generally accepted and recommended planting and growing practices.

The owner of the property and any tenant on the property where a screen is required shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy and growth from interfering with safe vehicular or pedestrian travel, or use of parking areas, or from creating any nuisances to adjoining property owners and to keep walls, fences, and berms in good repair and neat appearance. Any vegetation that constitutes part of a screen shall be replaced in the event that it dies. All screen materials shall be protected from damage by erosion, motor vehicles or pedestrians.

Section 5.3 Screening & Landscaping Required Prior to Issuance of Certificate of Compliance

After the effective date of this Ordinance, a Certificate of Zoning Compliance shall not be issued for any use located on a lot(s) upon which screening and/or landscaping is required, unless such screening and landscaping is provided on said lot(s) as hereby specified. Provided however, a temporary certificate of compliance may be issued on a one-time only basis to allow for the delaying of planting until the most appropriate planting season or due to the unavailability of required planting materials. Such temporary certificate of compliance can be for a period of up to 180 days. Prior to issuance of the temporary certificate of compliance, a bond shall be furnished to the City, with the amount of the bond being 1.5 times the cost of the plant material or other landscape improvements yet to be installed. Documentation supporting the costs contained in the bond from a landscape contractor, nursery, etc. shall be furnished to the City.

Section 5.4 Fences or Walls Permitted

Except as otherwise noted, fences or walls are permitted in the various districts subject to the following regulations:

5.4.1 In Residential (R) Districts:

- a. When fences or walls are installed in a required setback area (**required side, or rear yard**), the maximum height shall be six (6) feet, except when such fence or wall is installed pursuant to Section 5.2 of this Ordinance it shall not exceed eight (8) feet in height.
- b. No above ground electrical or barbed wire fences shall be allowed except in the R-40 district.

5.4.2 In B-1, B-2, B-3, and GMC Districts:

- a. Maximum height shall be twelve (12) feet except that no maximum shall apply to jails and prisons where said wall or fence is installed behind any required setbacks.
- b. No electrical fences except electrical livestock fences shall be permitted.
- c. No chain-link fence(s) of any kind shall be allowed in the front yard or lot in any B-1 (Central Business) District property, Except, Temporary chain-link fencing will be allowed under Emergency Circumstances to prevent death or serious injury from occurring when a building has been damaged. Any other type of fence in the B-1 District would need approval from the Zoning Administrator.
(text change adopted by council on 7.11.2016)

Section 5.5 Lot to Abut a Dedicated Street

No lots may be created after the effective date of this Ordinance which do not have at least thirty-five (35) feet of dedicated street right-of-way frontage except as follows:

- a. A lot not having thirty-five (35) feet of dedicated street right-of-way frontage may be created if located entirely within a planned shopping center or office park.
- b. A one-family residence may be constructed on a lot which existed at the effective date of this Ordinance which does not abut a dedicated street right-of-way provided the lot is given access to a dedicated street by an easement at least twelve (12) feet in width for the use of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for automobiles and service and emergency vehicles. This easement may not be extended to provide access to any other lots or to any other residence not having frontage on a dedicated street.
- c. Exceptions may be made in planned developments where such exceptions are in harmony with the purpose and intent of Part 11 of this Ordinance.

Section 5.6 One Principal Building or Use

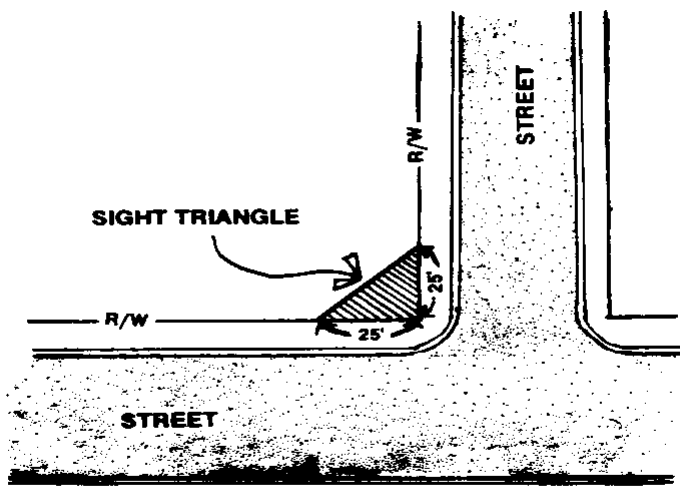
- 5.6.1** No more than one principal residential structure shall be located on a lot, except as part of a multi-family development or planned development in accordance with Part 11 of this Ordinance.
- 5.6.2** More than one principal structure devoted to a nonresidential use may be located on a lot provided that access is available from a public street to each building for use by service or emergency vehicles.
- 5.6.3** No more than one principal non-residential use per lot shall be allowed on a lot except as part of a shopping center, office building, planned unit development, etc.

This language shall not be construed to prohibit a residential use and an agricultural use from being located on the same lot.

Section 5.7 Visibility at Intersections

On a corner lot in any district (Other than the B-1 District) no planting, structure, sign, fence, wall or artificial obstruction to vision more than two and one-half (2-1/2) feet in height shall be placed or maintained within the triangular area formed by the intersection of front or rear lot lines and the side lot line and a straight line connecting points on said lot lines, each point being twenty-five (25) feet in distance from the point of intersection (See Figure 5.7). This prohibition may be waved by NCDOT on a case-by-case basis where it is determined that such waver would not impede motorist visibility or otherwise be detrimental to the public safety and welfare.

FIGURE 5.7



Section 5.8 Temporary Structures and Uses

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance and all other Ordinances of the City of Cherryville, shall be allowed. The following temporary structures and uses shall be permitted:

5.8.1 Construction trailers used in construction with construction projects shall not require special use or temporary use permits provided that the following conditions are met:

- (a) Such construction trailers shall be located upon a building site upon receipt of a valid building permit for the construction project.
- (b) Such construction trailers may remain upon a construction site as long as there is a valid building permit for the construction project.
- (c) All construction trailers shall be located off all street rights-of-way.

5.8.2 Certain uses of a temporary nature [i.e., less than 45 days in duration and held no more than three (3) times per year at any particular location] which would not otherwise be permitted in a particular zoning district may be issued a permit as herein provided. Upon completion and submittal of an application, the Zoning Administrator may grant a zoning permit for the following temporary uses:

- 1. Christmas tree sales
- 2. Revivals
- 3. Shows for civic and youth organizations (i.e., 4-H Shows)
- 4. Circuses, carnivals, fairs, and rodeos

The permit shall be valid for a specified period only, not to exceed forty-five (45) days in duration.

All other such temporary uses not otherwise listed may only be granted a zoning permit only after **(i)** an evidentiary hearing has been conducted by the City Council, and **(ii)** the City Council had made the following determinations:

- 1. The proposed use will not materially endanger the public, health, welfare and safety; and
- 2. The proposed use will not have a substantial negative effect on adjoining properties.

In approving such permit, the City Council may authorize conditions regarding duration of the use, hours of operation, signage, lighting, etc. and such conditions

shall be made part of the permit issued. Violations of such conditions shall be considered a violation of this Ordinance.

No temporary use authorized under Section 5.8.2 of this Ordinance shall involve the keeping or use of livestock within two hundred (200) feet of any residential structure.

- 5.8.3** In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his family may occupy a mobile home on the property. The permit granted by the Zoning Administrator, shall be for a six (6) month period and may be renewed once by the Zoning Administrator provided that construction has proceeded in a diligent manner.
- 5.8.4** Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted provided their external appearance is similar to that of the homes for sale within said subdivision. There shall be no external storage of building materials on the site containing the sales office. Such permits shall be issued by the Zoning Administrator for a period of one (1) year, and are renewable for a period of time not to exceed one (1) year provided the development is being actively marketed. At the completion of the sales in a tract, the temporary structure(s) shall be removed, and any permanent structure(s), temporarily used as a sales office, shall be used only for a purpose otherwise permitted in that district. Any such structure shall be placed on the lot so as to comply with all required off-street parking and yard setbacks.
- 5.8.5** In any Residential (R) District a temporary Special Use Permit (SUP) may be granted by the City Council for not more than one (1) manufactured home to be placed on a residential lot as an accessory use when conditions exists of the need to care for an immediate family member due to medical reasons. The SUP shall be granted only after the City Council has made all of the following findings:
- (1) That the manufactured home is an accessory use to a principal residential use;
 - (2) That the mobile home will be placed on the lot on a temporary basis;
 - (3) That there exists a medically related need for the proximate care of an immediate family member (this finding must be substantiated by a certificate of need from a medical doctor and other evidence the City Council may desire). [As used herein, proximate care shall mean the same level of care that would normally necessitate living in the same dwelling as the care provider or in a domiciliary care facility, such as care in the basic day-to-day living needs, (e.g., feeding, bathing, and other such functions)];

- (4) That the person(s) responsible for providing the care will live in either the principal dwelling or the manufactured home and that the person(s) needing the care shall live in the structure not occupied by the person(s) providing the care;
- (5) That there exists sufficient reason(s) justifying separate quarters and such reasons shall be limited to either contagious disease, serious illness, or lack of adequate space within the principal dwelling;
- (6) That the person(s) in need of care is an immediate family member of the person(s) to be responsible for providing the care; immediate family member shall mean parent, grandparent, child, brother, sister;
- (7) That the manufactured home will have adequate access to public water and sewer or a well and septic tank as verified by permits from the Gaston County Health Department;
- (8) That the mobile home will be placed in the rear yard and will be no closer than twenty (20) feet from any property line or, if it is not feasible to locate the mobile home in the rear yard, that the mobile home will be located in the non-required side yard behind the building line of the principal dwelling and no closer than twenty (20) feet from the principal dwelling; and
- (9) That the manufactured home meets all criteria for Class B manufactured homes as set forth in Part 4 of this Ordinance;
- (10) That the granting of the SUP will not materially endanger the public health, safety, and welfare.

The following additional requirements shall be applicable:

- a. The SUP shall be valid for one (1) year after issuance or for a shorter period as specified by the City Council, however, no such SUP shall be valid beyond thirty (30) days after any of the reason(s) justifying the SUP cease to exist.
- b. The SUP may be renewed prior to the expiration date with proper application to and approval by the City Council when the hardship warranting the original permit remains and is verified.
- c. Such permit is granted to a particular owner on the basis of circumstances peculiar to that owner and it shall not remain in effect in the event of a change of ownership of any land structure, use, or other item covered by the SUP.

- d. When granting the SUP, the City Council may impose reasonable conditions, restrictions, and safeguards as considered necessary to protect the public health, safety, and general welfare in accordance with the purpose and intent of this Ordinance. Violation of these conditions, restrictions, and safeguards shall be considered a violation of this Ordinance.

Section 5.9 Height Calculations and Exceptions

- 5.9.1** The maximum heights as indicated in the various districts may be exceeded for the following uses:

Roof structures not intended for human occupancy, such as skylights, satellite dishes, housing for elevators, stairways, water tanks, ventilating fans, air conditioning equipment or similar equipment, steeples, spires, belfries, cupolas or chimneys, and radio and television antennae (excluding amateur radio antennae), whether ground or roof-mounted may also exceed the prescribed height of the underlying zoning district in which they are placed. The height of telecommunication Towers and Facilities shall be governed per Section 5.23.

5.9.2 Setbacks for Structures with Height Exceptions

Any structure which exceeds the prescribed maximum building for the zoning district in which it is located on the lot so that no portion of the structure is located closer to any lot more than the difference between the actual height of the structure and the normally allowed maximum building height in that zoning district.

Section 5.10 Non-Residential Building Design Standards

5.10.1 Purpose

- a) These standards are intended to promote the development of property with buildings that positively contribute to increasing property values, respond to long term needs of changing users, prioritize connectivity and access for pedestrians, future transit opportunities, and vehicular requirements, and integrate with adjacent existing properties by maintaining context sensitive street frontages along the thoroughfares they border.

5.10.2 Applicability

- a) Requirements of this section shall apply to all new and/or expanding developments in the B-1, B-2, B-3, RO and GMC zoning districts, as well as any office and/or retail developments located in the Residential zoning districts. This section does not apply to warehouse or industrial buildings, and does not apply to detached, single family residential properties.

- b) Civic and Institutional buildings, such as schools, churches, and libraries, are signature community elements, and may be made exceptions to the requirements of the more regulated style of private development. However, appropriate designs for these types of structures is a crucial part of maintaining the image of the City; therefore, while civic and institutional buildings shall meet the following design regulations, exceptions may be provided administratively when the specific design circumstance is justified.

5.10.3 Architectural Standards

5.10.3.1 Materials and Color

- a) Building walls shall incorporate brick, stone, cast stone, formed concrete, stucco, concrete siding, EIFS, wood and wood materials designed and intended for use as an exterior finish material, or other long-lasting material over a minimum 75% of the surface area (excluding windows and doors). Exterior metal, aluminum siding, or vinyl siding shall be prohibited as a primary material.
- b) Building materials shall be similar to the materials already being used in the area, or if dissimilar materials are being proposed, other characteristics such as scale, proportion, form, detailing, color, and texture shall be used to ensure that the building relates to the rest of the neighborhood.
- c) Façade colors shall be of earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors as an accent material only, the use of fluorescent, dayglow, or neon colors shall be prohibited.

5.10.3.2 Configurations and Articulation

- a) The building façade shall have a clearly identifiable base, body, and cap with horizontal element separating these components. The component described as the body shall constitute a minimum of 50% of the total building height.
- b) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding forty (40) feet. All building walls shall include at least two of the following items:
 - i. Change in plane of at least twelve (12) inches in depth
 - ii. Change in texture or masonry pattern
 - iii. Windows
 - iv. Awnings and/or canopies, so long as they meet the following criteria;
 - 1. Must have a minimum of nine (9) feet clear height above the sidewalk and must have a minimum depth of three (3) feet.
 - 2. May extend into a required setback above private property; may extend into public right-of-way so long as it is no closer to 2 feet to the back of the curb of the street, nor shall it interfere with street trees, street lights, or street signs.
- c) All sides, including the rear of the building shall include materials and design characteristics consistent with those of the front. Use of inferior or lesser quality materials on side or rear walls is prohibited.

5.10.3.3 Transparency

- a) Façades of all commercial structures shall incorporate windows and doors over a minimum percentage of the surface area of street fronting facades. Minimum percentages are outlined below.
 - i. Ground level of commercial uses: 30% of surface area minimum
 - ii. Ground level buildings over 25,000 square feet: 20% of surface area minimum
 - iii. Upper Story Transparency: 20% of surface area minimum
- b) In cases where a building has more than two facades fronting a street or primary travelway, the transparency requirement shall only be required on two facades based on pedestrian traffic and vehicular visibility.

5.10.3.5 Roof Pitch and Form

- a) Rooflines should consist of one or more sloped planes. However, flat roofs are allowed so long as they are concealed from view by a parapet wall of a minimum height of three (3) feet along all elevations of the building.
- b) Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, architectural asphalt shingles, or similar, high-quality roofing materials as determined by the Administrator. Minimum roof pitch shall be 3/12.
- c) All rooftop mechanical and electrical equipment shall be completely screened from view from all public streets and adjacent properties.

5.10.3.6 Height

- a) Building height is specific to the zoning district as outlined in Part 7 of this Ordinance. Height Calculations and Exceptions can be found in Section 5.9 of this Ordinance.

5.10.4 Site Design Standards

5.10.4.1 Relationship of Building to the Street

- a) Building facades that front a street must extend parallel to the street. Main pedestrian access to the building shall be from the fronting street, with secondary access from the parking areas. Entrances to retail oriented buildings shall be at grade with fronting sidewalk. Corner buildings may have corner entrances.
- b) To the greatest extent practical, parking shall be placed to the side and/or rear of a building. In instances where this requirement is not practical, as determined by the Administrator, two rows of parking, not greater than 40% of the total amount of parking located on the parcel may be located between a commercial building and the street that is not located along. All additional off-street parking requirements can be found in Part 10 of this Ordinance.
- c) Drive-thru service windows shall be placed on the rear façade of the building. In no case shall a drive-thru window be located on the front façade. If a drive-thru window is to be located on a side of the building, it must be located on the least visible side from the fronting street.

- d) Loading and unloading areas shall be provided in accordance with Section 10.2 of this Ordinance. Loading/unloading areas shall be placed, to the greatest extent possible, to the rear of the structure and screened from view of any street or any residentially developed or residentially zoned property. In the event that a loading dock is necessary to support the proposed use, the loading dock shall be located to the rear of the structure and shall be screened from view of any street or any residentially developed or residentially zoned property.

5.10.4.2 Sidewalks

- a) A minimum of 8-foot-wide sidewalks are required with a minimum of 4 feet of landscaped buffer between sidewalk and edge of curb along Main Street. Bollards may be required at intersections to prevent unauthorized vehicles from accessing sidewalks. Subject to Administrators approval.
- b) A minimum of 6-foot-wide sidewalks are required with a minimum of 3 feet of landscaped buffer between sidewalk and edge of curb along all other routes. Subject to Administrator approval.

5.10.4.3 Solid Waste Storage Area

- a) Solid waste containers shall be confined to an enclosed area that is screened on all sides. Solid waste storage areas shall be located to the rear or side of the structure. These areas shall be designed to complement the structure and should be constructed from materials that match the building. Solid waste storage areas shall not be located in any applicable planting yard and shall be screened from any street and/or residentially developed or residentially zoned property.

5.10.4.4 Landscaping, Screening, and Mechanical Appurtenances

- a) Screening and landscaping shall be provided in accordance with Section 5.2 and 5.3 of this Ordinance. In addition to these requirements, landscaping shall be provided along the length of the first 15 feet of the front yard. Such landscaped area shall consist of any combination of trees, shrubs, grass, or other decorative or vegetative ground cover provided, however, that a minimum of 1 canopy tree per 40 feet OR 1 understory tree per 25 feet of linear road frontage be planted. Understory trees shall be utilized where overhead utilities exist to minimize conflicts.
- b) Mechanical equipment, utility meters, storage areas, transformers, generators, and similar features or other utility hardware on the building, roof, or ground shall be screened from public view with materials similar to the structure or they shall be located so that they are not visible from any public view or adjacent property. In addition to design elements, landscape materials shall be used to provide additional screening and/or softening of equipment areas.

5.10.4.5 Installation of Infrastructure

- a) If a development is requiring the installation of utilities, curb and gutter, sidewalk, bike paths, or greenways, the infrastructure shall be extended along the full length of the property. For instance, if curb and gutter is required along a street frontage, it will be provided along the entire length of the frontage. Greenways and bike lanes, where required based on the adopted plans, will be located along the entire frontage of the street, or along the full extent of the property, depending on the location of the infrastructure in relation to the site.

5.10.5 Alternative Designs

5.10.5.1 Conditional Zoning

- a) An applicant may request certain alternate designs to those that are required where such deviations may not meet the strict requirements of this Section 5.10, but clearly satisfy its purpose and intent. The City Council may, as part of a conditional zoning request, approve such alternative designs. Such approval must conform to the requirements of Section 19 of this Ordinance.

Section 5.11 Accessory Structures

5.11.1 Within any Residential (R) District, accessory structures shall be located as follows:

- a. Except as herein provided, no portion of any accessory structure (except for **(i)** water wells on any lot and **(ii)** garages used primarily to house automobiles) shall be located within any front yard.
- b. Water wells may be located in any front, side or rear yard.
- c. Automobile garages designed to accommodate no greater than three (3) automobiles may be located in any front yard other than in the required front setback. Any such garage shall also observe the minimum dwelling side yard requirement for the zoning district in which it is located projected to the front property line.
- d. Accessory structures are allowed in any side yard, although none are allowed in any side setback except as provided in Section 5.11.1(b) of this Ordinance.
- e. Accessory structures are allowed in any rear yard provided that no accessory structure (except as provided in Section 5.11.1(b) of this Ordinance) shall be allowed within five (5) feet of any lot line in the rear yard line.

- f. Accessory structures associated with an agricultural use are allowed in the front yard so long as the lot in question is greater than five (5) acres in area and so long as the accessory structure has a front yard setback of at least one-hundred (100) feet. In no case shall such structure be located closer than fifteen (15) feet from any adjacent lot line. Accessory structures associated with an agricultural use shall also be in compliance with Section 7.1.1(4).
- g. A principal structure shall generally be located on the same lot containing the accessory structure. An exception may be made for agricultural uses and when a property owner owns two (2) or more adjoining lots each located on the same side of the street and on the same street block. In such instance, an accessory structure may be located on an adjoining lot that does not contain a principal structure. Except as otherwise may be allowed, the accessory structure shall lie to the rear of the principal structure.
- h. An accessory structure (e.g., garage or carport) that is connected to the principal structure via a covered breezeway, for size and setback purposes, shall be considered part of the principal structure.

5.11.2 Within any B-1, B-2, B-3, or GMC District, accessory structures shall be located as follows:

- a. Except as herein provided, no accessory structure shall be located in any required front or side setback. A water well may be located in any front, side or rear yard.
- b. Accessory structures are allowed within the rear principal building setback area provided that no accessory structure (except as provided in Section 5.11.2(b) of this Ordinance) shall be allowed within ten (10) feet of a rear yard line or within twenty (20) feet in the case of any rear yard line which abuts a Residential (R) District. Provided however, security guard stations are permitted in any yard but not closer than eight (8) feet to any public street right-of-way.

5.11.3 On any lot containing a principal residential use, no accessory structure shall be permitted that involves or requires any construction features that are not primarily residential in nature or character.

5.11.4 On any lot containing a principal residential use, the aggregate floor area of all accessory structures (excluding barns, farm-related structures, swimming pools, tennis courts and satellite dish antennae) shall not exceed one-half (1/2) the heated ground floor area of the principal building (exclusive of decks and porches) nor exceed the height of the principal building, nor have more floors than the principal building. In no case, however, shall the accessory structure be greater

than two (2) stories in height. All such lots, however, shall be allowed to have an accessory garage of no greater than five hundred (500) square feet provided that said garage **(i)** meets all required setbacks and **(ii)** is designed primarily to house automobiles.

Section 5.12 Exceptions to Required Yard and Setback Measurements

On any structure, the outermost four (4) feet of any step, handicap ramp, gutter, eave, HVAC equipment, or canopy that is physically constructed on or connected to the structure shall be excluded from the setback requirements contained in this Ordinance.

An attached and uncovered ground level (i.e., no greater than four feet in height) slab may extend into a required rear yard but shall be no closer to a rear lot line than one-half (1/2) of the required rear yard setback. Said slab may not be covered or enclosed in the future or otherwise be converted into heated floor space unless the full rear yard requirements for the structure are met.

Section 5.13 Reduction of Lot and Yard Areas Prohibited

No required yard or lot area existing at the time of adoption of this Ordinance or any amendment subsequent thereto shall be reduced in size below the minimum requirements set forth herein, except as the result of street widening or other takeage for public use or conveyance in lieu thereof or if a variance for such is issued by the City Council.

Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance. This prohibition shall not be construed to prevent the acquisition or condemnation of land for public purposes.

Section 5.14 Use of Manufactured Homes and Similar Structures

A manufactured home may only be used as a principal residential structure, except when serving as a manufactured home sales lot office, or pursuant to a temporary permit issued in accordance with either 5.8.3, 5.8.4, or 5.8.5 of this Ordinance.

Section 5.15 Uses Not Expressly Permitted or Special

No building or structure, sign or land shall hereafter be used, erected or occupied and no building or structure shall be erected, expanded or moved except in conformity with the regulations of this Ordinance. This Ordinance specifies uses that are allowed in each zone.

Uses designated as "permitted uses" are allowed in a zone as a matter of right. Uses designated as "special uses" are allowed only after approval by the City Council pursuant to Part 13 of the Ordinance. Accordingly, a large number of uses

are listed as being permitted or special in the various zoning districts. Uses not specifically listed, but closely similar in nature and likely impact on surrounding properties, shall be treated as such similarly listed use, upon a determination being made by the Zoning Administrator.

Certain uses pre-dating the adoption of this Ordinance are allowed to remain as nonconforming uses in accordance with Part 8 of this Ordinance. Certain temporary uses may be allowed in accordance with Section 5.8 of this Ordinance

Section 5.16 Location of Required Yards on Irregular Lots

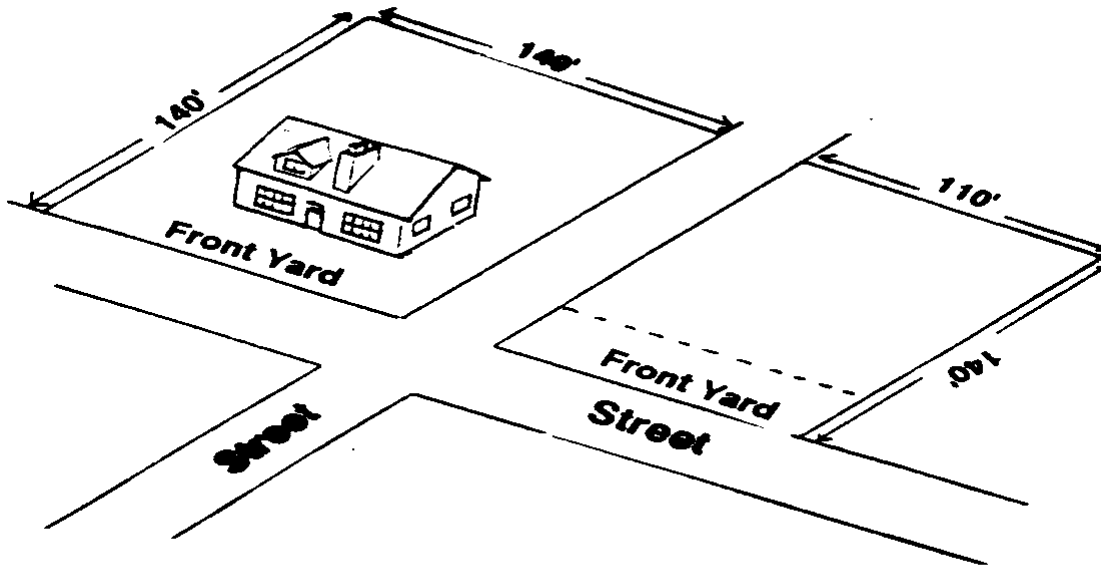
The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

5.16.1 Front Yards and Rear Yards on Corner Lots

On lots located on corners where each corner lot length exceeds two-hundred (200) feet, the property owner may use either lot length to compute the front yard. Otherwise, on all corner lots, the front yard shall be measured perpendicular from the street lot line having the shortest linear footage. If both street lot lines have equal linear footage and no principal structure is located on the lot, the property owner shall determine the location of the front yard. On lots having equal frontage and there is a principal structure located on such lot, the front yard shall be based on the architectural orientation of the house. Once the front yard is determined the rear yard shall be the yard opposite the front yard.

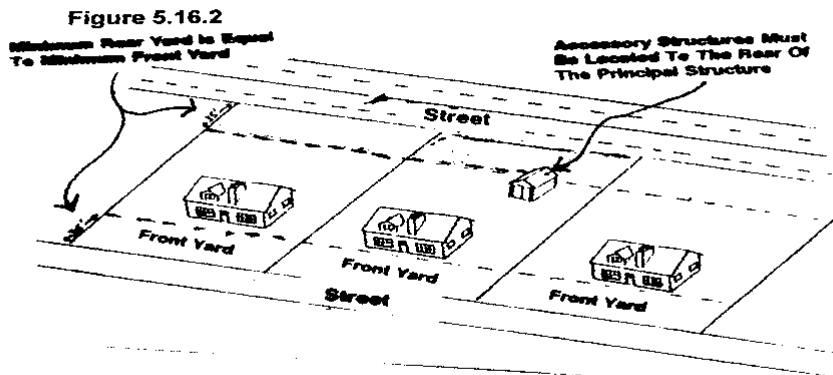
A graphic example of this is as follows:

Figure 5.16.1



5.16.2 Front Yards and Rear Yards on Through Lots

On through lots, the required front and rear yards shall each equal or exceed the greater of either the required front or rear yard setback which would normally be applied in that zoning district. For example, if a through lot were located in a zoning district which normally required a thirty-five (35) foot front setback and a twenty-five (25) foot rear setback, both front and rear setbacks would have to equal or exceed thirty-five (35) feet. For the purpose of placing accessory structures, however, the rear yard shall be deemed to be the yard opposite the street side yard that the architectural front of the building faces. For the purpose of placing a principal residence, the Zoning Administrator shall require the architectural front of the building to be oriented similar to residences on either side. A graphic example of this is as follows:



Section 5.17 Vibration

No established use in any district may be operated in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

Section 5.17A Outdoor Lighting

Outdoor lighting on non-residentially zoned lots shall be located so as not to project onto adjoining properties nor endanger motorists traveling on adjacent streets.

Section 5.18 Noise

Every use of land initiated enlarged or changed after the effective date of this Ordinance shall be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities. Every use in a B-1, B-2, B-3, or GMC District must be operated in such a way that any noise which may be detected by the human senses without instruments at the district boundary line separating that district from a Residential (R) District is no louder than the noise which could normally be expected from uses allowed in that Residential (R) District.

Section 5.19 Odor

Every use of land shall be operated in such a way that regularly recurring odors are not disturbing and do not cause injury, detriment or nuisance to any person of ordinary sensitivities. Every use in a B-1, B-2, B-3, or GMC District must be operated in such a way that any odor which may be detected at the district boundary line separating that district from a Residential (R) District is similar in character to odors which could be expected to be generated from uses allowed in that Residential (R) District. This provision shall not apply to any publicly operated wastewater treatment plant.

Section 5.20 Yard Requirements Not Applicable to Essential Services, Class 1

No yard requirements as set forth in Part 7 of this Ordinance are applicable to Essential Services, Class 1. There are no yard requirements for Essential Services, Class 1.

Section 5.21 Subdivision in Excess of Twenty (20) Lots

Any subdivision in excess of twenty (20) lots shall automatically be considered to be a special use subject to the approval of the Cherryville City Council in accordance with Part 13 of this Ordinance. This number shall be calculated on the aggregate number of lots contained in all phases of the subdivision.

Section 5.22 Adult Oriented Businesses

Adult oriented businesses (refer to their definition found in Section 4.2), because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods and residential and institutional uses. It has been demonstrated that the establishment of adult oriented businesses often creates problems for law enforcement agencies by the very nature of these businesses, and by the difficulty often experienced in trying to determine if the operations are of a legal nature. Special regulation of these establishments is necessary to insure that these adverse affects will not contribute to a de facto downgrading or blighting of surrounding neighborhoods and uses.

Any adult oriented business within the planning jurisdiction of the City of Cherryville shall be subject to the issuance of a special use permit by the Cherryville City Council. No special use permit shall be issued for any such use unless the City Council makes a positive determination on each of the findings of fact associated with a special use permit found in Section 13.4.2. In addition, any adult oriented business shall be in compliance with all the performance criteria pertaining to such establishments contained in Section 7.12.2(S).

Section 5.23 Telecommunication Towers and Facilities

- 5.23.1 In recognition of the Telecommunications Act of 1996, it is the intent of the City of Cherryville to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Cherryville. Wireless towers may be considered undesirable with other types of uses, most notably residential, special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.
- 5.23.2 Wireless telecommunication towers, (including cellular towers, digital towers, and PCS towers), are permitted uses by right in the GMC district pursuant to the regulations set forth in this section. Telecommunication towers require the issuance of a Special Use Permit in all other zoning districts pursuant to the regulation set forth in this section and subject to the requirements in Part 13.
- 5.23.3 All telecommunication towers shall be of a monopole design and construction. All monopole towers shall be designed to “telescope” or collapse inward unless documentation can be provided to prove that such design is not feasible.
- 5.23.4 It is the intent of the City to encourage providers to co-locate facilities in an effort to reduce the number of towers in Cherryville's planning jurisdiction. The City shall require providers to negotiate in good faith with other providers to lease space at a reasonable lease cost, and publicize the fact that space is available on a lease basis. Any newly erected tower (or tower that is raised in height) that is one-hundred (100) feet in height or greater must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers.
- 5.23.5 The City of Cherryville is concerned about the external appearance of towers. Any tower that has a height of greater than one-hundred (100) feet that is not co-located with another existing facility, shall be of a “stealth” appearance (i.e., housed in a structure or building such as a church steeple or bell towers or disguised to look like something else (i.e., flagpoles, pine trees, etc.) or shall be attached to an electric power transmission facility.
- 5.23.6 The maximum height of telecommunication towers shall be 199.9 feet. No variance to the height may be granted unless the applicant can prove that the maximum height will not allow for the provision of adequate service levels (i.e., cannot provide a reasonable level of service in the area.)
- 5.23.7 Where a telecommunication tower is located on a lot with an existing principal use, the tower shall be located in the rear yard only. In addition, an access road at least twelve (12) feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles.

- 5.23.8 The City of Cherryville, by federal law, cannot prohibit a telecommunication tower nor deny a Special Use permit on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The City requires that the provider must provide documentation proving that the proposed tower does comply with the Federal Radio Frequency Emission Standards.
- 5.23.9 Wherever feasible, all accessory structures on the ground which contain switching equipment or other related equipment must be designed to closely resemble the surrounding neighborhood's basic architecture, or the architecture and style of the principal use on the property.
- 5.23.10 Screening is required along all sides of the perimeter of the tower site in the form of a year-round opaque screen that meets or exceeds the standards contained in Section 5.2.3. In addition, a minimum eight-foot high fence shall be placed immediately around the base of the tower and any equipment buildings associated with the tower. It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property, and any tenant on the property where screening is required, shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. Any screening that is placed along the periphery of a new tower site shall be done in such manner so as to accommodate any future providers at that site.
- 5.23.11 Telecommunication towers can be denied on the basis of negative influence on property values or on aesthetic concerns provided that there is evidence to prove the impact on adjacent property owners will be significant. Elected officials must clearly state the reasoning and available evidence of the impact on adjacent property values if the request is denied on this basis.
- 5.23.12 A minimum setback requirement, on all sides of the property, or leased area of a parcel, shall be one and one-half (1.5) feet for every one (1) foot of actual tower height (i.e. a 180 foot tower would require a 270 foot setback on all sides), or the documented collapse zone, whichever is greater. For the purpose of establishing setbacks, the measurements shall be from the perimeter fencing which surrounds the equipment shelters, and tower base. No habitable structures shall be within the required setback area. Minimum setback requirements may be reduced by the Town, as part of the special use process, if warranted and if documented by the applicant that such reduction will not materially endanger the public's health, welfare, and safety.

- 5.23.13 Towers having a height of 199.9 feet or less shall not contain lights or light fixtures at a height exceeding fifteen (15) feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.
- 5.23.14 Towers and related facilities must be removed if abandoned (e.g., no longer used for its original intent) for a period greater than six (6) consecutive months. The cost of such removal shall be borne entirely by the telecommunication provider and/or the property owner. Failure to do so shall be deemed a violation of this ordinance.
- 5.23.15 A planned increase in tower height to an existing telecommunication tower shall require that the provider apply for a new special use permit. Co-location of a new provider that does not increase the height of the tower may be approved by the Zoning Administrator, without additional review by the Planning Board or City Council.
- 5.23.16 On-site freestanding signs associated with the tower shall generally be prohibited except for “warning”, “keep out” and signs containing similar non-commercial messages. One wall sign, for the purpose of identification, is allowed on any equipment shelter provided the area of said sign shall be as allowed for other non-residential type uses within the applicable zoning district.
- 5.23.17 The provider must show proof of adequate insurance coverage for any potential damage caused by or to the telecommunication tower prior to the issuance of a special use permit.
- 5.23.18 Outdoor storage of equipment or related items at the site shall not be allowed.
- 5.23.19 Outdoor storage of equipment or other related items is prohibited on a telecommunication tower site.
- 5.23.20 All applications for a Special Use permit for a telecommunication tower must include the following information in addition to any other applicable information contained in Section 13.3 of the Zoning Ordinance:
- a. Identification of intended provider(s)
 - b. Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user, if applicable.
 - c. A statement from the owner indicating intent to allow shared use of the tower and how others will be accommodated, if applicable.
 - d. Evidence that the property owners of property located in a residential (R) zoning district that lie within 300 feet of the site have been notified by the applicant of the proposed tower height and design.
 - e. Documentation that the telecommunications tower complies with the Federal Radio Frequency Emission Standards.
 - f. Documentation that a tower over 199.9 feet (if applicable) is necessary for

- a minimal level of service.
- g. The type of screening shall be shown on the site plan detailing the type, amount of plantings, and location.
- h. Documentation of collapse area, if applicable.
- i. A statement regarding possible interference, if any, with respect to radio and/or television reception.
- j. Documentation that the provider has explored all means for stealth tower locations and co-location opportunities shall accompany requests for new tower sites.

Section 5.24 Sales of merchandise generally

It shall be unlawful for any person to establish a location upon any public street, sidewalk, right-of-way, plaza, park or city-owned or leased property for any period of time, or use such property or any part thereof as a location for or as a place of business for selling or offering for sale products or merchandise of any kind, except as otherwise provided in this Code.

However, a business may display merchandise upon the public sidewalks immediately adjoining the front or primary entrance of such proprietor's permanent place or places of business within the City of Cherryville's Zoning jurisdiction. The sidewalk area so utilized shall not obstruct the free and reasonable use of the sidewalk in front of such establishment. An area of at least five (5) feet as measured from the curb of the street, the base of a street light pole, or City tree toward the establishment should be kept clear of merchandise so as to leave the sidewalk fully accessible to allow for pedestrian and handicap movement along such sidewalk.

(Adopted at a regular City Council meeting 6-05-06)

Section 5.25 Limitations on outdoor display and storage of merchandise

It is the intent of this ordinance to allow the limited display and storage of merchandise, but not where the display and/or storage of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The display and storage of merchandise shall meet the following conditions:

- (a) All outdoor display of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes or parking lots.
- (b) At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that pedestrians and handicap pedestrians do not have to enter the parking lot, loading zone or drive aisle or walk around the display and storage area.

(Adopted at a regular City Council meeting 6-05-06)

Section 5.26 Food Trucks

5.26.1 Permitting and Regulation

Food trucks, as defined herein, shall be allowed to operate within the Business Districts (B-1, B-2, B-3) of the City of Cherryville, but only pursuant to a permit to operate issued by the City, and only in such location(s) and at such time(s) as is/are consistent with the following:

(A) Permits, fees, and approvals.

(1) The food truck shall be subject to any and all permit and/or inspection requirements imposed by the Gaston County Health Department, the State of North Carolina and its Division of Health Services, and/or the County Health Department, if other than Gaston County, in which the food truck’s associated commissary restaurant is located.

(2) Food truck operators must apply for and receive either a yearly-renewable, or single-event, permit to operate from the City of Cherryville’s Planning Department. The city shall limit the issuance of such yearly permits outstanding to no greater than six (6), at any one time; single-event permits, when issued to food trucks not holding yearly permits, shall be limited to no greater than four for any single event. Permits will be issued on a first-come/first-served basis.

(3) The city shall require applicants for food truck permits to submit a standardized application form, signed by the food truck owner and evidencing unexpired possession of required health department permit(s) and liability insurance coverage, along with the following permit fees:

Yearly Permit	\$400.00
Single-Event Permit	\$25.00

(B) Location. When issued by the city, food truck leases shall designate the specific area that the food truck is allowed to occupy within the parking spaces described herein. Spaces are available on a first-come/first-served basis. During special events sponsored and sanctioned by the city, food truck permit-holders may be asked to occupy alternate public locations as determined and directed by the Chief of Police or their designee.

(C) Days and hours of operation.

(1) Food trucks holding a single-event permit may operate only on the day of the event (parade, festival, etc.) and only during the actual hours of the event, as well as one hour preceding the event, and one hour following the event. Single-event permit holders may operate between the hours of 7:00 a.m. and 10:00 p.m. the day of the event.

(2) For yearly permit holders, days and hours of operation shall be limited to Mondays through Saturdays, between the hours of 7:00 a.m. and 10:00 p.m.

(D) **Operational standards and clean-up.**

- (1) The noise level produced from the food truck, motor, generator, or any other on-site activity must comply with the city noise ordinance (Section 5.18).
- (2) A trash receptacle shall be provided for customers. The food truck operator shall be responsible for daily clean-up and proper site disposal of all trash and litter produced. Grease and liquid waste shall not be disposed of in any lawn areas, tree pits, storm drains, sanitary sewers, or on public streets or parking areas.
- (3) No signage shall be allowed other than that which is either painted on or permanently affixed to the food truck, and a single sandwich-board style portable menu no more than six (6) square feet in display area which is to be placed on the ground in the customer waiting area.
- (4) Customers shall not be allowed to line-up, park, or act in a manner which causes a traffic hazard or a threat to safety of the motoring public or to other customers or non-customer pedestrians. The food truck may not be operated as a drive-up window, and all food vending must be to the curb-side of the parking space(s) designated, not to the street-side.
- (5) If the food truck is to be operated after dark, the operator shall propose, and the City Manager, or their designee, shall approve, an appropriate lighting plan which shall become a condition of the permit. Any such lighting plan shall not allow any source of illumination to be directly visible from any residential district and shall be properly shielded so as to minimize light spill-over to adjacent properties.
- (6) All utilities utilized by the food truck are to be provided by the permit holder. Temporary connections to either potable water or sanitary sewer are prohibited

(E) **Taxation.** Food truck permit-holders shall comply with all local, county, and state retail sales tax regulations, including prepared food and beverage tax regulations.

(F) **Insurance and Liability.** Food truck yearly permit-holders shall, at all times during the effective date(s) of their permit, maintain general liability insurance coverage on their operations and facilities and name the City of Cherryville as additionally insured, in a minimum \$500,000.

(G) **Exemptions.**

- (1) For locations on private residential property, a no-cost permit is required along with written proof of property owner(s) consent, if not invited by the City.
 - (i) A property owner may sponsor a food truck to cater a private event on private property.

- (ii) A property and/or homeowners association may sponsor a food truck on common area property such as a clubhouse, pool facility, and/or park owned by the association.

(H) Food trucks permits may be revoked upon findings by the City Council of either or both of the following:

- (1) Vendors become a nuisance by increasing frequencies at locations all over the community, both supported and unsupported.
- (2) Vendors become itinerant merchant and poach activity to a point of generating complaints from brick and mortar businesses.

PART 6

ZONING DISTRICTS

Section 6.1 Introduction

In order to achieve the purpose of this Ordinance, the following districts, based on the concepts and proposals of the City of Cherryville Land Use Plan and other plans and policies are hereby established. In addition to the primary uses which are permitted by right or through the issuance of a special use permit, other uses including accessory uses, off-street parking and signs are permitted as listed in this Ordinance. The districts are divided into three different categories: **(1)** General Zoning Districts, **(2)** Overlay Districts and **(3)** Conditional Zoning Districts.

Section 6.2 General Zoning Districts

General Zoning Districts are designated throughout the zoning jurisdiction and include numerous uses which are allowed by right subject to those uses meeting yard, height, parking, screening, etc. regulations. In addition, each zone allows for special uses that may be developed once a special use permit has been issued by the City Council. The following general zoning districts are hereby established.

6.2.1 **R-40 Rural Residential District**

This district is intended to accommodate low-density residential and agricultural uses in fringe areas of the zoning jurisdiction which generally are non-intensely developed. This district is established to accommodate low density development where public utilities are non-existent or partially existent, and to accommodate greater densities where services are present, therefore, density levels are variable to the existence of such facilities. The continuance of agricultural operations is encouraged within this district. Under certain circumstances certain special uses may be allowed depending upon facilities to support such uses, compatibility with existing and proposed surrounding development, and other criteria set forth in this Ordinance.

6.2.2 **R-15 Single-Family Residential District**

This district is established to provide areas consisting primarily of larger-lot single-family residences located in both urban and suburban settings where public water and sewer are either present or readily available. Permitted residential uses consist solely of single-family residences and the minimum lot size shall be 15,000 square feet. In addition to single-family residences, a limited number of private and public community uses are allowed, on either a permitted by right basis or on a special use basis where certain criteria specified in this Ordinance are met.

Certain single family detached planned residential developments are allowed on a special basis.

6.2.3 R-12 Residential District

This district is established to provide primarily for single-family residences. The minimum lot size for single-family dwellings on a use by right basis is established at 12,000 square feet. Unlike the R-15 district, public water and sewer are available in all R-12 zoned areas. Two-family dwellings are also permitted. Certain public and private community facilities are also allowed or may be allowed on a special basis. Certain cluster type residential planned developments may be allowed on a special basis.

6.2.4 R-9 Residential District

This district is established to accommodate single-family dwellings on 9,000 minimum square foot lots and two-family dwellings on 12,000 minimum square foot lots and to allow under certain conditions, and after review and approval by the City Council, a variety of residential dwelling unit arrangements in Planned Residential Developments. R-9 districts are located in older, established areas of the City where mixtures of single and two-family dwellings can be accommodated.

Like the R-12 District, public water and sewer service is present in all R-9 areas. Review by the Planning Board, and review and approval by the City Council for the residential uses and arrangements, other than those specifically permitted by right, is established to ensure that developments are well-planned and, where applicable, compatible with adjoining single-family residences and neighborhoods.

A limited number of private and public community uses are allowed or may be allowed on a special use basis where certain criteria specified in this Ordinance are met. Accessory residences are also allowed on a special basis.

6.2.5 Reserved

6.2.6 RMF Residential Multi-Family District

This district is intended primarily as a residential district for the location of detached single-family dwellings, two-family dwellings and multi-family dwellings along with their customary accessory uses so as to establish areas where development patterns are somewhat denser than surrounding areas. In order to ensure that developments are well planned and compatible with adjoining residential areas multi-family projects with a density greater than six (6) units per acre shall be a special use subject to review procedures set forth in Part 13 of this Ordinance. A limited number of private and public community uses are allowed or may be allowed on a special use basis whereby certain criteria specified in this Ordinance are met.

6.2.7 RO Residential Office District

This district allows for one, two, and multi-family residential uses and certain commercial, office and institutional uses which would create an area convenient for both residential and employment purposes. In certain areas this district is also established to provide a transition between purely residential areas and primarily commercial areas. In order to enhance the district's residential character, the R-O District for purposes of this Ordinance will be considered a "Residential" District. Such a classification does require screening from all new uses in adjacent commercial and industrial districts. Small offices, certain community facilities and one and two-family residences are permitted by right. Larger offices, multi-family dwellings, other community facilities, and certain businesses are allowed only on a special use basis. Planned residential developments are a special use allowed on the same basis as in the R-9 District.

6.2.8 B-1 Central Business District

The purpose of this district is to permit concentrated development of a wide variety of retail establishments, personal services and professional and non-professional offices. In addition, certain industrial and residential uses may be developed with City Council approval. In light of the concentrated amount of development normally found in a "downtown" area, yard regulations are minimal. Given the lack of space for off-street parking, this requirement has also been eliminated. In order to limit visual clutter, the outdoor storage of goods is prohibited.

6.2.9 B-2 Neighborhood Business District

This district is designed primarily for local business centers for retailing of merchandise such as groceries, drugs, and household items and for furnishing certain personal, business and professional services. Unlike some of the other commercial zones, this district is established to serve local neighborhoods and other relatively small trading areas. The standards established for these business areas are designed to promote sound, permanent business development and also to protect abutting or surrounding residential areas from undesirable aspects of nearby business development. These districts are located at accessible places with respect to traffic circulation in order to conveniently serve the trading population and to promote the grouping of several places of business at locations so designated. Since this district is established to provide for small neighborhood oriented businesses, limitations on gross floor areas are established for certain uses. Neighborhood business district is typically a relatively small are but shall consist of at least two (2) lots in separate ownership or at least two (2) acres regardless of ownership. Unlike the B-1 District, off-street parking, landscaping, and yard requirements are established for the B-2 District. However, outdoor storage of all goods is prohibited.

6.2.10 B-3 General Business

The purpose of this district is to provide an array of retail, wholesale and service uses to serve the entire community and with access to such uses being primarily by automobile. The districts are located along major arterial and collector streets and adjacent to the central business district in order to have a minimal effect on residential neighborhoods.

6.2.11 Reserved

6.2.12 GMC General Manufacturing and Commercial

This district is designed primarily for general commercial and industrial land uses, including manufacturing, processing and assembling of parts and products, distribution of products at wholesale, retail, transportation terminals and a broad variety of specialized commercial and industrial operations. Many types of such operations are permitted by right, however, certain types of manufacturing and commercial operations will be allowed only upon issuance of a special use permit after review by the City Council and the City Council having made certain findings and having determined any required conditions as set forth in Part 13.

Section 6.3 Overlay Districts

Overlay Districts are established to provide for certain additional requirements and/or uses for properties located in one or more general zoning districts. Thus, in addition to the requirements of the underlying general zoning district, the provisions of the Overlay District would also prevail in the areas so zoned. The initial zoning of areas to an Overlay District and/or any subsequent rezonings may be initiated by an individual, Planning Board or City Council. A zoning map change either establishing or changing any Overlay District shall be subject to the same procedures and requirements as any other zoning map change.

6.3.1 MHO Manufactured Home Overlay

The purpose of this district is to provide areas in which Class A manufactured homes can be located on individual lots. In order that such homes, when placed on the lot, are compatible with single-family residences, the MH District does provide certain size, construction and aesthetic standards for manufactured homes by allowing only Class A manufactured homes. The MH Overlay District may only be located in areas that contain a Residential (R) underlying general zoning district. Such overlay areas may not consist of an individual lot or scattered lots, but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes. The intent of this approach is to allow manufactured homes in parts of a zoning district where they would not otherwise be allowed, subject to appropriate conditions. In determining such areas, the City Council will give close consideration to whether manufactured homes would be compatible with surrounding land uses.

6.3.2 WSW Water Supply Watershed Overlay (RESERVED)

Section 6.4 Conditional Zoning Districts

Conditional Zoning Districts are established to consider situations where a particular use may be acceptable on a piece of property but the other uses permitted in a General Zoning District would not be acceptable. In such instances, the City Council may elect to rezone the lot(s) in question to a conditional zoning district. Such rezonings may be made contingent upon the property owner meeting fair and reasonable conditions which assure the compatibility of the use with surrounding properties and promote the general welfare of the community. Zoning to a CZ District shall be a voluntary procedure on the part of the property owner or his agent and is intended for firm development proposals. It is not intended for securing early zoning for tentative proposals.

The following CZ Districts are hereby established:

- | | | | |
|----|------|----|-----|
| CZ | R-40 | CZ | B-1 |
| CZ | R-15 | CZ | B-2 |
| CZ | R-12 | CZ | B-3 |
| CZ | R-9 | CZ | GMC |
| CZ | RMF | | |
| CZ | RO | | |

Section 6.5 Cluster Development.

There are circumstances where a better community can be achieved by concentrating development on portions of the site most suitable for development; leaving undeveloped land which can be left in its natural state or developed into open space amenities to serve the community. Such development patterns typically require less street and utilities per unit than conventional development; thus saving both initial costs and long term maintenance costs. To facilitate such a more sustainable development pattern, cluster development is allowed as a conditional use in accordance with the following requirements.

Section 6.5.1 Basic Requirements: Cluster development shall meet all of the following criteria:

- a. Minimum Acreage: The minimum area of a cluster development shall be 10 acres.
- b. Conditional Use: Cluster development requires a conditional use permit. As part of the conditional use approval, a schematic master plan shall be provided which shall show the intended layout, density, and the arrangement of roads, lots, and open space. Minimum proposed open space improvements shall be indicated on the master plan.
- c. Dimensional requirements: All cluster developments shall meet the City of Cherryville Subdivision Regulations, but are exempt from the subdivision ordinance and the zoning ordinance requirements relating to layout, minimum lot size, property line setbacks and street frontage. Minimum lot requirements are:

MINIMUM SINGLE FAMILY LOT REQUIRMENTS

Zoning	Area	Width	Front Setback	Side yard	Rear yard	Open Space
R-40	20,000	70'	25'	8'	30'	50%
R-15	10,000	70'	25'	6'	25'	33%
R-12	8,000	60'	25'	5'	25'	33%
R-9	6,000	50'	20'	5'	25'	33%

MINIMUM TWO FAMILY LOT REQUIRMENTS

Zoning	Area	Width	Front Setback	Side yard	Rear yard	Open Space
R-12	12,000	70'	25'	6'	25'	33%
R-9	9,000	60'	25'	6'	25'	33%

d. Additional requirements:

- 1) Public sewer and water are required.
- 2) Minimum rear yards along exterior boundaries of development shall be increased by 10'.
- 3) Street trees shall be required on each side of the street at a minimum average spacing of 50' on center.
- 4) Minimum 4' wide sidewalks shall be required. Cul-de-sacs require sidewalk on one side only.

6.5.2 Dedication and Maintenance of Common Open Spaces

- a. **Covenant Restrictions:** The common open space land shall be jointly owned in common by the owners of the dwelling units/lots in the development. Covenants for mandatory memberships in an association, setting forth the owner's rights and interests, shall be included in the deed for each lot.
- b. **Use of Common Open Space:** The common open space shall be permanently restricted to recreation, conservation or agricultural purposes. Structures accessory to non-commercial recreational, conservation or agricultural uses may be erected on the common open space. Utilities serving the development and measures intended to enhance water quality may be on common open space.
- c. **Restrictions on Common Open Spaces:** Common open spaces shall be shown on the final record plat with notation that indicates that:
 - 1) Common open space shall not be used for additional residential units.
 - 2) A part or all of the common open spaces may be dedicated for acceptance by the City for operation as a municipal recreation facility.
- c. **Developer Responsibility for Common Open Space Maintenance:** The developer or sub-divider shall maintain control of such open space(s) and shall be responsible for their maintenance until at least 50% but not more than 85% of the lots/units are sold.

- e. Phased Dedication of Common Open Space: The minimum percent of common open space recorded on each record plat shall be such that the total percent of open space dedicated at any one time is approximately equal to the percent of total lots recorded.

Adopted this 13 day of September 2021

PART 7

ZONING DISTRICT REGULATIONS

Section 7.1 R-40 Rural Residential District

7.1.1 Permitted Uses:

1. Single-family dwellings [provided that any residential subdivision in excess of twenty (20) lots shall be subject to the issuance of a special use permit. This computation shall be based on the aggregate number of lots in all phases of the subdivision.
2. Two-family dwellings.
3. Manufactured homes, Class A.
4. Agricultural uses, provided that structures housing poultry or livestock and waste removed from any such structure shall be located no closer than one-hundred (100) feet from any lot line and two-hundred (200) feet from any principal residential structure on another lot.
5. Family care homes for up to six (6) clients.
6. Day care centers, small group.
7. Customary home occupations in accordance with Section 5.1 of this Ordinance.
8. Essential Services, Class 1.
9. Churches with a maximum seating capacity of not greater than four hundred (400) seats. Customary accessory uses shall also be permitted. Church owned and maintained cemeteries as an accessory use are permitted. (also see "special uses" below for additional information on churches.)

10. Publicly owned and operated outdoor recreation facilities which are one (1) acre or less in area. No such facility shall contain a swimming pool or indoor community center or meeting facility or stadium.
11. Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof.
12. Public and private elementary and secondary schools. Stadiums associated with any school shall be a special use.
13. Stands for the in-season sale of produce out of a home garden located on the premises where the produce is being sold.
14. Accessory structures in accordance with Section 5.11 of this Ordinance.
15. Signs in accordance with Part 9 of this Ordinance.
16. Off-street parking in accordance with Part 10 of this Ordinance.
17. Private residential quarters.
18. Rest homes, nursing care facilities, and continuing care communities.
19. Amateur Radio Towers, twenty (20) feet in height or less

7.1.2 Special Uses:

The following uses may be permitted after a special use permit has been issued by the City Council in accordance with Part 13 of this Ordinance.

1. Cemeteries as a principal use. (Setback applies to both buildings and graves).
2. Customary Home Occupations which meet all the criteria as set forth in Section 5.1 of this Ordinance except 5.1.2 of said section, provided however, if an accessory or outside storage building is used in connection with a home occupation it shall not exceed 800 square feet in floor area and not more than one (1) such building shall be devoted to the home occupation and said building shall be located in the rear yard not less than fifty (50) feet from any property line.
3. Auto hobbyist.
4. Churches having a seating capacity in excess of four hundred (400) seats. Day care centers or schools located within any church.

5. Country clubs and privately-owned outdoor recreation facilities provided that go-cart tracks and outdoor vehicular racing facilities shall not be permitted.
6. Publicly owned and operated outdoor recreation facilities in excess of one (1) acre in area and/or containing a swimming pool, indoor community center or meeting facility, or stadium.
7. Bed and breakfast inns.
8. Public safety stations.
9. Essential Services, Class 2 and Class 3.
10. Planned Residential Developments in accordance with this Ordinance when public or community water and public or community sewer will be provided to the development and provided the gross density of the development does not exceed six (6) dwelling units per acre.
11. Planned Unit Developments (Mixed Use) in accordance with this Ordinance and provided the uses within the development are otherwise listed as permitted or special uses allowed in the R-25 District.
12. Manufactured Home Parks in accordance with Part 12 of this Ordinance.
13. Amateur Radio Towers, in excess of twenty (20) feet in height.
14. Campgrounds
15. Telecommunication Towers and Facilities
16. Any residential subdivision containing twenty (20) or more lots. This computation shall be based on the aggregate number of lots in all phases of the subdivision.
17. Recreational Vehicle Park

7.1.3 Yard Regulations:

1. Minimum Lot Size
 - a. Single-family dwellings and Class A Manufactured Homes- forty-thousand (40,000) square feet
 - b. Two-family dwellings- forty-thousand (40,000) square feet

- c. Churches - two (2) acres
 - d. Schools - five (5) acres
 - e. Bed and breakfast inn - one (1) acre
 - f. Essential Services - none
 - g. Manufactured home parks - three (3) acres
 - h. Planned residential development - five (5) acres
 - i. Cemeteries as a principle use - three (3) acres
 - j. Rest homes - one (1) acre
 - K. Nursing care facilities - sixty thousand (60,000) square feet
 - l. Continuing care communities - five (5) acres
 - m. Country clubs - five (5) acres
 - n. Campgrounds- twenty (20) acres
 - o. Amateur Radio Towers- none
 - p. All other principal uses – forty- thousand (40,000) square feet
2. Minimum Front Yard Setback (As measured from the edge of the street right-of-way line)
- a. Amateur Radio Towers, greater than twenty (20) feet in height- Minimum front yard setback one hundred (100) feet.
 - e. Agricultural Uses, forty (40) feet except as prescribed in Section 7.1.1 (4) and as also allowed in Section 5.11.1(f).
 - f. All other uses - forty (40) feet
3. Minimum Side Yard Setback (An additional ten (10) feet shall be provided on all side yards which abut a public street)
- a. Single-family and two-family dwellings and manufactured homes, Class A - fifteen (15) feet
 - b. Schools - forty (40) feet

- c. Manufactured home park - fifty (50) feet as measured from the manufactured home park property line to the nearest manufactured home space. Required buffer area may be included in setback
 - d. Bed and breakfast inns - twenty-five (25) feet
 - e. Public safety stations - fifteen (15) feet
 - f. Structures within planned residential developments - thirty (30) feet
 - g. Essential Services, Class II - twenty (20) feet
 - h. Essential Services, Class III - fifty (50) feet
 - i. Church - forty (40) feet
 - j. Rest home, nursing care facility, and continuing care communities - forty (40) feet
 - k. Swimming pools located in a public or privately maintained recreation facility - forty (40) feet
 - l. Community center or meeting facility - forty (40) feet
 - m. Amateur Radio Towers greater than twenty (20) feet in height- Minimum side yard setback of at least 1.5 times the height of the tower.
 - n. Telecommunication Towers and Facilities- See Section 5.23
 - o. Campgrounds- One-hundred (100) feet
 - p. Agricultural Uses, fifteen (15) feet, except as prescribed in Section 7.1.1(4).
 - q. All other uses - fifteen (15) feet
4. Minimum Rear Yard Setback
- a. Manufactured home park - same as side yard requirement
 - b. Essential Services, Class 3 - fifty (50) feet
 - c. Amateur Radio Towers greater than twenty (20) feet in height- Minimum rear yard setback of at least 1.5 times the height of the tower

- d. Campgrounds- One-hundred (100) feet
 - e. Agricultural Uses, thirty (30) feet, except as prescribed in Section 7.1.1(4).
 - f. Telecommunication Towers and Facilities- See Section 5.23
 - g. Campgrounds- One-hundred (100) feet
 - h. All other uses - thirty (30) feet
5. Maximum Building Height
- a. Amateur Radio Towers- A maximum height of fifty (50) feet.
 - b. All other uses - thirty-five (35) feet, except as provided in Section 5.9 and 5.23 of this Ordinance
6. Minimum Lot Width (as measured at the minimum required front setback)
- a. Churches, community centers, meeting facilities, schools, country clubs, bed and breakfast inns and Essential Services, Class III - one hundred-fifty (150) feet
 - b. Manufactured home parks - one hundred-fifty (150) feet, except that a portion of the site containing no manufacturing home spaces and used to provide access to the park from a public street may be as narrow as fifty (50) feet
 - c. All other uses – one-hundred (100) feet

7.1.4 Screening

Screening, as provided in Section 5.2 of this Ordinance, shall be required for the following uses and for all other circumstances required by 5.2.1 of this Ordinance.

- a. Essential Services, Classes 2 and 3
- b. Country clubs except golf course playing areas
- c. Outdoor swimming pools located in a public or privately maintained recreation facility
- d. Manufactured home parks

- e. Planned residential developments (See Section 11.1)
- f. Churches
- g. Community centers and meeting facilities
- h. Bed and breakfast inns
- i. Public safety stations
- j. Rest homes, nursing care facilities and continuing care communities
- k. Schools - elementary or secondary / public or private
- l. Public or private outdoor recreation facilities not constructed pursuant to a permit authorizing the construction of some residential development
- m. Campgrounds

Section 7.2 R-15 Single-Family Low Density Residential District

7.2.1 Permitted Uses:

- 1. Single-family dwellings (provided that any residential subdivision in excess of twenty (20) lots shall be subject to the issuance of a special use permit. This computation shall be based on the aggregate number of lots in all phases of the subdivision.)
- 2. Day care centers, small group
- 3. Customary home occupations in accordance with Section 5.1 of this Ordinance
- 4. Family care homes for up to six (6) clients
- 5. Essential Services, Class 1
- 6. Accessory structures in accordance with Section 5.11 of this Ordinance
- 7. Signs in accordance with Part 9 of this Ordinance
- 8. Off-street parking in accordance with Part 10 of this Ordinance
- 9. Publicly owned and operated outdoor recreation facilities less than one (1) acre in size which do not contain a swimming pool or stadium.
- 10. Amateur Radio Towers, twenty (20) feet or less in height.

7.2.2 Special Uses:

The following uses may be permitted after a special use permit has been issued by the City Council in accordance with Part 13 of this Ordinance.

1. Cemeteries (setbacks apply to both graves and buildings)
2. Churches, including day care centers or schools located within any church.
3. Schools
4. Country clubs and privately-owned outdoor recreation facilities provided that go-cart tracks and other outdoor vehicular racing facilities shall not be permitted
5. Publicly owned and operated outdoor recreation facilities in excess of one (1) acre in area and/or containing a swimming pool or stadium.
6. Indoor community center or meeting facility
7. Essential Services, Class 2
8. Public safety stations
9. Planned Residential Developments in accordance this Ordinance provided the gross density of the development does not exceed two and three tenths (2.3) dwelling units per acre.
10. Amateur Radio Towers greater than twenty (20) feet in height.
11. Telecommunication Towers and Facilities
12. Any residential subdivision containing twenty (20) or more lots. This computation shall be based on the aggregate number of lots in all phases of the subdivision.

7.2.3 Yard Regulations:

1. Minimum Lot Size
 - a. Single-family dwellings - fifteen thousand (15,000) square feet
 - b. Churches - one (1) acre
 - c. Country clubs - five (5) acres

- d. Public or private outdoor recreation facilities not constructed pursuant to a permit authorizing the construction of a school or some residential development - none
 - e. Public and private elementary and secondary schools - four (4) acres
 - f. Essential Services - none
 - g. Cemeteries as a principal use - two (2) acres
 - h. Public safety station - twenty thousand (20,000) square feet
 - i. Amateur radio towers- none
 - j. All other principal uses - fifteen thousand (15,000) square feet
2. Minimum Front Yard Setback (As measured from the edge of the street right-of-way line)
- a. All principal uses listed as permitted uses in 7.2.1 of this Ordinance - thirty-five (35) feet
 - b. Cemeteries and Essential Services, Class 2 - thirty-five (35) feet
 - c. Amateur Radio Towers greater than twenty (20) feet in height- Minimum front yard setback of at least 1.5 times the height of the tower.
 - d. All other uses - fifty (50) feet
3. Minimum Side Yard Setback (An additional ten (10) feet shall be provided on all side yards which abut a public street)
- a. Single-family detached dwellings - fifteen (15) feet
 - b. Public and private elementary and secondary schools - forty (40) feet
 - c. Church - forty (40) feet
 - d. Swimming pools located in a public or private maintained recreation facility - forty (40) feet
 - e. Country clubs, but not including golf courses - forty (40) feet

- f. Community center or meeting facility - forty (40) feet
 - g. Amateur Radio Towers greater than twenty (20) feet in height-
Minimum side yard setback of at least 1.5 times the height of the tower
 - h. Telecommunication Towers and Facilities- See Section 5.23
 - i. All other uses - fifteen (15) feet
4. Minimum Rear Yard Setbacks
- a. Amateur Radio Towers greater than twenty (20) feet in height-
Minimum rear yard setback of at least 1.5 times the height of the tower
 - b. Telecommunication Towers and Facilities- See Section 5.23
 - c. All other uses - twenty-five (25) feet or same as minimum side yard setback, whichever is greater
5. Maximum Building Height
- a. Amateur Radio Towers- Fifty (50) feet
 - b. Telecommunication Towers and Facilities- See Section 5.23
 - c. All other uses - thirty-five (35) feet, except as provided in Section 5.9 of this Ordinance
6. Minimum Lot Width (as measured at the minimum required front yard setback)
- a. Churches, community center, meeting facilities, schools, country clubs, and essential services Class III. One hundred-twenty (120) feet except that in no instance shall the lot width measured at the street right-of-way be less than fifty (50) feet
 - b. All other uses - ninety (90) feet except that in no instance shall the lot width measured at the street right-of-way be less than thirty-five (35) feet

7.2.4 Screening:

Screening, as provided in Section 5.2 of this Ordinance, shall be required for the following uses:

- a. Essential Services, Class 2
- b. Country clubs except golf course playing areas
- c. Outdoor swimming pools located in a public or privately maintained recreation facility
- d. Schools, elementary or secondary, public or private
- e. Churches
- f. Community centers and meeting facilities
- g. Public or private outdoor recreation facilities not constructed pursuant to a permit authorizing the construction of some residential development

Section 7.3 R-12 Single-Family Medium Density Residential District

7.3.1 Permitted Uses:

1. All permitted uses allowed in the R-15 Single-Family District
2. Two-family dwellings

7.3.2 Special Uses:

1. All Special uses listed in Section 7.2.2 of this Ordinance
2. Planned residential development in accordance with this Ordinance and provided the dwelling unit types are limited to single-family dwellings on standard lots; other single-family dwellings including lot line houses, village houses, and patio houses; and duplexes and twin houses and provided the gross density of the development does not exceed three (3) dwelling units per acre.

7.3.3 Yard Regulations:

1. Minimum Lot Size
 - a. Single-family dwellings - twelve thousand (12,000) square feet, except as provided in Section 7.3.2(2) of this Ordinance

- b. Two-family dwellings - eighteen thousand (18,000) square feet
 - c. Churches - thirty thousand (30,000) square feet
 - d. Schools, elementary and secondary / public and private - two (2) acres
 - e. Essential Services - none
 - f. Public safety stations - twenty thousand (20,000) square feet
 - g. Amateur Radio Towers- None
 - h. All other principal uses - one (1) acre
2. Minimum Front Yard Setback (As measured from the edge of the street right-of-way line)
- All uses - same as R-15
3. Minimum Side Yards Setback (An additional ten (10) feet shall be provided on all side yards which abut a public street)
- a. Single and two-family dwelling - ten (10) feet
 - b. Planned residential developments - See Section 11.1.2.(f) of this Ordinance
 - c. All other uses - same as R-15
4. Minimum Rear Yard Setbacks
- a. Amateur Radio Towers greater than twenty (20) feet in height- A minimum rear yard setback of at least 1.5 times the height of the tower.
 - b. Telecommunication Towers and Facilities- See Section 5.23
 - c. All other uses - twenty-five (25) feet or same as minimum side yard setback, whichever is greater.
5. Maximum Building Height
- a. Amateur Radio Towers- Fifty (50) feet
 - b. Telecommunication Towers and Facilities- See Section 5.23

- c. All other uses - thirty-five (35) feet, except as provided in Section 5.9 of this Ordinance
6. Minimum Lot Width- (as measured at the minimum required front setback)
- a. Single-family dwellings - eighty (80) feet with thirty-five (35) feet at street right-of-way
 - b. Two-family dwellings - one hundred (100) feet with thirty-five (35) feet at street right-of-way
 - c. Planned residential development - See Section 11.1.2(h) of this Ordinance
 - d. All other uses - same as R-15

7.3.4 Screening:

Screening, as provided in Section 5.2 of this Ordinance, shall be required for the following uses:

- a. Planned residential developments
- b. All other uses listed in 7.2.4 of this Ordinance

Section 7.4 R-9 Single and Two-Family Medium Density Residential

7.4.1 Permitted Uses:

- 1. All uses permitted in the R-15 District
- 2. Two-family dwellings
- 3. Rest homes, nursing care facilities, and continuing care communities

7.4.2 Special Uses:

- 1. All special uses listed in 7.2.2 of this Ordinance
- 2. Bed and breakfast inns
- 3. Public safety stations
- 4. Planned residential developments in accordance with Section 7.1.2(14) of this Ordinance and provided the gross density of the development does not exceed eight (8) dwelling units per acre.

5. Day care centers
6. Multi-family dwelling at a density not to exceed eight (8) units per acre

7.4.3 Yard Regulations:

1. Minimum Lot Size
 - a. Single-family dwelling - nine thousand (9,000) square feet, except as provided in Section 7.4.2(5) of this Ordinance
 - b. Two-family dwellings - thirteen thousand (13,000) square feet except as provided in Section 7.4.2(5) of this Ordinance
 - c. Multi-family developments - minimum twenty thousand square feet for first three (3) dwelling units. For more than three (3) units projects shall observe density of eight (8) dwelling units per acre
 - d. Planned Residential Development - See Section 11.1.2(a) of this Ordinance
 - e. Bed and breakfast inns - fifteen thousand (15,000) square feet
 - f. Public safety stations - fifteen thousand (15,000) square feet
 - g. Rest homes and nursing care facilities -twenty thousand (20,000) square feet
 - h. Continuing care communities - one (1) acre
 - i. Day care center - nine thousand (9,000) square feet
 - j. All other uses - same as R-12
2. Minimum Front Setback (As measured from the edge of the street right-of-way line)
 - a. Single and two-family dwellings, bed and breakfast inn and family care home - thirty (30) feet
 - b. Cemeteries and Essential Services, Class 2 - twenty (20) feet
 - c. Planned residential development - See Section 11.1.2(e) of this Ordinance

- d. Amateur Radio Towers greater than twenty (20) feet in height- Minimum front yard setback of at least 1.5 times the height of the tower
 - e. Telecommunication Towers and Facilities- See Section 5.23
 - f. All other uses - forty (40) feet
3. Minimum Side Yard Setback (An additional ten (10) feet shall be provided on all side yards which abut a public street)
- a. Single and two-family dwellings - eight (8) feet
 - b. Planned residential development - See Section 11.1.2(f) of this Ordinance
 - c. Public and private elementary and secondary schools - twenty (20) feet
 - d. Church - twenty (20) feet
 - e. Swimming pools not constructed pursuant to a permit authorizing the construction of some private residential development -forty (40) feet
 - f. Community centers or meeting facilities - twenty (20) feet
 - g. Bed and breakfast inn - fifteen (15) feet
 - h. Rest home and nursing care facilities - fifteen (15) feet
 - i. Continuing care community - twenty (20) feet
 - j. Day care center - ten (10) feet
 - k. Telecommunication Towers and Facilities- See Section 5.23
 - l. All other uses - same as R-12
4. Minimum Rear Yard Setback
- a. Amateur Radio Towers greater than twenty (20) feet in height- Minimum front yard setback of at least 1.5 times the height of the tower
 - b. Telecommunication Towers and Facilities- See Section 5.23

- c. All other uses - twenty-five (25) feet or same as minimum side yard setback, whichever is greater
- 5. Maximum Building Height
 - a. Amateur Radio Towers- Fifty (50) feet
 - b. Telecommunication Towers and Facilities- See Section 5.23
 - c. All other uses - thirty-five (35) feet, except as provided in Section 5.9 of this Ordinance
- 6. Minimum Lot Width- (as measured at the minimum required front setback)
 - a. Single-family dwelling - seventy (70) feet with thirty-five (35) feet at street right-of-way
 - b. Two-family dwelling - eighty (80) feet with thirty-five (35) feet at street right-of-way
 - c. Planned residential developments- See Section 11.1.2(h) of this Ordinance
 - d. Day care center - seventy (70) feet with thirty-five (35) feet at street right-of-way
 - e. Bed and breakfast inn - eighty (80) feet with thirty-five (35) feet at street right-of-way
 - f. Multi-family development - one hundred (100) feet
 - g. All other uses - same as R-12

7.4.4 Screening:

Screening, as provided in Section 5.2 of this Ordinance shall be required for the following uses:

- 1. Planned residential developments - See Section 11.1.2(0) of this Ordinance
- 2. Multi-family developments where such developments adjoin single family developments or undeveloped land in any Residential (R) District

3. Country club but no including golf course playing areas
4. Essential Services, Class 2
5. Outdoor swimming pool not constructed pursuant to a permit authorizing construction of some residential development
6. Nursing care facilities
7. Community center or meeting facility
8. Bed and breakfast inn

Section 7.5 Reserved

Section 7.6 RMF Residential Multi-Family District

7.6.1 Permitted Uses:

1. Single-family dwellings (provided that any residential subdivision in excess of twenty (20) lots shall be subject to the issuance of a special use permit. This computation shall be based on the aggregate number of lots in all phases of the subdivision.)
2. Two-family dwellings
3. Multi-family dwellings with a gross density of less than eight (8) units per acre
4. Essential Services, Class 1
5. Family care homes for up to six (6) clients
6. Customary home occupations in accordance with Section 5.1 of this Ordinance
7. Churches with a maximum seating capacity of not greater than four hundred (400) seats. Customary accessory uses shall also be permitted. Church owned and maintained cemeteries as an accessory use are permitted. (also see information
8. Public and private elementary and secondary schools
9. Amateur radio towers, twenty (20) or less in height.

7.6.2 Special Uses:

The following uses may be permitted after a special use permit has been issued by the City Council in accordance with Part 13 of this Ordinance:

1. Multi-family dwellings with a gross density of more than eight (8) units per acre and but no greater than ten (10) units per acre
2. Planned residential developments in accordance with this Ordinance and provided the gross density of the development does not exceed nine (9) dwelling units per acre, and in the case of density bonus granted pursuant to Section 7.1.2(14)(l) of this Ordinance, a total gross density of not more than twelve and six-tenths (12.6) units per acre
3. Essential Services, Class II
4. Amateur radio towers, greater than twenty (20) feet in height.
5. Telecommunication Towers and Facilities
6. Any residential subdivision containing twenty (20) or more lots. This computation shall be based on the aggregate number of lots in all phases of the subdivision.

7.6.3 Yard Regulations:

1. Lot size, yard and height and lot width regulations shall be the same as required in the R-9 District. Permitted density levels for multi-family developments shall be as noted

7.6.4 Screening:

Screening, as provided in Section 5.2 of this Ordinance shall be required for the following uses:

1. Planned residential developments - See Section 11.1.2(0) of this Ordinance
2. Essential Services, Class 2

Section 7.7 R-O Residential-Office District

7.7.1 Permitted Uses:

1. Single-family dwellings (provided that any residential subdivision in excess of twenty (20) lots shall be subject to the issuance of a special use permit. This computation shall be based on the aggregate number of lots in all phases of the subdivision.)
2. Office buildings containing five thousand (5,000) square feet or less of gross floor area
3. Churches including customary accessory uses. Church owned and maintained cemeteries as an accessory use are permitted
4. Medical clinic
5. Public and private elementary and secondary schools
6. Family care homes for up to six (6) clients
7. Customary home occupations in accordance with Section 5.1 of this Ordinance
8. Essential Services, Class 1
9. Day care centers, small group
10. Barber shop/beauty shop
11. Amateur radio towers twenty (20) feet or less in height, provided, however, that the tower is in association with a principal residential use only.

7.7.2 Special Uses:

1. Two-family and multi-family developments with a gross density of up to ten (10) units per acre
2. Planned residential developments in accordance with Section 7.5.2(4) of this Ordinance
3. Essential Services, Class II
4. Rest homes, nursing care facilities and continuing care communities
5. Day care centers

6. Florists
7. Photocopying and offset printing services
8. Museums
9. Funeral homes
10. Laboratories
11. Bed and breakfast inns
12. Office buildings containing over five thousand (5,000) square feet of gross floor area
13. Amateur Radio Towers greater than twenty (20) feet in height that are associated with a residential use.
14. Telecommunication Towers and Facilities
15. Any residential subdivision containing twenty (20) or more lots. This computation shall be based on the aggregate number of lots in all phases of the subdivision.

7.7.3 Yard Regulations:

- a. Office buildings - nine thousand (9,000) square feet
- b. Churches - twenty thousand (20,000) square feet
- c. Multi-family dwellings - twenty-one thousand seven hundred-eighty (21,780) square feet
- d. Rest homes, nursing care facilities and continuing care facilities - twenty thousand (20,000) square feet
- e. Day care centers - nine thousand (9,000) square feet
- f. Photocopying and offset printing - nine thousand (9,000) square feet
- g. Laboratories - nine thousand (9,000) square feet
- h. Florists - nine thousand (9,000) square feet
- i. Funeral home - twenty-one thousand seven hundred-eighty (21,780) square feet

- j. Bed and breakfast inn - nine thousand (9,000) square feet
 - k. Museum - twenty-one thousand seven hundred-eighty (21,780) square feet
 - l. Other uses - same as in the R-9 District
2. Minimum Front Setback
- a. Single-family dwellings, two-family dwellings, family care homes, bed and breakfast inns - thirty (30) feet
 - b. Office buildings containing five thousand (5,000) square feet or less of gross floor area - thirty (30) feet
 - c. Amateur Radio Towers- A minimum front yard setback of at least 1.5 times the height of the tower
 - d. All other uses - forty (40) feet
3. Minimum Side Yard Setback eight (8) feet (An additional ten (10) feet shall be provided on all side yards which abut a private street)
- a. Museum, office buildings, funeral home, florist, laboratory, photocopying and offset printing, multi-family dwelling - twenty (20) feet
 - b. Amateur Radio Towers- A minimum side yard setback of at least 1.5 times the height of the tower
 - c. Other uses - same as the R-9 District
4. Minimum Rear Yard Setback
- a. Amateur Radio Towers- A minimum rear yard setback of at least 1.5 times the height of the tower.
 - b. Telecommunication Towers and Facilities- See Section 5.23
 - c. All other uses - twenty-five (25) feet
5. Minimum Lot Width (As measured at the required front setback); at least thirty-five (35) feet of lot width measured at the street right-of-way line shall be required except as noted)
- a. Office buildings, museums, funeral home, florist, laboratory, photocopying and offset printing, and multi-family dwelling - one hundred (100) feet with at least fifty (50) feet at the street right-of-way line

- b. Two-family dwellings - eighty (80) feet
 - c. Churches and schools - one hundred-twenty (120) feet with at least fifty (50) feet at the street right-of-way line
 - d. Other uses - seventy (70) feet
6. Maximum Building Height
- a. Amateur Radio Tower- Fifty (50) feet.
 - b. All other uses - thirty-five (35) feet, except as provided in Section 5.9 of this Ordinance

7.7.4 Screening:

Screening, as provided in Section 5.2 of this Ordinance shall be required.

Section 7.8 B-1 Central Business District

7.8.1 The following uses are permitted by right:

Retail Uses

- A. Antique store
- B. Appliance and appliance repair store
- C. Arts and crafts store
- D. Automobile and boat supply store
- E. Automobile service station
- F. Bakeries (retail)
- G. Bicycle store
- H. Beauty supply store
- I. Book and stationery store
- J. Camera shop
- K. Clock shop
- L. Clothing shop
- M. Computer service store
- N. Convenience store (no fuel sales)
- O. Curtain and drape store
- P. Delicatessen
- Q. Dressmaking shop
- R. Drugstore
- S. Dry cleaning stores (pick-up and delivery only)

- T. Dry goods shop
- U. Florist and gift shop
- V. Floor covering, lighting, wallpaper, paint and window covering store
- W. Food store
- X. Formal wear store
- Y. Furniture store
- Z. Furrier
- AA. Gun shop
- BB. Hardware store
- BBB. Bar, Nightclub, Tavern, Brew Pub, Microbrewery, Liquor store, Wine store
Tap Room, and Beer Store. A microbrewery can not exceed 10,000
square feet of gross floor area.
- CC. Hobby store
- DD. Household goods shop
- EE. Jewelry and jewelry repair shop
- FF. Key shop
- GG. Linen shop
- HH. Luggage and leather shop
- II. Medical supply store
- JJ. Music store
- KK. Notion and fabric store
- LL. Office supply and equipment
- MM. Pawn shop
- NN. Postal store
- OO. Restaurant
- PP. Second-hand shop (excluding pawn shop)
- QQ. Shoe store
- RR. Shoe repair shop
- SS. Sporting goods and trophy shop
- TT. Tailor and alteration shop
- UU. Toy store
- VV. Variety and department store
- WW. Video rental and sales shop
- XX. Shopping centers, Class A

Services

- A. Automobile parking lot
- B. Barber shop
- C. Bar, Nightclub, Tavern, Brewpub, Microbrewery, Liquor store, Wine store
and Beer store
- D. Beauty shop
- E. Commercial schools providing training in any of the arts, sciences, trades
or professions, conducted indoors, with up to fifty (50) enrolled students
- F. Essential Services, Classes 1 and 2
- G. Finance company
- H. Financial institution

- I. Film processing shop
- J. Fitness Center and/or Tanning Salon
- K. Interior decorating studio
- L. ~~Laundromat~~ deleted by City Council 7-14-2014
- M. Library
- N. Locksmith
- O. Maintenance Services
- P. Medical clinic
- Q. Museum
- R. Offices and office buildings for business, professional and public services with a maximum gross floor area of ten thousand (10,000) square feet
- S. Opticians and optical services
- T. Photocopying and offset printing services
- U. Post office
- V. Public safety station
- W. ~~Recycling depository~~ deleted by City Council 7-14-2014
- X. Studios (for artists, musicians, etc.)
- Y. Travel agency

Residential Uses

- A. Residential apartments located in the same building and on top of a commercial or office use provided all building and fire codes are met and that at least one (1) off-street parking space is provided per residential unit.

7.8.2 The following uses are permitted subject to the issuance of a special use permit by the City Council in accordance with Part 13 of this Ordinance:

Residential Uses

- A. Any multi-family dwelling or development not associated with a commercial use

Retail Uses

- A. Shopping centers, Class A and B
- B. Pet store

Services

- A. Commercial schools providing training in any of the arts, sciences, trades or professions, conducted indoors, with over fifty (50) enrolled students
- B. Automobile parts supply store
- C. Auction houses, indoors (excluding livestock auctions)
- D. Office buildings containing over ten thousand (10,000) square feet of gross floor area
- E. Arcade or amusement center or game room

- F. ~~Telecommunication Towers and Facilities~~ deleted by City Council 7-14-14
- G. Tire Sales (added as amendment 9-14-2009)

7.8.3 Yard Requirements

(NOTE: Yard and height requirements for telecommunication towers and facilities shall be as provided in Section 5. 23.)

1. Minimum lot size - none
2. Maximum gross floor area of any individual principal use - ten thousand (10,000) square feet
3. Minimum lot width - none
4. Minimum front yard setback - none
5. Minimum side yard setback - none, except ten (10) feet shall be required on all corner lots and twenty (20) feet on side yards which abut any Residential (R) District
6. Minimum rear yard setback - none, except twenty (20) feet shall be required on all lots whose rear yard abuts any Residential (R) District
7. Maximum building height - fifty (50) feet, except as permitted in Section 5.9 of this Ordinance
8. Off-street parking and loading - all off-street parking and loading requirements as prescribed in Part 10 of this Ordinance shall be waived

7.8.4 Screening and Landscaping

Screening shall be required as provided in Section 5.2 of this Ordinance

7.8.5 Storage within the Central Business District

Storage is to be limited to 50% of the rear portion of the building's interior and sectioned off by a paneled or painted wall partition so as not to be visible from the outside. (adopted by City Council after Public Hearing on 10-09-2017) JSH

Section 7.9 B-2 Neighborhood Business District

7.9.1 The following uses are permitted by right:

Retail Uses

- A. Antique store
- B. Appliance and appliance repair store
- C. Arts and crafts store
- D. Automobile and boat supply stores
- E. Automobile service station
- F. Bakeries (retail)
- G. Beauty supply stores
- H. Bicycle store
- I. Book and stationery store
- J. Camera shop
- K. Clock shop
- L. Clothing store
- M. Computer service store
- N. Convenience store
- O. Curtain and drape store
- P. Delicatessen
- Q. Dressmaking shop
- R. Drugstore
- S. Dry cleaning
- T. Dry goods shop
- U. Florist and gift shop
- V. Floor covering, lighting, wallpaper, paint and window covering stores
- W. Food store
- X. Furniture shop
- Y. Furrier
- Z. Greenhouse nurseries
- AA. Hardware store
- BB. Hobby shop
- CC. Household goods shop
- DD. Jewelry and jewelry repair
- EE. Key shop
- FF. Linen shop
- GG. Liquor store
- HH. Luggage and leather store
- II. Medical supply store
- JJ. Music store
- KK. Notion and fabric store
- LL. Office supply and equipment shop
- MM. Pet store
- NN. Postal store
- OO. Restaurant (excluding fast-food and drive-in restaurant)

- PP. Second-hand shop (excluding pawn shop)
- QQ. Shoe store
- RR. Shoe repair shop
- SS. Sporting goods and trophy shop
- TT. Tailor and alteration shop
- UU. Toy store
- VV. Variety and department store
- WW. Video rental and sales shop
- XX. Shopping centers, Class A and B
- YY. Office buildings containing a maximum gross floor area of twenty-five thousand (25,000) square feet

Services

- A. Automobile parking lot
- B. Automobile wash establishment (self service)
- C. Barbershop
- D. Beauty shop
- E. Churches (with up to 400 seats)
- F. Commercial schools providing training in any of the arts, sciences, trades or professions, conducted entirely indoors, with up to fifty (50) enrolled students
- G. Community center
- H. Day care centers
- I. Essential Services, Classes 1 and 2
- J. Film processing shop
- K. Financial institution
- L. Finance company
- M. Fitness and tanning salon
- N. Interior decorating studio
- O. Laundromat
- P. Library
- Q. Locksmith/gunsmith
- R. Maintenance services
- S. Medical clinic
- T. Office-business, professional and public
- U. Opticians and optical services
- V. Photocopying and offset printing services
- W. Post office
- X. Public safety station
- Y. Recycling depository
- Z. Travel agency

7.9.2 The following uses are allowed subject to the issuance of a special use permit by the Cherryville City Council in accordance with Part 13 of this Ordinance:

Retail Uses

- A. Restaurant fast-food
- B. Shopping centers, Class C
- C. Office buildings containing over twenty-five thousand and one (25,001) square feet

Services

- A. Animal hospitals
- B. Churches (over 400 seats)
- C. Essential Services, Class 3
- D. Fraternal, social and civic clubs
- E. Lounge
- F. Taxidermist
- G. Commercial schools, providing training in any of the arts, sciences, trades or professions, conducted entirely indoors, with over fifty (50) enrolled students
- H. Auction houses, conducted indoors (excluding livestock auctions)
- I. Arcade or amusement center or game room
- J. Telecommunication Towers and Facilities

7.9.3 Yard Requirements

(NOTE: Yard and height requirements for telecommunication towers and facilities shall be as provided in Section 5. 23.)

- 1. Minimum lot size - none
- 2. Minimum lot width - seventy (70) feet (As measured at the required front setback)
- 3. Minimum front setback - thirty (30) feet (As measured from the edge of the street right-of-way)
- 4. Minimum side setback - ten (10) feet, except twenty (20) feet shall be required on all corner lots and lots which abut a Residential (R) District
- 5. Minimum rear setback - twenty (20) feet
- 6. Maximum building height - thirty-five (35) feet, except as permitted in Section 5.9 of this Ordinance

7.9.4 Screening

Screening shall be required as provided in Section 5.2 of this Ordinance

Section 7.10 B-3 General Business District

7.10.1 The following uses are permitted by right:

Retail Uses

- A. Antique store
- B. Appliance and appliance repair store
- C. Arts and crafts store
- D. Automobile and boat supply stores
- E. Automobile sales lot
- F. Automobile service station
- G. Bakeries (retail)
- H. Beauty supply stores
- I. Bicycle stores
- J. Boat sales lot
- K. Book and stationery store
- L. Building materials store
- M. Camera shop
- N. Catalogue sales store
- O. Clock shop
- P. Clothing store
- Q. Computer service store
- R. Convenience store
- S. Curtain and drape store
- T. Delicatessen
- U. Dressmaking shop
- V. Drugstore
- W. Dry cleaning plant
- X. Dry cleaning stores (pick-up and delivery)
- Y. Dry goods shop
- Z. Farm equipment sales and repair
- AA. Feed and seed store
- BB. Florist and gift shop
- CC. Floor covering, lighting, wallpaper, paint, and window covering stores
- DD. Food store
- EE. Formal wear store
- FF. Furniture shop
- GG. Furrier
- HH. Greenhouse nurseries
- II. Gun shop
- JJ. Hardware store
- KK. Hobby shop

- LL. Household goods shop
- LLL. Bar, Nightclub, Tavern, Brewpub, Taproom, Microbrewery, Liquor Store, Wine Store, Beer store. Microbrewery can't exceed 10,000 square feet of gross floor area. (Adopted by council 11.14.2019)
- MM. Jewelry and jewelry shop
- NN. Key shop
- OO. Linen shop
- PP. Liquor store, Wine Store, Beer Store
- QQ. Luggage and leather goods store
- RR. Medical supply store
- SS. Mobile home sales and service
- TT. Music store
- UU. Notion and fabric shop
- VV. Office supply and equipment shop
- WW. Pawn shop
- XX. Pet store
- YY. Postal store
- ZZ. Restaurant
- AAA. Restaurant, fast-food
- BBB. Second-hand shop
- CCC. Shoe store
- DDD. Shoe repair shop
- EEE. Sporting goods and trophy shop
- FFF. Tailor and alteration shop
- GGG. Toy stores
- HHH. Upholstery, cabinet and woodworking shop
- III. Variety and department store
- JJJ. Video rental and sales shop
- KKK. Shopping centers, Class A or B
- LLL. Electronic Gaming Accessory Use

Services

- A. Animals hospitals
- B. Auction houses, indoors only (excluding livestock auctions)
- C. Assembly hall, coliseum, ballroom, etc.
- D. Automobile parking lot
- E. Automobile body shop
- F. Automobile wash establishment (self-service)
- G. Bait and tackle shops
- H. Banks
- I. Barbershop
- J. Beauty shop
- K. Bowling alley, indoor skating rink, baseball batting range
- L. Churches
- M. Commercial schools, providing training in any of the arts, sciences, trades or professions

- N. Community center
- O. Day care centers
- P. Electric, plumbing, heating and air conditioning shops
- Q. Essential Services, Classes 1, 2 and 3
- R. Film processing shop
- S. Finance company
- T. Financial institution
- U. Fitness and tanning salon
- V. Fraternal, social and civic clubs
- W. Funeral home
- X. Golf course (miniature and/or driving range)
- Y. Government facilities (excluding jails, prisons and similar penal institutions)
- Z. Interior decorator shop
- AA. Laundromat
- BB. Library
- CC. Locksmith/gunsmith
- DD. ~~Lounge~~-(deleted by council 11.14.2019)
Bar, Nightclub, Tavern, Brewpub, Taproom, Microbrewery, Liquor Store,
Wine Store, Beer store. Microbrewery can't exceed 10,000 square feet of
gross floor area. (Adopted by council 11.14.2019)
- EE. Maintenance services
- FF. Medical clinic
- GG. Mini-warehouse
- HH. Motel
- II. Museums
- JJ. Offices-business, professional and public up to 50,000 square feet gross
floor area
- KK. Opticians and optical services
- LL. Pawn shops
- MM. Photocopying and offset printing services
- NN. Post office
- OO. Public safety station
- PP. Recording studios
- QQ. Recycling depository
- RR. Tire sales and recapping
- SS. Tattoo Parlor/Body Piercing Establishment

7.10.2 Special Uses

The following uses are allowed subject to the issuance of a special use permit by the Cherryville City Council in accordance with Part 13 of this Ordinance:

Retail Uses

- A. Express fuel/mini-mart
- B. Shopping centers, Class C

Service Uses

- A. Office buildings containing over fifty thousand (50,000) square feet of gross floor area
- B. Jails
- C. Arcade or amusement center or game room
- D. Telecommunication Towers and Facilities

7.10.3 Yard Requirements

(NOTE: Yard and height requirements for telecommunication towers and facilities shall be as provided in Section 5. 23.)

- 1. Minimum lot size - none
- 2. Minimum lot width - seventy (70) feet (As measured at the required front setback)
- 3. Minimum front setback - forty (40) feet (as measured from the edge of the street right-of-way line)
- 4. Minimum side setback - ten (10) feet, except twenty (20) feet shall be required on all corner lots and lots whose side yard abuts any Residential (R) District
- 5. Minimum rear setback - twenty (20) feet, except thirty (30) feet shall be required on all lots whose rear yard abuts any Residential (R) District
- 6. Maximum building height - fifty (50) feet, except as permitted in Section 5.9 of this Ordinance

7.10.4 Screening

Screening shall be required as provided in Section 5.2 of this Ordinance

Section 7.11 Reserved

Section 7.12 GMC - General Manufacturing and Commerce District

7.12.1 Permitted Uses:

The following uses are permitted by right:

- A. Manufacturing, refining, processing, or assembly of goods or products subject to the following limitations:

Note: The term "SIC" shall refer to the Standard Industrial Classification system as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget; and unless a use is defined in this Ordinance, the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed under the GMC District. Provided however, while the SIC Manual uses the term "establishments primarily engaged in" in defining types of manufacturing operations, this Ordinance shall be construed to mean that if the activity is conducted at all and is listed special then the entire use shall be deemed a "special use" as opposed to a "permitted use".

1. The following manufacturing establishments [as identified by their SIC Group Number or Industry Number(s)] shall not be allowed on a permitted basis:
 - a. Meat packing plants (SIC #2011)
 - b. Poultry dressing plants (SIC #2015)
 - c. Pickled fruits and vegetables (SIC #2035)
 - d. Flour and other grain mill products (SIC #2041)
 - e. Animal feeds and pet foods (SIC #2047, 2048)
 - f. Sugar refining (SIC #2061, 2062, 2063)
 - g. Fats and oils (SIC Group #207)
 - h. Beer/malt beverages, wines, brandy, distilled and blended liquors (SIC #2082, 2083, 2084, 2085)
 - i. Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC #2091, 2092)
 - j. Roasted coffee (SIC #2095)

- k. The following manufacturing listed under (SIC #2099):
 - (1) Yeast
 - (2) Molasses and sweetening syrups
 - (3) Vinegar
- l. Tobacco products (SIC Major Group #21)
- m. Dying and finishing textiles, except wool fabrics and knit goods (SIC Group #226) and under SIC #2231, and under SIC Group #225 the dying and finishing of wool fabrics and knit goods
- n. Coated fabrics, rubberized and not rubberized (SIC #2295, 3069)
- o. Canvas and related products (SIC #2394)
- p. Sawmills and planing mills, general (SIC #2421)
- q. Wood preserving (SIC #2491)
- r. Reconstituted wood products (SIC #2493)
- s. Pulp mills (SIC Group #261)
- t. Paper mills (SIC Group #262)
- u. Paperboard mills (SIC Group #263)
- v. Industrial inorganic chemicals (SIC Group #281)
- w. Plastic materials, synthetic resins and rubber, cellulosic and other manmade fibers, except glass (SIC Group #282)
- x. Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC Group #284)
- y. Paints, varnishes, lacquers, enamels and allied products (SIC Group #285)
- z. Industrial organic chemicals (SIC Group #286)
- aa. Agricultural chemicals (fertilizers, pesticides, etc.) (SIC Group #287)
- bb. Miscellaneous chemical products (all products listed under SIC Group #289) (e.g., adhesives, sealants, explosives, printing ink, carbon black, and "other chemical and chemical preparations" listed in SIC #2899)

- cc. Petroleum refining (SIC Group #291)
- dd. Asphalt paving and roofing materials (SIC Group #295)
- ee. Lubricating oils and greases (SIC #2992)
- ff. Products of petroleum and coal classified under SIC #2999
- gg. Tires and innertubes (SIC Group #301)
- hh. Plastic products found under SIC Group #308 when resins made at the same facility
- ii. Leather tanning and finishing (SIC Group #311)
- jj. Flat glass (SIC Group #321)
- kk. Glass and glassware (SIC Group #322)
- ll. Cement, hydraulic (SIC Group #324)
- mm. Structural clay products (SIC Group #325)
- nn. Pottery and related products (SIC Group #326) except handmade pottery arts and crafts involving no more than 1,000 cubic feet of kiln space
- oo. Concrete, gypsum and plastic products (SIC Group #327)
- pp. Cut stone and stone products (SIC Group #328)
- qq. Abrasive products (SIC #3291)
- rr. Asbestos products (SIC #3292)
- ss. Minerals and earths, ground or otherwise treated (SIC #3295)
- tt. Mineral wool (SIC #3296)
- uu. Non-clay refractories (SIC #3297)
- vv. Miscellaneous nonmetallic mineral products listed under SIC Code #3299
- ww. Steel works, blast furnaces, and rolling and finishing mills (SIC Group #331)

- xx. Iron and steel foundries (SIC Group #332)
- yy. Primary and secondary smelting and refining of nonferrous metals (SIC Group #333 and 334)
- zz. Rolling, drawing and extruding of nonferrous metals (SIC Group #335)
- aaa. Nonferrous foundries (SIC Group #336)
- bbb. Metal heat treating (SIC #3398)
- ccc. Manufacture of other primary metal products listed under SIC #3399
- ddd. Metal forgings-iron, steel and nonferrous (SIC #3462 and 3463)
- eee. Coating and engraving of metals and allied services (SIC #3471)
- fff. Manufacture of ordnance (arms, ammunition, etc.) and accessories except vehicles and guided missiles (SIC #348)
- ggg. Power, distribution and specialty transformers (SIC #3612)
- hhh. Electrical industrial carbon and graphite products (SIC #3624)
- iii. Storage batteries (SIC #3691)
- jjj. Primary batteries, dry and wet (SIC #3692)
- kkk. Motor vehicle, truck, bus and passenger car bodies (SIC #3711, 3713)
- lll. Truck trailers (SIC #3715)
- mmm. Motor homes (SIC #3716)
- nnn. Aircraft (SIC #3271)
- ooo. Railroad equipment (SIC #3743)
- ppp. Motorcycles (SIC #3751) except bicycles and bicycle parts
- qqq. Guided missiles and space vehicles and parts (SIC Group #376)
- rrr. Under SIC #3792 - camping trailers

- sss. (Military) tanks (and related armored vehicles) (SIC #3795) but not tank components
 - ttt. Under SIC #3861 all photographic supplies but not photographic equipment
 - uuu. Under SIC #3952 all inks, paints, oils, enamels, and crayons
 - vvv. Carbon paper and inked ribbons (SIC #3955)
 - www. Linoleum, asphalted - felt-base, and other hard surface floor covering listed under SIC #3996
 - xxx. Mining (all of SIC Division B)
- B. Agricultural equipment, sales and service
 - C. Assembly halls, coliseums and ballrooms
 - D. Auction houses, indoors, excluding livestock
 - E. Automobile parking lots
 - F. Automobile painting, upholstering, repairs, reconditioning and body work
 - G. Automobile sales
 - H. Automobile service stations
 - I. Automobile wash establishments
 - J. Bookbinding shops
 - K. Building materials and lumber sales
 - L. Cabinet, woodworking and upholstery shops
 - M. Commercial schools and schools providing training in any of the arts, sciences, trades and professions
 - N. Contractors storage and equipment yards
 - O. Convenience stores
 - P. Day care center, accessory

- Q. Dry cleaning and laundry plants
- R. Electric, plumbing, heating ventilating and air conditioning and construction supply houses
- S. Essential Services, Class 1, 2 and 3
- T. Farm equipment sales and service
- U. Financial institution
- V. Florist, wholesale
- W. Food catering service and food vending supply
- X. Freezer lockers
- Y. Government facilities not otherwise listed (excluding jails, prisons and similar penal institutions)
- Z. Greenhouses and horticultural nurseries
- AA. Ice plants
- BB. Laboratories: dental, medical, optical and research
- CC. Machinery repair
- DD. Maintenance services
- EE. Manufactured home and recreational vehicle sales and service
- FF. Medical clinic
- GG. Moving and storage facilities (including mini-warehouses)
- HH. Office-business, medical, optical and professional
- II. Passenger bus terminal
- JJ. Photo processing laboratories
- KK. Postal and parcel service processing facility
- LL. Post office
- MM. Product distribution plants

- NN. Public safety stations
- OO. Railroad terminals and yards
- PP. Recycling depository
- QQ. Recycling sorting facility
- RR. Restaurants, including fast-food restaurants
- SS. Roofing manufacturing, repair and installation facilities
- TT. Sign painting and manufacturing shops
- UU. Tin and sheet metal shops
- VV. Tire recapping shops
- WW. Towers and antennae (100) feet or less in height
- XX. Truck sales and repair
- YY. Trucking terminals
- ZZ. Union halls, fraternal and civic organization meeting facility
- AAA. Vehicular and equipment outdoor storage (as a principal use) not for retail sales where:
 - 1. Such items are owned and/or operated by the owner of the lot upon which they are located.
 - 2. Such items are in operating condition or intended to be operated.
- BBB. Warehouses, including mini-warehouses
- CCC. Wholesaler, jobbers, bulk warehouses
- DDD. Wood buildings and Mobile homes (SIC # 245)
- EEE. Telecommunication Towers and Facilities

FFF Electronic Gaming Operation, subject to the following performance criteria:

1. No electronic gaming operation may be located within five hundred (500) linear feet of the property line of any church/house of worship or any public or private elementary, middle, or high school, library, public park or playground, daycare center (except a class 1 day care center), or residential (R) zoning district.
2. No two (2) electronic gaming operations may be located within one thousand (1,000) linear feet of each other.
3. No electronic gaming operation shall have more than thirty (30) electronic gaming machines.
4. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by all safety and enforcement personnel. All entrance doors shall remain unlocked while patrons are on the premises.
5. Any electronic gaming operation that illegally existed prior to the effective date of this Ordinance shall comply with the regulations contained in this Ordinance.
6. All measurements in this section shall be from the outer building walls of the electronic gaming operation to the nearest property line of the specified protected use.
7. Hours of operation shall be as follows: Monday thru Saturday - 10 a.m. - Midnight
Sunday - 1 p.m. - 6 p.m.

7.12.2 Special Uses:

The following uses may be allowed upon the issuance of a special use permit by the Cherryville City Council:

- A. Manufacture of products listed in Section 7.12.1 A-1 of this Ordinance.
- B. Mines and quarries
- C. Airports and air strips/airplane sales, services and fuel and rentals
- D. Auctions, outdoors and/or livestock
- E. Day care center as a principal use (Note: accessory day care centers are permitted as an accessory use by right)
- F. Express fuel/mini-marts
- G. Farmers' markets
- H. Flea markets

- I. Fuel oil distribution facilities
- J. Fish hatcheries
- K. Junkyards, automobile graveyards and scrap salvage yards
- L. Kennels (indoor and outdoor)
- M. Military reserve center/national guard armory
- N. Outdoor storage of vehicles and/or equipment which are not for retail sale as a principal use which does not meet one or more criteria listed in Section 7.12.1 of this Ordinance.
- O. Penal institutions.
- P. Race tracks.
- Q. Septic tank cleaning service
- R. Slaughter house/abattoir
- S. Adult oriented businesses, subject to the following performance criteria:
 - 1. No such business shall be located within 1,500 feet of any other adult oriented business, as measured in a straight line from property line to property line;
 - 2. No adult oriented business shall be located within 1,500 linear feet of a church, public or private elementary or secondary school, day care center, or public park.
 - 3. The gross floor area of any adult oriented business shall not exceed 3,000 square feet and all business related activity shall be conducted in a building.
 - 4. No adult oriented Business may have sleeping quarters.
 - 5. There shall not be more than one adult oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult oriented business;
 - 6. Except for signs as may be permitted by Section 9.11 of this Ordinance, no printed material, slide, video, photograph, written text, live show, or other visual presentation format shall be visible

from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment;

7. No enclosed or underground parking shall be permitted.

7.12.3 Yard Regulations:

(NOTE: Yard and height requirements for telecommunication towers and facilities shall be as provided in Section 5. 23.)

1. Minimum lot size - none.
2. Minimum lot width - one hundred (100) feet (as measured at the required front setback).
3. Minimum front setback - fifty (50) feet (as measured from the edge of the street right-of-way line).
4. Minimum side setback - twenty (20) feet, except fifty (50) feet shall be required on all lots that abut a Residential (R) District.
5. Minimum rear setback - thirty (30) feet, except that fifty (50) feet shall be required on all lots that abut a Residential (R) District.
6. Maximum structure height - fifty (50) feet, except as permitted in Section 5.9 of this ordinance.

7.12.4 Screening and Landscaping:

Screening shall be required as provided in Section 5.2 of this Ordinance.

PART 8

NONCONFORMITIES

Section 8.1 Purpose and Applicability

Nonconforming uses, which are uses of structures or of land existing at the time of the adoption of this Ordinance, which do not comply with the provisions of this Ordinance, are declared by this Ordinance to be incompatible with permitted uses in the various districts. The purpose of this Article is to regulate and limit the continued existence of uses and structures established prior to the effective date of these regulations or any amendment subsequent thereto that do not conform to these regulations. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this Article. Many nonconformities may continue, but the provisions of this Part are designed, for the most part, to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity of these regulations.

Section 8.2 Nonconforming Uses

- 8.2.1** Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this section.
- 8.2.2** Normal structural repair and maintenance may be performed to allow the continuation of a nonconforming use (except as required in Section 8.2.5 of this Ordinance).
- 8.2.3** A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands beyond the boundaries of the lot on which said nonconforming use is located. An existing nonconforming single-family residential use may, however, be enlarged or altered, provided that no additional dwelling units result therefrom. Any such enlargement or alteration located in a non-Residential (R) zone shall be in compliance with all yard requirements of such structures as required in the R-9 District.
- 8.2.4** When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use. The Board of Adjustment shall have the authority to grant in order allowing for a change in a nonconforming use in accordance with Section 15.4.
- 8.2.5** If a nonconforming use is abandoned for one hundred eighty (180) days; or in the case of settlement of an estate or insurance claim for structural damage, 365 days; the use shall not be allowed to re-establish. All new uses in said structure shall

thereafter be conforming. If said use is destroyed (i.e., received damage to an extent whereby repairs cost more than eighty percent (80%) of its valuation for ad valorem tax purposes at the time of destruction), it may not be allowed to re-establish.

8.2.6 Notwithstanding any other provision of Section 8.2 of this Ordinance a nonconforming manufactured home not located in a manufactured home park may be replaced with another manufactured home provided:

- a. The replacement manufactured home either, **(i)** meets all the minimum requirements for a "Class A" Manufactured Home, or **(ii)** meets all the minimum requirements for a "Class B" Manufactured Home plus all nonconforming Class B replacement homes shall be installed with permanent type non-reflective skirting specifically manufactured for manufactured homes; pressured treated wood (except plain standard surface, pressured treated plywood shall not be considered acceptable), or masonry underpinning. Such underpinning or skirting shall be installed under all elements of the manufactured home and be unpierced except for required ventilation and an access door.;
- b. The replacement manufactured home is placed on the lot in a manner which meets all the setback requirements of the zoning district in which it is to be located or the requirements of the R-9 District, whichever is greater;
- c. That the replacement manufactured home is placed on the lot within one hundred eighty (180) days following removal of the existing manufactured home;
- d. Upon replacement of the existing manufactured home the property will conform to Subsection 5.6.1 of this Ordinance; and
- e. That the manufactured home being replaced was occupied as a residence continuous for the period between one-hundred and twenty (120) and thirty (30) days prior to the date of application for replacement.

8.2.7 The Board of Adjustment shall have the authority to grant an order allowing for the change in location of a nonconforming use of land in accordance with Section 15.4. This provision, however, shall not be applicable to the location of junkyards. Nonconforming junkyard shall be governed as provided in Section 8.11.

Section 8.3 Nonconforming Structures

8.3.1 A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this section.

- 8.3.2** Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- 8.3.3** A nonconforming structure may not, under any circumstances, be enlarged or altered in a way that increases its nonconformity except by order of the Board of Adjustment in accordance with Section 15.4.
- 8.3.4** If a nonresidential nonconforming structure is damaged to an extent of less than eighty (80) percent of its ad valorem valuation at the time such damage occurred, the structure may be rehabilitated. The rehabilitated structure shall be placed on the lot in a manner most in conformance with all applicable regulations contained in this Ordinance. If the structure is damaged to a degree of greater than eighty (80) percent of its valuation for ad valorem tax purposes at the time of damage, it may only be rebuilt in a manner consistent with the yard, lot, and bulk regulations of this Ordinance. A residential structure that is damaged to an extent whereby repairs cost less than eighty percent (80%) of its valuation for ad valorem tax purposes at the time of destruction, said structure may be reconstructed on the lot. The structure, once rehabilitated, shall be similar in size and shape to the structure damaged. Said structure shall be placed on the lot in a manner most conforming with the regulations contained in this Ordinance. If the residential structure is destroyed, it shall also be placed in a manner most in conformance with all applicable regulations contained in this Ordinance. In no case shall the reconstructed residential structure be larger in size than the structure that it replaced unless all setbacks required for the zoning district are met.

A building permit for such reconstruction must be secured no later than one hundred and eighty (180) days from the date of destruction of such residential structure. Otherwise such reconstruction shall not be allowed. Notwithstanding any of the above, the Board of Adjustment shall have the authority to grant an order allowing for the replacement of a nonconforming use or structure that has been destroyed in accordance with Section 15.4.

- 8.3.5** Should a nonconforming structure be moved for any distance on the lot of record, it shall be placed in a manner most in conformance with this Ordinance.

Section 8.4 Nonconforming Accessory Structures

A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded and do not increase the degree of nonconformity.

Section 8.5 Nonconforming Lots

- 8.5.1** Except as provided in Section 8.5.2 of this Ordinance, in any district where a lot has been recorded with the Gaston County Office of the Register of Deeds, and was not in violation of the Zoning Ordinance of the City of Cherryville, North Carolina prior to the effective date of this Ordinance, and such lot does not comply

with the minimum lot area and width requirements for the zoning district in which such lot is located, such lot may be used for any use permitted in that zoning district provided that the principal and accessory structures meet all applicable front, side, and rear yard requirements for that zoning district as provided in this Ordinance.

- 8.5.2** If two or more adjacent unimproved lots, neither one of which meet the lot width and/or at least eighty percent (80%) of the area requirements of the zoning district in which they are located, are of single ownership and are of record at the time of adoption of this Ordinance or any amendment thereto, and if these lots, in combination, meet the dimensional requirements established for lot width and area, the lands involved shall be deemed to be an undivided lot. For the purpose of this Ordinance, said lot(s) shall be used or sold by the owner and all future assigns in a manner which is in compliance with lot, width, and area requirements or as otherwise provided in this Ordinance. Provided however, any lot containing at least twenty thousand (20,000) square feet shall be exempt from this requirement.

Section 8.6 Relief of Front Yard Setback For Certain Dwellings

The front yard requirements of this Ordinance for dwellings shall not apply to any lot where the average setback of existing principal buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case the front yard on such lots may be less than the required front yard but not less than the average of the existing front yard on the aforementioned lots, or a distance of fifteen (15) feet from the edge of the street right-of-way, whichever is greater.

Section 8.7 Nonconforming Off-Street Parking and/or Loading

On any lot which contains a use which does not comply with the off-street parking and loading regulations contained in Part 10 of this Ordinance, a certificate of compliance shall not be issued for any expansion (except as provided in Section 10.1.2) and any change of use which would result in a need to increase the number of off-street parking and/or loading spaces required (except as herein provided), until the requisite number of off-street parking spaces and all paving requirements have been met.

A certificate of compliance may be issued when there has been a change in a principal use and the number of off-street parking spaces required for the new use (per Part 10 of this Ordinance) is within ten (10) percent or ten (10) spaces, whichever is less, of the number of off-street parking spaces actually provided. An example of this is as follows:

A principal use (Use A) is located on a lot with two hundred (200) off-street parking spaces. Use A

goes out-of-business and is replaced with Use B. Part of this Ordinance requires that Use B have 208 spaces. A certificate of compliance can be issued for Use B (so long as the use is otherwise in accordance with all applicable requirements of this Ordinance) as the number of deficient spaces (8) is less than the prescribed maximum (10).

Such relief may be granted on a one-time only basis per lot or planned development. In such instances where relief is provided, the additional parking spaces need not be paved (but shall have a graded gravel, crushed-stone or similar dust-reducing surface) if the parking lot prior to said expansion was not paved.

Section 8.8 Nonconforming Manufactured Home Parks

Any manufactured home park which is not constructed in accordance with the standards set forth in Section 12.3 of this Ordinance shall be required to conform to the following standards of this Ordinance within the time period as listed for each standard below. (The period of time given to conform begins at the effective date of this Ordinance, July 10, 1995):

- 12.3.6 Setbacks (All replacement manufactured homes with a manufactured home park shall be placed in the park so as to conform to all setback requirements contained in Section 12.3.6)
- 12.3.9 Stand, Underpinning and Tiedown - 5 Years (July 10, 2000)
- 12.3.10 Steps & Patios - 5 Years (July 10, 2000)
- 12.3.11 Space Numbers - 2 Years (July 10, 1997)
- 12.3.14 Park Identification Sign - 2 Years (July 10, 1997)
- 12.3.15 Interior Streets, Drainage, and Markings - 8 Years (July 10, 2003)
- 12.3.16 Parking - 2 Years (July 10, 1997)
- 12.3.17 Trash Facilities - 1 Year (July 10, 1996)
- 12.3.18 Lighting - 8 Years (July 10, 2003)
- 12.3.22 Water Service - 1 Year (July 10, 1996)
- 12.3.23 Sewage Facilities - 4 Years (July 10, 1999)
- 12.3.24 Screening - 5 Years (July 10, 2000)
- 12.3.25 Interior Landscaping - 5 Years (July 10, 2000)
- 12.3.28 Maintenance – Immediate (July 10, 1995)

8.8.1 During the period in which a nonconforming manufactured home parks is allowed to continue in operation as provided for in Section 8.8, the following requirements shall be met:

- a. any expansion of said parks shall conform to Section 12.3 of this Ordinance;

- b. if the park ceases operation for a period greater than ninety (90) days it shall only be re-established in accordance with Section 12.3 of this Ordinance (cessation of operation occurs when either all manufactured homes have been removed or when a manufactured home park is closed by a public authority due to violation of law), and
- c. when a space vacancy occurs or when one manufactured home is replaced with another manufactured home, the replacement manufactured home shall meet the requirements of either Class A or Class B manufactured homes.

Section 8.9 Nonconforming Signs

- 8.9.1** Subject to the restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.
- 8.9.2** No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign or causes a previously conforming sign to become nonconforming.
- 8.9.3** A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Once a nonconforming sign is removed from the premises or otherwise taken down (i.e., sign post(s) and/or sign frame are removed) or moved, said sign may only be replaced with a sign which is in conformance with the terms of this Ordinance.
- 8.9.4** Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign in sound condition are permitted.
- 8.9.5** If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign shall be considered "destroyed" if it receives damage to an extent of more than fifty (50) percent of the current replacement cost of the total sign structure.
- 8.9.6** Except as otherwise provided in this Section, the message of a nonconforming sign may be changed so long as this does not create any new nonconformities.
- 8.9.7** If a nonconforming sign which advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within ninety (90) days after the use has ceased operation or the service or commodity has ceased being offered.

If there is a change of use or name of business on a particular piece of property, and there were one or more on-premise signs that advertised the business, any new signs placed for the new use or business name must meet all sign requirements for the underlying zoning district. An example of this is as follows:

A restaurant has an on-premise freestanding sign having an area of one hundred (100) square feet. The maximum allowable area for said sign in that particular zoning district is sixty-four (64) square feet. If said restaurant ceases operation and is replaced by another principal use or by another restaurant (either of which uses new sign structures), any new free-standing sign advertising the new principal use or business name shall have a maximum area of sixty-four (64) square feet. If the same sign structure used to advertise the former restaurant is used to advertise the new use, said sign structure may remain.

- 8.9.8** If a nonconforming sign remains blank for a continuous period of six (6) months, that sign shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Ordinance, a sign shall be deemed "blank" if:
- a. It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
 - b. The advertising message it displays becomes illegible in whole or substantial part; or
 - c. It does not contain an advertising message. (For such purposes, the terms "Sign For Rent", "Sign For Lease", "Sign For Sale", etc. shall not be deemed to be an advertising message.)
- 8.9.9** Except as otherwise stated herein, all signs prohibited by Section 9.9, Subsections 1-18, of this Ordinance shall be removed entirely or otherwise brought into conformance with this Ordinance, whichever is applicable, within three (3) months of the effective date of this Ordinance.

All existing non-conforming signs that constitute or tend to constitute a hazard to the safe and efficient operation of vehicles upon any public right-of-way, street, passageway, or sight triangle, or that would obstruct the line of sight of motorists or pedestrians, shall be removed. These signs shall be determined by the Zoning Administrator, with the consent of the Chief of Police. All other nonconforming signs (except portable, temporary, or special event signage) and non conforming directional business signs that were in place prior to November 7,2005 which do

not constitute or do not tend to constitute said hazard shall be allowed to remain.

Section 8.10 Nonconforming Advertising Signs

Signs may remain subject to the requirements of Subsections 8.9.2, 8.9.3, 8.9.5, 8.9.8, and 8.9.9 of this Ordinance.

Section 8.11 Nonconforming Junkyards

Any junkyard less than one (1) acre in area and located in a district not permitting junkyards shall be removed entirely within four (4) years from the effective date of this Ordinance. Any junkyard one (1) acre or more in area and located in a district not permitting junkyards may remain subject to the following conditions:

- (a) No expansion in area occupied by the junkyard shall be allowed;
- (b) The junkyard shall be screened from all adjoining properties and any adjoining street in accordance with Section 5.2 of this Ordinance within four (4) years from the effective date of this Ordinance. Such screening shall consist of, at a minimum, natural plantings set forth in 5.2.3(a) of this Ordinance, plus any additional wall, fencing, or berm to necessary achieve total opacity within the four-year period; and
- (c) Any junkyard that does not meet the setback requirements for outdoor storage upon the effective date of this Ordinance shall meet such requirements within two (2) years of such effective date.

For the purpose of this Section the area of a junkyard shall be the smallest rectangle formed by the ground surface extensively covered by junk materials.

PART 9

SIGNS

Section 9.1 General Intent

The purpose and intent of this Part is to support and complement the various land uses allowed in Cherryville and its extraterritorial area by the adoption of policies and regulations concerning the placement of signs.

The Cherryville City Council does hereby find and declare that outdoor placement of signs to be a legitimate use of private property but that the erection of signs should be controlled and regulated in order to promote the health, safety, welfare and convenience and enjoyment of travel on and protection of the public investment in streets and roads in the Cherryville area and to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this Ordinance to prevent signs from dominating the visual appearance of the area in which they are located.

Section 9.2 Sign Illumination

- a. The letter "N" means that the sign shall not be lighted.
- b. The letter "L" means that the sign may be illuminated.
- c. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign.

Section 9.3 Unsafe Signs

Any sign which is determined by the Zoning Administrator as being insecure, in danger of falling or otherwise endangering the public safety shall be immediately removed by its owner unless it is repaired and made to otherwise comply with the requirements of this Ordinance.

Section 9.4 Sign Setback

Sign setback shall be determined by the Zoning Administrator and if requested, the assistance of the Director of Public Works. The setback of the sign shall be as specified in various sections of this Ordinance.

Section 9.5 Sign Area

Sign area shall be deemed to be the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustrations, or ornamentations, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in the sign area. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence

onto which the sign face or letters are placed shall be calculated in the sign area. Only one side of a sign shall be included in the calculation.

Section 9.6 Sign Height

The height of a sign shall be measured from the highest point of a sign to the grade immediately below it.

Section 9.7 Permit Required

Except as otherwise provided in this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Zoning Administrator as required by this Ordinance.

Notwithstanding the above, changing or replacing the copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign such as to render the sign in violation of this Ordinance.

Section 9.8 Signs Not Requiring Permit

The following types of signs are exempted from permit requirements of Section 9.7 of this Ordinance and may be placed in any zoning district. Such signs shall be in conformance with any applicable requirements contained in this Ordinance. There shall be no limit as to the number of such signs on any lot, except as herein prescribed. All such signs (except government and campaign and election signs) shall be located outside a road right-of-way.

1. Government signs.
2. Memorial signs, plaques or grave markers that are noncommercial in nature.
3. Public interest signs.
4. On-premise instructional signs not exceeding four (4) square feet in area apiece.
5. Identification signs not exceeding three (3) square feet in area (one (1) only per premises)
6. Incidental signs.
7. Campaign and election signs provided that:
 1. If placed within the street right-of-way:
 - a. Each sign shall not exceed five (5) square feet in area.
 - b. Sign height shall not exceed thirty (30) inches above the street level surface nearest to Said sign; provided, however, if said sign is located within twelve (12) feet of the point of intersection of the edges of pavement of two intersecting

streets, no such sign shall exceed thirty (30) inches in height above said street level. Notwithstanding the foregoing, the Zoning Administrator shall remove any sign or group of signs that he deems to be an obstruction to the safe vision of motorists.

- c. Such signs shall not be put up more than thirty (30) days prior to election day and must be removed within seven (7) days following election day; provided, however, signs of candidates in a runoff election may remain up until seven (7) days following said runoff election.
 - d. No such sign shall be placed over any curb, street surface, or sidewalk; or utility pole, government sign or signpost, bridge, tree, rock, fence or guardrail, or within fifteen (15) feet of any fire hydrant.
 - e. The tenant or other person entitled to possession of the property fronting along the street right-of-way on which such sign is placed may remove such sign at any time.
 - f. Such signs shall not be placed on right-of-way fronting public facilities (e.g. government office or operations center, post office, public park, public cemetery, courthouse, public safety station, public library, public museum, public school, etc.) except on election day where said public facility is a polling place and are placed in accordance with the rules of the Board of Elections.
 - g. Such signs shall not be placed in the B-1 (Central Business) District
2. If placed on private property, outside the street right-of-way:
 - a. Sign area shall not exceed thirty-two (32) square feet.
 - b. Sign height shall not exceed ten (10) feet or 2.5 times the vertical dimension of the sign face, whichever is less.
 - c. No such sign shall obstruct the safe vision of motorists.
 3. No campaign or election sign shall be lighted or luminous, nor shall it have any flashing lights or moving or windblown parts.
 4. No campaign or election sign shall be placed on public property, outside the street right-of-way except at polling places on Election Day in accordance with the rules of the Board of Elections.
 5. Any campaign or election sign not erected in accordance with these rules shall be subject to removal by the Zoning Administrator.

8. Temporary real estate signs advertising specific property for sale, lease, rent or development shall be located as follows:
 - a. One sign advertising real estate "For Sale", "For Rent", "For Lease" or "For Development" not greater than ten (10) square feet in area in all Residential (R) Districts and thirty-two (32) square feet in area in nonresidential districts may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot, then a second sign may be permitted so long as said signs are at least two hundred (200) feet apart as measured by the shortest straight line. No sign shall be located in the right-of-way or a sight triangle.
 - b. In addition to the on-site sign(s), a maximum of three (3) directional signs, each not exceeding three (3) square feet in area, shall be permitted to be located off the subject premises. The message of said signs shall be limited to the name of the property or development being advertised, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale", "For Rent", "For Lease", "For Development", etc. No sign shall be located in the right-of-way or sight triangle.
 - c. All such temporary signs shall be removed within seven (7) days after the property has been sold, rented, leased, etc.
 - d. No more than three (3) temporary directional signs advertising a specific shopping center, planned mixed-use development, subdivision etc. may also be permitted off-site. Each such sign shall be no greater than three (3) square feet in area. No sign shall be located in the right-of-way or sight triangle.
9. Construction signs up to sixty-four (64) square feet for each project provided that:
 - a. Only one (1) sign per street front per premises shall be erected. No subcontractor or financial advertising signs shall be allowed unless they are incorporated onto the Contractors main construction sign.
 - b. Signs shall not be illuminated.
 - c. Signs shall be removed within seven (7) days after the Certificate of Occupancy has been issued.
10. Temporary special event signs or banners for religious, charitable, civic, fraternal or similar organizations provided that:
 - a. Signs shall be erected no sooner than thirty (30) days and removed no later than seven (7) days after the event.
 - b. All signs shall be located on private property except such signs may be located within a road right-of-way subject to approval of the Zoning Administrator.
 - c. Portable changeable copy signs for such use may be allowed.

11. **Reserved.**
12. One (1) on-premise yard sale sign per yard sale. Such sign shall be removed within twenty-four hours after the yard sale has been terminated.
13. Directional signs provided that:
 - a. Such signs may only be used in conjunction with a religious, charitable, civic, fraternal or similar organization. If a sign is temporary (designed to be on the ground for a period of less than thirty (30) days), a zoning permit shall not be required. If such sign is to be on the ground for a period of thirty (30) days or more, a zoning permit shall be required.
 - b. No more than three (3) directional sign per principal use may be erected
 - c. All such signs shall be located outside of any road right-of-way
 - d. All such signs greater than thirty (30) inches in height as measured from the grade of the road upon which it fronts shall be located outside the required sight distance triangle indicated in Section 5.7 of this Ordinance.
 - e. All such signs shall not be illuminated
 - f. All directional signs shall be freestanding signs. Portable signs shall be prohibited
 - g. There shall be no greater than four (4) directional sign poles at the intersection of any two (2) roads
 - h. More than one sign may be hung from the same pole
 - i. In no case shall any sign be located closer than one (1) foot above grade
 - j. No two (2) directional signs hung from separate poles shall be located within five (5) feet of each other
 - k. The maximum area of any directional sign shall be three (3) square feet

Section 9.9 Prohibited signs

In all zoning districts the erection, construction, location and/or the use of any sign is prohibited as follows. Such signs, if deemed to create a public safety hazard by the City Manager or the Zoning Administrator, may be removed immediately; otherwise, prohibited signs shall be removed as provided under

1. No sign shall contain statements, words or pictures which describe or display "specified anatomical areas" or "specified sexual activities," as defined in the City of Cherryville Zoning Ordinance, or which contain words which are classified as "vulgar" or "vulgar slang" in The New College Edition of the American Heritage Dictionary.
2. No sign shall be permitted on or protrude into a public right-of-way, street or passage except as provided specifically for herein.
3. Except for signs installed by or with the approval of an appropriate governmental agency, no sign shall be attached to, hung or painted on any curb stone, hydrant,

lamppost, barricade, temporary walk, telephone pole, telegraph pole, electric light pole or other utility pole, public fence or on a fixture of a fire alarm or police call system within any public right-of-way.

4. No sign shall be permitted whereby its location, nature or type constitute or tends to constitute a hazard to the safe and efficient operation of vehicles upon any public, right-of-way, street or passageway.
5. No sign shall be permitted that would obstruct the line of sight of motorists or pedestrians at intersections, driveways, or along any public right-of-way, street or passageway.
6. No sign shall be permitted, as specified in Section 136-30 of the General Statutes of North Carolina that would obstruct or resemble traffic signs or signals, or would tend to be confused with a flashing light of an emergency vehicle.
7. No sign shall be permitted to prevent free ingress and egress from any door, window, fire escape, downspout, stairway, ladder, or opening intended as a means of providing light or air.
8. No sign shall be permitted containing or consisting of banners, posters, pennants, ribbons, balloons, streamers or other similarly moving devices or ornamentation, except as specifically provided herein by permit.
9. No sign shall be permitted which contains or utilizes revolving or rotating beams of light or stroboscopes.
10. No detached sign shall be located closer than ten (10) feet in any direction from any power or transmission line. (NOTE: This does not include the supporting structure e.g., the power pole.)
11. No detached sign shall be located within the triangular sight distance as defined per Section 5.7.
12. No sign shall be placed on a vehicle or trailer which is parked or located for the primary purpose of displaying said sign (this does not apply to permitted portable changeable copy signs, or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
13. Signs with flashing or intermittent lights or lights with reflective devices of changing degree of intensity or color. Animated signs are prohibited. Signs with devices which produce flashing light and signs which produce scrolled messages are prohibited, however, signs which give time and temperature are permitted, provided such messages are limited to only time and/or temperature. If a time and temperature sign alternates between a time message and a temperature message it shall continuously show one message a minimum of three (3) seconds time before switching to the other message.
14. Outdoor advertising signs shall not be permitted.
15. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.
16. Portable signs except as permitted by permit in this Ordinance.
17. All signs that are located within any public right-of-way, e.g., on utility poles, street markers, traffic signs, etc., in violation of this chapter may be removed and disposed of by the Code Enforcement Officer (or other public employee as authorized by the City Manager) without notice.

Section 9.10 Signs Permitted In All Residential (R) Districts

Signs allowed without a permit are listed in Section 9.8 of this Ordinance. The following signs may be placed in such districts subsequent to the issuance of a permit by the Zoning Administrator. All other signs shall be prohibited.

- a. Signs on premises of multi-family developments and mobile home parks, day care centers, nursing home, rest homes and homes for the aged, small group day care centers and bed and breakfast inns, churches, schools, and publicly or privately owned and operated outdoor recreation facilities, cemeteries and public safety stations are regulated as follows:
 - 1. Types of sign permitted: Identification
 - 2. Permitted number of signs: One (1) per premises per public street front
 - 3. Maximum area of signs: Fifteen (15) square feet if located on a lot one (1) acre or less in area; thirty (30) square feet if located on a lot greater than one (1) acre in area.
 - 4. Permitted illumination: Illuminated signs may be lit from external sources only.
 - 5. Setback of sign: Minimum of ten (10) feet behind the right-of-way. No sign shall be located within a sight triangle.

- b. Permanent subdivision identification are regulated as follows:
 - 1. Types of sign permitted: Identification
 - 2. Permitted number of signs: One (1) per subdivision per subdivision entrance
 - 3. Maximum area of signs: Fifty (50) square feet
 - 4. Permitted illumination: Illuminated signs may be lit from external sources only.
 - 5. Setback of sign: Minimum of ten (10) feet behind the right-of-way. No sign shall be located within a sight triangle.

Section 9.11 Signs Permitted In Business (B) And GMC Districts

9.11.1 The following are regulations for all wall signs and freestanding signs for all uses except that such regulations shall not be applicable to free-standing signs in shopping centers business parks, office buildings and other multi-tenant developments. Said regulations are found in Section 9.11.2 of this Ordinance. Signs allowed without a permit are found in Section 9.9 of this Ordinance. Portable signs shall be allowed per Section 9.13.3. All other signs shall be prohibited.

1. Types of sign permitted: Business, identification
2. Permitted number of signs: Wall. No limit. Signs may include permanent type trademark/manufacturer signs.

Free-standing. One (1) only except two (2) shall be permitted if the principal use has direct access from two (2) or more public roads. A free-standing sign shall not be permitted as indicated in Section 9.13.2(4)
3. Maximum area of signs: Wall. A maximum of ten (10) percent of the wall area of any wall on the building. Except as provided herein and in Section 9.13.1, in no instance shall any principal use be allowed to have an aggregate wall sign area in excess of one hundred (100)-square feet

Free-standing. The area of the sign shall be a function of the road upon which the building containing the use being identified fronts. The following schedule shall apply:

<u>Thoroughfare Plan</u>	<u>Sq Ft</u>	<u>Minimum Setback</u>
Major Arterial	64	10 ft behind r-o-w
Minor Arterial	64	10 ft behind r-o-w
Collector	32	10 ft behind r-o-w
Local	24	10 ft behind r-o-w

4. Maximum height: Wall. Signs shall not be allowed to extend above the parapet of the building

Free-standing. The height of free-standing signs shall be a function of the road upon which the principal building containing the use being advertised fronts. The following schedule shall apply:

Road Classification(In Accordance With
The Cherryville Thoroughfare Plan

Major Arterial	20 Ft
Minor Arterial	20 Ft
Collector	15 Ft
Local	15 Ft

5. Permitted illumination: L or N

9.11.2 Shopping center and other multi-tenant free-standing identification signs.

1. Types of sign permitted: Identification
2. Permitted number of signs: A shopping center or planned mixed use development either of which contains two (2) or more nonresidential uses located in a unified building or group of buildings may have one (1) free-standing identification sign giving the name of the development and/or the name of the businesses and other uses occupying the development. A second sign shall be permitted if the development has direct access from two (2) or more public roads. No other on-premise freestanding signs shall be permitted.
3. Maximum area of signs: The maximum area of freestanding identification signs shall be:
 - A. For developments with a gfa of 0-19,999 sq. ft:
Local Street (2-3 lane): 32 sq. ft.
Other Street (4+ lane): 64 sq. ft
 - B. For developments with a gfa of 20,000-49,999 sq ft:
Local Street (2-3 lane): 64 sq. ft.
Other Street (4+ lane): 100 sq. ft.
 - C. For developments with a gfa of 50,000-199,999 sq. ft:
150 sq ft
 - D. For developments with a gfa of 200,000+ sq. ft:
200 sq ft
4. Permitted illumination: L or N

5. Permitted height: The maximum height of the sign(s) shall be:

A. For developments with a gfa of 0-19,999 sq. ft:

For signs with an area of 0-32 sq ft and fronting a Local Street (2-3 lane) Maximum of 15 ft in height

For signs with an area of 33-64 sq ft and fronting a street (4+ lane) Maximum of 20 ft in height

B. For developments with a gfa of 20,000-49,999 sq ft:

For signs with an area of 0-64 sq.ft. and fronting a Local Street (2-3 lane): 20 ft in height

For signs with an area of greater than 65-100 sq ft and fronting a street (4+ lane) a maximum of 20 ft in height

C. For developments with a gfa of 50,000-199,999 sq ft:

For signs with an area of up to 150 sq ft a maximum 30 ft in height

D. For developments with a gfa of 200,000+ sq ft:

For signs with an area of up to 200 sq ft a maximum of 30 ft in height

6. Permitted location:

If two (2) free-standing signs are located on the same premises, they shall be located at a minimum distance of one hundred (100) feet from each other as measured by the shortest straight line connecting each sign. All free-standing signs shall be located the required setback behind the street right-of-way per Section 9.11.1, (3).

Section 9.12 Reserved.

Section 9.13 Additional Specifications for Identification Signs Requiring A Permit

The following are general specifications applicable to the various permitted signs. Additional specifications regarding size, number, location, and permitted types of signs are set forth in the individual zoning districts.

9.13.1 Wall Sign

1. The maximum permitted aggregate area of wall signs per premises may be increased beyond that which is normally allowed using either (but not both) of the following methods:
 - a. If a freestanding sign is not used on the premises, the aggregate area of wall signs may be increased by twenty (20) percent per premises.
 - b. The aggregate area of all wall signs per premises may be increased based on the distance, the principal building is set back from the required front setback line. Said increase shall be in accordance with the following Table:

Principal Building Distance Setback From The <u>Required</u> <u>Front Setback</u>	Allowed Aggregate Wall Sign Area Increase
0-149 Feet	25 Percent
150-249 Feet	50 Percent
250-349 Feet	75 Percent
350 Feet or More	100 Percent

2. No wall sign shall project more than 18 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window.
3. Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises. Signs may be painted or printed onto a canopy or awning. In no instance shall a canopy or awning sign extend into the roadway.
4. A projecting sign may be substituted for part or all of the allowable wall signage per premises. A projecting sign shall not project more than four feet from a building. In no instance shall a projecting sign extend into a street right-of-way.

9.13.2 Free-Standing Signs

1. All free-standing signs shall be located the required setback behind the street right-of-way per Section 9.11.1, (3). Any such sign greater than two and one-half (2-1/2) feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight distance triangle as indicated in Section 5.7 of this Ordinance.
2. The bottom of all free-standing signs that are not ground mounted and which are located within fifteen (15) feet of the street right-of-way shall be at least ten (10) feet in height as measured from the grade.
3. No freestanding sign shall be located closer than five (5) feet to any adjacent side lot line.
4. Any premise permitted to display freestanding pole signs shall do so only if the principal building containing the use being advertised in which is set back at least thirty (30) feet from the edge of all immediately adjacent street rights-of-way. Said regulations shall not apply to establishments wishing to erect monument or ground-mounted signs.

9.13.3 Temporary and special event signage in nonresidential districts

- a. **Banners**. Allowed for special events, sales, and grand openings with a permit for up to thirty (30) days of consecutive use, two (2) times per calendar year (separated by a minimum of thirty (30) days). There shall be no more than two (2) banners per occupancy per permit. At the end of the permit period, the banner shall be removed.
- b. **Special Purpose Signs** (Temporary & Portable) Signs. Allowed for special events, sales, and grand openings with a permit for up to thirty (30) days of consecutive use, two (2) times per calendar year (separated by a minimum of thirty (30) days). There shall be no more than two (2) temporary signs per occupancy per permit. At the end of the permit period, the Special Purpose Sign(s) shall be removed. Museums and cultural arts centers within the City of Cherryville shall be permitted continuous year-round display of one (1) Special Purpose Sign and there is no time constraint imposed upon any one (1) Special Purpose Sign's display.
- c. **Portable Changeable Copy Signs**: Allowed for special events, sales, and grand openings with a permit for up to thirty (30) days of consecutive use, two (2) times per calendar year (separated by a minimum of thirty (30) days). Portable Changeable Copy signs shall be non-lighted and shall not exceed thirty-two (32) square feet

in size and four (4) feet in height, or be located within five (5) feet of any property line. The sign also shall be located ten (10) feet behind the right-of-way and shall not interfere with a minimum 300 foot sight distance for any traffic entering or exiting from any property or intersecting street or traveling along any street. At the expiration of the permit period, the sign, which includes the lettering as well as the signage cabinet, shall be removed and not be visible from any street.

- d. **Pennants, ribbons, balloons, streamers or other similarly moving devices or ornamentation**: Allowed for special events, sales, and grand openings with a permit for up to thirty (30) days of consecutive use, two (2) times per calendar year (separated by a minimum of thirty (30) days). At the end of the permit period, all pennants, ribbons, balloons, streamers or other similarly moving devices or ornamentation shall be removed.

Section 9.13.4 – Portable Sidewalk Signs

Notwithstanding the requirements of **Section 24-1**, Obstructions Generally (on streets and sidewalks) of the **City of Cherryville Code of Ordinances**, portable sidewalk signs (as defined in Section 4.1 of this ordinance) shall be permitted in the Central Business (B-1) provided that placement of such sign upon private property or a public sidewalk shall be approved by the City Manager or his designee as outlined in **Section 9.13.5** of this ordinance.

Section 9.13.5 – Portable sidewalk signs permitted in the Central Business District (B-1)

Any premises or principal building within the Central Business District (B-1) may place a portable sidewalk sign (after obtaining a permit as required in Section 9.7 of this ordinance) on the city sidewalk subject to the following restrictions:

- (1) **Number of signs:** Any premises, including those containing multiple businesses, may place only one (1) portable sidewalk sign per street frontage.
- (2) **Area and height:** Any sidewalk sign shall not exceed eight (8) square feet per side in area. In addition, the width of the sign shall not exceed two (2) linear feet, with a maximum height of four (4) feet. However, a "T" – frame or an easel sign may have a height of six (6) feet. Within these specified maximum dimensions, creative shapes that reflect the theme of the business being advertised are encouraged (i.e., ice cream shop may display a sign in the shape of an ice cream cone).
- (3) **Display hours:** Portable sidewalk signs shall be displayed only during operational hours of the business being advertised and shall not be lighted. These signs must be removed each day at the close of business.
- (4) **Location:** Portable sidewalk signs shall be placed on the sidewalk directly in front of the associated use. Along streets with no parallel parking, portable sidewalk

signs shall be placed on the sidewalk, but a pathway clearance of four (4) feet shall be maintained. Along streets with parallel parking, a two-foot step-out zone shall be provided, and portable sidewalk signs shall be placed on the sidewalk at least two (2) feet from the curb. The location of any portable sidewalk sign shall be at least twenty (20) feet from any intersection and at least five (5) feet from any crosswalk or fire hydrant. No sidewalk sign shall be placed where the unobstructed space for the passageway of pedestrians is reduced to less than four (4) feet. If a building is located on a corner within the twenty (20) foot sight triangle, then the portable sidewalk sign shall be placed against the base of the building. Trees, poles, signs, hydrants, trash receptacles, tree grates, etc., are all considered obstructions.

- (5) **Materials, appearance:** The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign lettering should be professionally painted or applied; a "yard sale" or "graffiti" look with hand painted or paint-stenciled letters is not acceptable, however, chalkboard signs shall be permitted. The written message of the sign should be kept to the minimum necessary to communicate the name of a business or a special message of the business.
- (6) **Indemnification:** Any person erecting a portable sidewalk sign shall indemnify and hold harmless the city and its officers, agents, and employees from any claim arising out of the presence of the sign on city property or rights-of-way. The person erecting a sidewalk sign shall sign an indemnification agreement, approved by the City Attorney, prior to the issuance of a sign permit. The indemnification agreement shall be accompanied by evidence of insurance covering the liability assumed in this subsection and the agreement.
- (7) **Determination by City Manager:** Questions as to any of the restrictions above should be directed to the City Manager or his designee.

Section 9.13.6 – Sandwich Board Signs permitted in the Neighborhood Business (B-2) and General Business (B-3) Districts

Any premises or principal building within the Neighborhood Business (B-2) and General Business (B-3) Districts may place a sandwich board sign (after obtaining a permit as required in Section 9.7 of this ordinance) on their property subject to the following restrictions:

- (1) **Number of signs:** Any premises, including those containing multiple businesses may place only one (1) sandwich board sign per business.
- (2) **Area and height:** Any sandwich board sign shall not exceed twelve (12) square feet per side in area. In addition, the width of the sign shall not exceed three (3) linear feet, with a maximum height of four (4) feet. Within these specified maximum dimensions, creative shapes that reflect the theme of the business being advertised are encouraged (i.e., ice cream shop may display a sign in the shape of an ice cream cone).

- (3) **Location:** Sandwich board signs shall be placed directly in front of the associated use and be located on the same parcel as the business. If placed on a sidewalk/walkway within a business development, a pathway clearance of four (4) feet shall be maintained. The location of any sandwich board sign shall be at least twenty (20) feet from any intersection and at least five (5) feet from any crosswalk or fire hydrant. No sandwich board sign shall be placed where the unobstructed space for the passageway of pedestrians is reduced to less than four (4) feet. Trees, poles, signs, hydrants, trash receptacles, tree grates, etc., are all considered obstructions. Sandwich board signs shall not be placed closer than ten (10) feet from a right-of-way. No sandwich board sign or any other sign shall be placed in a right-of-way, fire lane, or actively used parking area.
- (4) **Materials, appearance:** The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign lettering should be professionally painted or applied; a "yard sale" or "graffiti" look with hand painted or paint-stenciled letters is not acceptable, however, chalkboard signs shall be permitted. The written message of the sign should be kept to the minimum necessary to communicate the name of a business or a special message of the business.
- (5) **Determination by City Manager:** Questions as to any of the restrictions above should be directed to the City Manager or the Zoning Administrator.

PART 10

OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 10.1 Off-Street Parking Requirements

Every new use, or an enlargement, expansion or alteration of an existing use, shall require off-street parking in compliance with this Ordinance, except that all off-street parking requirements shall be waived within the B-1 District.

10.1.1 The number of required off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this Part. Parking spaces may be decreased when a change of use requires fewer spaces than provided for in the previous use.

10.1.2 A principal use that is not deficient in the number of off-street parking spaces provided may expand or the property may change in use without having to provide additional off-street parking spaces under certain circumstances. Such circumstances are:

1. When, after the expansion or change in use, the number of off-street parking spaces provided still meets or exceeds the required minimum.
2. If the expansion or change in use results in the need to create no greater than ten (10) percent or ten (10), whichever is smaller, additional spaces. These additional spaces may be waived on a one-time basis only. Such waiver may only be applied once to any individual principal use, or to any shopping center, office park or similar planned multi-tenant development. (See Section 8.7)

Otherwise, no reduction shall be allowed for the number of off-street parking spaces parking for any use which expands when, prior to such expansion, said use was deficient in the number of off-street parking spaced provided.

10.1.3 A certificate of occupancy will not be issued for any use until all off-street parking and loading requirements in accordance with this Ordinance have been met and are in place and ready for use.

10.1.4 Off-Street Parking shall be located as follows:

- a. Off-street parking spaces shall generally be provided on the same lot of record as the principal use. In instances where such parking cannot be reasonably provided on the same lot of record, it shall be provided on a separate lot of record, fifty (50%) percent or more whose area is located within five hundred (500) feet of the lot of record on which the principal use is located. All such off-street parking areas located in a Residential (R)

District shall require the issuance of a special use permit by the City Council in accordance with Part 13 of this Ordinance.

- b. Cooperative provisions for off-street parking may be made by contract between owners of adjacent properties, and such contract shall be filed with the Zoning Administrator. The parking area provided on any one lot may be reduced to not less than one-half (1/2) the number of parking spaces required for the use occupying such lot. The end result of such cooperative parking shall be that the total number of parking spaces provided equals or exceed that which would be required for each use if computed separately.

Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a legally binding written agreement between the owner of the parking area and the owner of any use located on a different lot and served by the parking area.

- c. No off-street parking area shall be located over an active or auxiliary (repair area) septic tank field.
- d. The temporary parking or storage of manufactured homes shall be prohibited in all areas that do not permit manufactured homes or in manufactured homes sales lots.
- e. For all non-residential uses (except those located in the B-1 District), no off-street parking, loading, or product display areas shall be located within ten (10) feet of any street right-of-way line unless otherwise noted.
- f. On any lot less than two (2) acres in area located in a Residential (R) zoning district, no more than one (1) commercial vehicle may be parked on an overnight basis on private property. The vehicle shall be a single unit truck (i.e., a truck without a trailer) and not have a length of greater than thirty-five (35) feet. The vehicle shall be parked off-street and shall be used by the residents of the lot upon which it is located. This shall not be construed to prevent the temporary parking of delivery trucks, moving vans, and similar vehicles.

10.1.5 Design standards for parking areas are as follows:

- a. Except as here in provided, each parking space shall contain a rectangular area of at least nineteen (19) feet in length and nine (9) feet in width. Whenever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet in length and nine (9) feet in width. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

- b. Parking area aisle widths shall meet the following minimum dimensions:

<u>Aisle Width (Feet)</u>	<u>Parking Angle In Degrees</u>
	<u>0</u> <u>45</u> <u>60</u> <u>90</u>
One-way Traffic	13 13 18 24
Two-way Traffic	19 21 23 24

- c. All newly created or expanded off-street parking areas that contain more than four (4) off-street parking spaces that are regularly used at least five (5) days per week shall be graded, paved and surfaced with asphalt, concrete or equivalent protection against potholes and dust. Any expansion to an existing unpaved off-street parking area that contained more than four (4) spaces, or, as a result of the expansion, contains more than four (4) spaces, shall require the paving of the entire parking area. Off-street parking areas that are not required to have such surfaces shall be graded and surfaced with crushed stone, gravel or other like material to provide a surface that is stable and will help reduce dust and erosion. For any off-street parking area which does not require a paved parking area surface, whenever such an area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the parking area that opens onto such streets) shall be paved in a manner as herein provided to a distance of fifteen (15) feet back from the edge of the paved street. This requirement shall not apply to single-family or two-family residences or any other use that is required to have five (5) or less off-street parking spaces. It shall also not apply to parking designated only for employees of a business.
- d. All off-street parking areas shall be designed so that vehicles cannot extend over sidewalks or bump against any wall, vegetation or other obstruction.
- e. Circulation patterns within off-street parking areas shall be so designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles both inside and outside the off-street parking area.
- f. Parking spaces that are required to have paved surfaces shall be appropriately demarcated with painted lines. Unpaved parking spaces shall also be demarcated by clearly visible markings such as wheel stops or marks painted on border materials.

10.1.6 Permits for driveway locations on State-maintained roads shall be obtained from the North Carolina Department of Transportation.

10.1.7 Storm drainage facilities shall be required, and shall be so designed as to protect any public right-of-way or adjacent property from damage.

10.1.8 The requirements for off-street parking spaces shall be computed as follows:

- a. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half (1/2) or more shall require one (1) parking space.
- b. Where seats consist of pews or benches, each twenty (20) inches of a pew or a bench shall be considered as one seat.
- c. For the purpose of computing parking requirements based on the number of employees, the on-site owners or managers shall also be considered employees.
- d. Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use.
- e. The number of required off-street parking spaces designed for use by handicapped persons as prescribed by the North Carolina State Building Code shall be computed separately from the off-street parking requirements as otherwise contained in Section 10.1.9.

10.1.9 The following chart indicates the minimum number of off-street parking spaces required for any use developed or expanded. Such requirements are in addition to those outlined in Section 10.1.8(e) of this Ordinance regarding handicapped parking. Where questions arise concerning the minimum off-street parking requirements for any use not specifically listed, the requirements may be interpreted by the Zoning Administrator as those for the most similar use that is listed.

<u>Use Classification</u>	<u>Minimum Parking Space Requirement</u>
Animal Hospital, Clinic, Veterinarian or Kennel	One (1) space per 200 square feet of gross floor area
Automobile Repair, Paint or Body Shops	One (1) space per employee during the shift of greatest employment plus four (4) spaces per bay
Automobile Sales	See sales lots
Automobile Washing and Cleaning Establishments	One (1) space for each three (3) employees and reserve spaces equal to three (3) times the capacity of the establishment
Banks, Savings and Loans, and other	One (1) space per each 100 square feet of gross floor area for the first 1000 square feet and 1 space for each 200

Financial Institutions	additional square feet of gross floor area
Bars, Nightclubs and Private Entertainment Clubs	One (1) space for each employee during the shift of greatest employment plus one (1) space for each three (3) seats
Bus Station	Four (4) spaces for each loading station, plus one (1) space for each employee during the shift with greatest employment
Cemeteries	One (1) space per employee during the shift of greatest employment plus parking on private internal roads with room for cars to pass parked cars on said roads
Charitable and Welfare Organizations	One (1) space per employee during the shift with greatest employment plus one (1) space for each three hundred (300) square feet of gross floor area
Churches, Synagogues and Other Places of Worship	One (1) space per employee during the greatest employment plus one (1) space for (4) seats in the sanctuary
Colleges, Vocational and Professional Schools	One (1) space for each three (3) students plus per employee during the shifts of greatest employment
Convenience Store	One (1) space for each two hundred (200) square feet of gross floor area plus two (2) spaces for each fuel nozzle
Customary Home Occupations	One (1) space plus the number of spaces required for the residential use
Day Care Centers, Nurseries, Pre-Schools and Kindergartens	One (1) space per employee during the shift of greatest employment plus one (1) space per ten (10) children of certification capacity
Dwellings, One-Family	Two (2) spaces for each one (1) dwelling unit
Dwellings, Two-Family	Two (2) spaces for each one (1) dwelling unit

Dwellings, Multi-Family (except those dwellings designed specifically for elderly and/or handicapped persons)	Two (2) spaces for each one or two bedroom dwelling unit and three (3) spaces for each three or more bedroom dwelling unit
Dwellings, Multi-Family (designed specifically for elderly and/or handicapped persons)	1.25 spaces per dwelling unit
Electronic gaming operation	One (1) space per 1.5 gaming terminals, plus 1 space per two (2) employees
Elementary and Junior High School	One and three-fourths (1.75) spaces for each room used for instruction or administration, or one (1) space for each four (4) seats used for assembly purposes, whichever is greater
Family Care Homes	One (1) space for each three (3) employees (total employees), plus one (1) for each two (2) residents
Funeral Homes	One (1) space for each four (4) seats in the chapel or chapels, plus two (2) spaces for each three (3) employees, plus one (1) space for each vehicle used in the operation. In addition, off-street parking area shall be provided, on the site, to accommodate a minimum of thirty (30) passenger vehicles for the purpose of forming a funeral procession. In the event that on-site area is not available, such off-street area may be provided within three hundred (300) feet of the funeral home, as measured to the nearest property lines
Furniture and Appliance Stores, Household Equipment Repair Shops; Showroom of a plumber, decorator, electrician or similar trade; Laundry and Machinery Sales	One (1) space per eight hundred (800) square feet of gross floor area plus one (1) space each for the largest number of employees per shift

Golf Courses	One (1) space for the largest number of employees per shift plus four (4) spaces per hole plus one (1) space for each vehicle used in the operation (excluding golf carts)
Hospitals	Two (2) spaces per patient bed (not including bassinets)
Laboratories, Analytical, and Testing	One (1) space per employee during the shift with greatest employment plus one (1) space for each eight hundred (800) square feet of gross floor area
Lumber or Building Material Yards	One (1) space per employee during employment plus one (1) space for each five hundred (500) square feet of retail sales space or showroom floor area plus one (1) space for each vehicle used in the operation
Manufacturing, Processing or Fabrication Plants, Offices for Building Trades	One (1) space per employee during the employment
Medical and Dental Offices and Clinics	Two (2) spaces per patient treatment or examination room (or similar patient treatment space) plus one (1) space per doctor practicing at the clinic or office plus one (1) space per each additional employee during the shift of greatest employment.
Motels and Hotels The number of Required off-street parking spaces for restaurants, lounges and banquet facilities located within a motel and hotel shall be computed separately)	One (1) space for each guest room or suite plus one (1) space for each employee on the shift of maximum employment
Museums and Art Galleries	One (1) space for each three-hundred (300) square feet of exhibit space, plus one (1) space for each employee during the shift of greatest employment
Nursing Homes, Rest Homes, Homes for the aged	Three (3) spaces for each five (5) beds

Offices, Professional, Business, or Public, (excluding medical and dental offices and clinics)	One (1) space for each two hundred (200) square feet of gross floor area
Places of Public Assembly not otherwise listed such as auditoriums and stadiums and not constructed pursuant to a permit authorizing the construction of a public community center, public or private school, or a residential development	One (1) space for each four (4) seats of seating capacity
Post Office	One (1) space per employee during the shift of greatest employment plus one (1) space for each three hundred (300) square feet of gross floor area
Private Residential Quarters	One (1) space per private residential quarters
Public Safety Stations	One (1) space for each employee during the shift of greatest employment
Radio and Television Stations	One (1) space for each three-hundred (300) square feet of gross floor area plus one (1) space for each four (4) seats in viewing areas, plus one (1) space for each vehicle used in the operation
Recreation Facilities, privately owned, outdoor, such as athletic fields, swimming or tennis clubs, amusement parks, not otherwise listed and not constructed pursuant to a permit authorizing the construction of some residential development	One (1) space per 200 square feet of area within enclosed within enclosed buildings plus one (1) space for each four (4) persons that accommodate when used to the maximum capacity

Recreation Facilities, publicly owned, outdoor, such as athletic fields, tennis courts, swimming pools, playgrounds, parks, etc., not otherwise listed and not constructed pursuant to a permit authorizing the construction of another use such as a school	One (1) space per 200 square feet of area within buildings plus one (1) space for three (3) persons that the outdoor facilities are designed to accommodate when used to the maximum capacity
Recreation Facilities, indoor, not otherwise listed (e.g., gymnasium community center, physical fitness centers or clubs, pinball or video or arcade game centers, etc.)	One (1) space for every three (3) persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion - example, tennis courts plus one (1) space per 200 square feet of gross floor area used in a manner not susceptible to such calculation, or one (1) space for three (3) seats (fixed in the largest assembly room) whichever is greatest.
Restaurants	One (1) space for each employee during the shift of greatest (including fast employment plus one (1) space for each three (3) restaurant food restaurants) seats, plus reservoir lane capacity equal to five (5) spaces per drive-in window
Retail Business and Consumer Service Outlets (except as noted herein)	One (1) space for each 200 square feet of gross floor area
Sales Lots and Showrooms (automobile and mobile home	Four (4) spaces for each salesperson plus one (1) space per employee during the shift with greatest employment. These spaces shall be in addition to other spaces used to park all vehicles for sale or on display and in addition to spaces required in this section for automobile repair use classification where sales and repairs are provided by the same establishment

Senior High School	Five (5) spaces for each room used for instruction or administration or one (1) space for each four (4) seats used for assembly purposes, whichever is greater. Assembly purposes shall be deemed to include the capacity of either indoor or outdoor assembly, whichever is greater.
Service Stations	One space located away from pumps for each fuel pump nozzle plus two (2) spaces for each service bay plus one (1) space for each employee during the shift of greatest employment, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces
Shopping Centers	One (1) space for each two hundred (200) square feet of gross floor area for the first 500,000 square feet Plus one space per additional 300 square feet above the first 500,000 square feet but, excluding uses whose off-street parking requirements are listed separately. Off-street parking for these uses shall be computed separately. Common pedestrian walkway areas inside enclosed shopping malls are not counted in gross floor area, however such areas occupied by sales establishments and open courts where prepared food is sold and consumed shall be counted
Theaters, Indoor	One (1) space for each employee during the shift of greatest employment plus one (1) space for each three (3) seats
Wholesale Sales	One (1) space per employee during shift of greatest employment plus, one space per five hundred (500) square feet of office area, plus one space for each vehicle used in the operation, plus one space for each five hundred (500) square feet devoted to on-premises sales such as customer self-service areas and/or showrooms and sales counters
Video Tape Rental Shops	One (1) space per one hundred (100) square feet of gross floor area for the first one thousand (1,000) square feet and one (1) space for each additional one hundred and fifty (150) square feet of gross floor area plus one (1) space for each employee on the shift of greatest employment

Section 10.2 Off-Street Loading Requirements

10.2.1 Purpose

In order to assure a proper and uniform development of off-street loading areas and to relieve traffic congestion in the streets, the off-street loading requirements set forth in Section 10.2.2 will apply in all zoning districts except the B-1 District. These requirements will apply to new structures and uses and to additions to existing structure and uses.

10.2.2 Minimum Off-Street Loading Space Requirements

The following minimum loading space requirements shall apply for the appropriate use:

<u>Type Of Use</u>	<u>Gross Floor Area (Sq Ft)</u>	<u>Required Number Of Loading Spaces</u>
Office, Restaurant Hotel or Motel	0 - 5,000	None
	5,000 - 49,000	1
	50,000 - 99,000	2
	100,000+	2 plus 1 for each 100,000 square feet of gross floor area in excess of 100,000 square feet
Other Commercial Establish- ments	0 - 5,000	None
	5,000 - 19,999	1
Shopping Centers or	20,000 - 49,999	2
	50,000 - 79,999	3
Industrial	80,000 - 99,999	4
Uses	100,000 - 149,000	5
	150,000+	5 plus one for each 50,000 square feet of gross floor area in excess of 150,000 sq. ft.

10.2.3 Design Of Loading Spaces

Off-street loading spaces must be designed and constructed so that all maneuvering to park and unpark vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as to not to interfere with the normal movement of vehicles and pedestrians on public rights-of-way. Where feasible, off-street loading shall be located in the rear yard.

Each loading berth shall have a paved surface and be a minimum of twelve (12) feet in width and thirty-five (35) feet in length. Each such berth shall also have a minimum vertical clearance of fourteen (14) feet. For any use that is required to furnish three (3) or more loading berths, at least one (1) of every three (3) berths shall have a minimum width of twelve (12) feet, minimum length of sixty-five (65) feet and a minimum vertical clearance of fourteen (14) feet.

Section 10.3 Special Use Permits For Off-Street Parking in Residential Zones

In order to construct an off-street parking lot in a Residential (R) District, a special use permit must first be issued by the City Council in accordance with Part 13 of this Ordinance. All such parking lots shall meet the following minimum design criteria.

- a. Parking areas shall be used for the parking of automobiles only, with no sales, storage, repair work, dismantling, or servicing of any kind permitted.
- b. All required parking spaces shall be of such design and located so as to be convenient and readily usable by the patrons.
- c. Sufficient area shall be provided within the property lines so that all vehicles may enter and leave in a forward motion.
- d. Screening in accordance with Section 7.2 shall be required whenever a parking lot abuts or is located opposite a Residential (R) District.
- e. All parking lots shall be constructed in such a manner that contamination by dust or dust clouds will not exist. This is to be accomplished by concrete, asphalt or black top surfacing.
- f. If nighttime parking is to be permitted it shall be lighted with the provision that the lights shall be shielded so as to prevent direct beaming into adjoining areas located in a Residential (R) District.

PART 11

RESERVED – Deleted July 8, 2002 entire section deleted

PART 12

MANUFACTURED HOME PARKS

Section 12.1 Compliance with This Part

All new manufactured home parks or expansions of existing manufactured home parks shall be developed in accordance with the Standards of this Part.

Section 12.2 Manufactured Home Park Application Process

Manufactured Home Parks are special uses and are subject to the issuance of a special use permit by the City Council. In addition to the information required in Section 13.3, any special use permit application for a manufactured home park shall also contain the following information:

- a. The name of the manufactured home park, the names and addresses of the owner(s) and the designer of the park, date, approximate north arrow, and scale, and the boundary line survey of the tract with accurate linear and angular dimensions drawn to scale by a registered surveyor or engineer.
- b. The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, known gravesite areas, water mains, sewers, culverts, drainpipes and any utility easements, both on the land to be developed as a manufactured home park and on land immediately adjoining. The names of adjoining subdivisions and the names of owners of all adjoining parcels of land shall be noted.
- c. The names, proposed location and approximate dimensions of proposed streets, entrances, exits, walkways, easements, recreation areas, parking areas, parks and other spaces, reservations, mobile home spaces (with area calculations shown) and building lines (with setback distances shown). See 12.3.3 for staking requirements where individual septic tanks will be used.
- d. Plans of proposed utility layouts (sewer lines, water lines, hydrants, storm drainage, etc.) showing feasible connections to existing and proposed utility systems; plan for electric lighting; and the location and number of trash dumpsters and mail boxes.
- e. Proposed screening, including walls, fences or planting areas as well as treatment of any existing natural features.

- f. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps.
- g. Proposed number and location of signs including both park identification signs and space identification numbers.
- h. Proposed phasing, if any, and approximate completion time of the project.
- i. The above items 1 through 8 shall be submitted on a plan drawn to a scale of one (1) inch equals fifty (50) feet or one (1) inch equals one hundred (100) feet on sheet(s) not exceeding twenty-four (24) inches by thirty-six (36) inches. Twenty (20) copies shall be submitted. The Zoning Administrator may require additional copies if outside agency review is deemed appropriate.
- j. A management plan describing at a minimum how the common facilities will be maintained and how the park will be maintained in accordance with Section 12.3.28 of this Ordinance.
- k. If a special use permit is required the applicant's site plan and application is submitted in lieu of the application required by Section 13.3(a) of this Ordinance provided the site plan contains any additional information required by said Section.

Section 12.3 Standards

This section sets forth the standards required for all new manufactured home parks and expansions of existing manufactured home/mobile home/trailer parks.

12.3.1 Occupancy

There must be at least five (5) improved manufactured home spaces at first occupancy. No manufactured home space shall be occupied, nor certificate of compliance issued unless the requirements of this Ordinance have been met.

12.3.2 Minimum Park Area

All manufactured home parks shall have a gross land area of at least three (3) acres.

12.3.3 Space Sizes and Staking

All manufactured homes within the park shall be located in designated manufactured home spaces. Each manufactured home space created on or after January 14, 2002 shall be located on a space that has a minimum area of forty thousand (40,000) square feet.

- a. The above space sizes are to be deemed the minimum size requirements and may be increased due to requirements for placement of well and septic tank systems (such as soil conditions and separation distances), the topography of the land or other factors. The applicant shall indicate on the application the specific number of bedrooms per manufactured home for which the septic tank system should be evaluated.
- b. Where individual septic tanks will be used, each manufactured home space shall have all corners marked during the application review and during the construction phase of the project. Failure to have each space clearly identified will slow the review process.

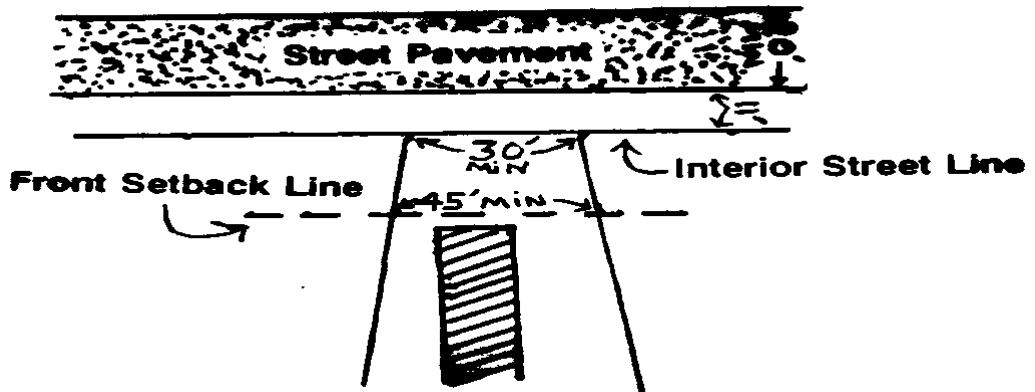
12.3.4 Suitability of Land for Spaces

Each manufactured home space shall be located on ground not located within the one hundred (100) year flood plain as established by maps published by the Federal Emergency Management Agency. No manufactured home shall be placed on land having excessive slope or other characteristics making the land unsuitable for placement of manufactured homes. Each manufactured home space shall be graded so as to prevent any water from ponding or accumulating on the space.

12.3.5 Space Widths

Each manufactured home space shall be at least thirty (30) feet in width at the interior street line and forty-five (45) feet in width at the front yard setback line. The interior street line is a line eleven (11) feet away from the edge of pavement and running parallel thereto. Exception may be made to the minimum width at the street for panhandle spaces, however all setbacks must be met and no portion of the panhandle may be used for measuring setbacks.

Figure 12.3.5



12.3.6 Setbacks

Minimum front, side and rear yards shall be provided as follows for each space. (Note: Where a required screening area as provided in Section 5.2 of this Ordinance lies between the manufactured home space and the property line or street right-of-way (a street other than an interior manufactured home park street), the setback shall be measured from the edge of the screen nearest the mobile home):

1. The minimum setback for any structure within a manufactured home park from a publicly maintained street right-of-way line or from any property line shall be forty (40) feet.
2. Otherwise, all manufactured home spaces shall have the following minimum setbacks (unless otherwise specified):
 - Front Setback (from interior streets). Twenty (20) feet (Note: 12.3.15(e))
 - Side Setback. Ten (10) feet minimum on one side, but both side yards must total to a combined thirty (30) feet.
 - Rear Setback. Fifteen (15) feet.

Any manufactured home placed into a manufactured home park on or after January 14, 2002 must comply with all setback requirements.

12.3.7 Location of Accessory Structures and Common Structures

Structures accessory to a particular manufactured home shall be located only on the lot containing that manufactured home. All such structures shall be **(i)** residential in character; **(ii)** be located only in the side or rear yards; **(iii)** be no closer than five (5) feet from the mobile home space boundary and no closer than ten (10) feet from any mobile home; and **(iv)** if located in the rear yard such structure(s) shall occupy no more than thirty percent (30%) of the area of the rear yard. Provided however, for carports not exceeding two (2) car spaces the only requirements shall be that such structures observe the same front yard setback as required for the mobile home and that such structures be located no closer than five (5) feet from any property line. Accessory structures of benefit to all residents of the manufactured home park shall be permitted within the park. Said structures (i.e., community pools, club houses, etc.) shall be located at least twenty (20) feet from any interior street line and thirty (30) feet from any manufactured homes located within the park.

12.3.8 Manufactured Home Standards

No manufactured home shall be placed in a manufactured home park unless it meets the standards of either Class A Manufactured Home or Class B Manufactured Home as defined in Part 4 of this Ordinance.

12.3.9 Stand, Underpinning and Tiedown

The location of each manufactured home stand must be at an elevation, distance and angle in relation to the adjacent access drive so that placement and removal of the manufactured home is practical by means of customary moving equipment. All manufactured homes shall have continuous brick, cinder block, concrete block, stucco, stone, or other masonry-type underpinning or other non-reflective skirting specifically manufactured for manufactured homes, or pressure treated wood (but plain standard surface pressure treated plywood is not acceptable), unpierced except for required ventilation and an access door. Such underpinning or skirting shall be installed under all elements of the manufactured home. Each manufactured home in the park shall conform to North Carolina Department of Insurance Standards for tie down requirements.

12.3.10 Steps and Patios

All manufactured homes within the park shall be equipped with two (2) sets of steps. All manufactured home spaces shall contain a manufactured home patio. The patio shall be constructed of four (4) inch thick concrete and shall be at least sixty-four (64) square feet in area and shall be located at the front entrance to each manufactured home. In lieu of concrete patios, raised decks constructed of pressure treated wood and in accordance with the North Carolina Building Code and at least sixty-four (64) square feet in area may be permitted.

12.3.11 Space Numbers

Each manufactured home space shall have a space number. Numerals shall be at least three and one-half (3-1/2) inches in height and shall be placed on a post or stand made of durable material between eighteen (18) and twenty-four (24) inches above the ground and placed near each space driveway at least four (4) feet but not greater than fifteen (15) feet from the nearest edge of pavement of the interior street. The number shall be set at a location as to clearly indicate the space to which it is assigned.

12.3.12 Public Road Frontage of Park

All manufactured home parks shall have a minimum public road frontage of fifty (50) feet on at least one street.

12.3.13 Ingress and Egress

Each manufactured home park shall have direct access onto a public road. Manufactured home parks shall not be located on through lots unless the park is designed in a manner which does not encourage motorists from using the park as a means of traveling from one public street to another. Parks having less than sixty (60) spaces shall have at least one designated area that contains both an

entrance and an exit to the park. Parks having sixty (60) or more spaces shall have one additional separate designated area with both an entrance and an exit to the park for each sixty (60) or more spaces or fraction thereof.

12.3.14 Park Identification Signs

All manufactured home parks shall have at least one ground mounted park identification sign but shall not have more than one park identification sign per public street front entrance. Park identification signs shall not exceed thirty-six (36) square feet in sign face area or five (5) feet in height. Each manufactured home park shall have a name and the name of the park shall be shown on the identification sign.

12.3.15 Interior Streets, Drainage, and Markings

No structure within a manufactured home park shall have direct access to a public street.

Access to all manufactured homes and accessory structures within the manufactured home park shall be made using internal streets. All internal streets within a manufactured home park shall be privately owned and maintained. All such streets shall be paved to a minimum width of twenty (20) feet. Specific construction standards for internal streets are as follows:

- a. A base course of at least four (4) inches of compacted crushed stone must be applied for the entire required paved width of drives.
- b. A surface course of at least one and one-half (1-1/2) inches of plant mixed asphalt or Class "A" bituminous surface must be applied for the entire required paved width of drives in conformance with North Carolina State Department of Transportation Specifications for subdivision roads.
- c. Permanent street names shall be assigned to all internal streets. Such street names shall not be similar in name to any existing streets in the Cherryville Planning and Zoning Jurisdiction or postal zone. Permanent street name signs shall also be installed at street intersections within the park.
- d. Permanent traffic control signs shall be installed within the park. Such signs shall include at a minimum the following:
 - (1) Stop sign(s) where park streets access public roads;
 - (2) Stop sign(s) at the intersection of interior streets, (it is recommended that all four-way intersections be controlled by four-way stop signs);

- (3) "No Parking" signs along interior streets at intervals sufficient to be readable except where streets have been paved to a width of at least thirty (30) feet.
 - (4) One way streets shall be marked as such at appropriate intervals and "do not enter" signs shall be posted where streets become one way or where streets intersect with one way streets.
- e. Each street shall have a graded and grassed shoulder on both sides and grassed (or stabilized with stone riprap) drainage ditch on either side. The width and slopes of the shoulder and drainage ditch shall meet the minimum construction standards of the N.C. Department of Transportation (NCDOT), Division of Highways for Subdivision Roads. Where terrain will not permit a drainage ditch, a continuous slope of the one (1) foot of vertical distance for each three (3) feet of horizontal distance, following a six (6) foot wide shoulder with a one in six slope (one (1) foot in elevation for each six (6) feet in width), will be permitted. Neither the street pavement nor the ditch/shoulder area shall be within any required area of a manufactured home space or required manufactured home setbacks. Where drive accesses cross the ditch, a pipe of at least twelve (12) inches in diameter shall be placed under the drive along the course of the ditch.
- In lieu of non curb and gutter streets the developer may provide curb and gutter streets; but such streets, together with all storm drainage appurtenances, shall meet all the minimum construction standards for subdivision roads of the N.C. Department of Transportation, Division of Highways.
- f. The manufactured home park must be designed and graded in such a manner as to allow for the adequate runoff of storm water. Storm drains must be provided with sufficient inlets located at points of surface water accumulation to adequately intercept the flow of surface storm waters.
 - g. Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump must be placed along the street.
 - h. All dead-end internal streets that provide access to three (3) or more manufactured homes shall be provided with a permanent turn-around. All such turnarounds shall have a minimum paved surface diameter of seventy (70) feet.
 - i. Streets and roads within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at an angle of less than sixty (60) degrees. Where streets intersect with a State maintained road, the design standards of NCDOT shall apply.

- j. Maintenance of all internal streets, signage, and all drainage facilities shall be the responsibility of the owner of the manufactured home park. Such street shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water during rainy periods, excessive washing of drainage ditches, and other associated problems which would impede or cause hazards to motor vehicles.

12.3.16 Parking

At least two (2) off-street parking spaces with not less than four (4) inches of crushed stone or other suitable material (such as asphalt paving or bituminous surface treatment (BST) paving) on a well compacted sub-base shall be provided for each manufactured home space. Required parking spaces may be located in the required front or side yards of the manufactured home space. Parking spaces shall be located outside the roadway, shoulder, or drainage ditches. One or more separate common visitor parking areas may be located within the park but shall not be located within any manufactured home space, roadway, shoulder, drainage ditch, or required buffer or open space recreation areas.

Utility lots designated for the storage of campers, boats, vacant mobile homes, etc. may be located within the manufactured home park in designated areas. All vacant manufactured homes not then intended for occupancy shall be located in said lot(s). A maximum of one vacant manufactured home per ten (10) manufactured home spaces may be stored on said lot(s). All such lots shall meet all screening requirements in accordance with Section 5.2 of this Ordinance.

12.3.17 Trash Facilities

At least one (1) covered garbage or trash container with a twenty-four (24) gallon minimum capacity, shall be provided for each manufactured home. Containers shall be placed on racks and such racks shall be located within the manufactured home park at a point that is readily accessible for collection. All refuse must be placed in refuse containers and it shall be the responsibility of the park operator to provide sufficient container capacity to meet the needs of each household. In lieu of cans and racks, covered roll out trash/garbage containers may be provided. In lieu of requiring individual garbage and trash containers for each manufactured home, trash dumpsters may be installed in convenient locations, but not on any individual manufactured home space. If dumpsters are provided, each dumpster shall be located at least fifty (50) feet from any property line or public street right-of-way and at least forty (40) feet from any manufactured home. All such dumpsters shall be materially screened from any adjacent manufactured home in the park. It shall be the responsibility of the manufactured home park owner or operator to pick up trash from said containers or dumpsters at least once per week.

The owner or operator shall also be responsible for hauling and disposing of said trash in accordance with all County and State regulations. The burning of refuse within the manufactured home park is not permitted.

In lieu of the owner providing refuse pick-up the owner may request that, if the manufactured home park is located in the City limits, the City provide pick-up by use of standard City roll out containers. However, in such case the City may require street construction standards in excess of those set forth in 11.3.15 in terms of stone base and pavement thickness, pavement widths and street design/alignment in order that City refuse trucks can be accommodated.

12.3.18 Lighting

Manufactured home parks which contain over five (5) manufactured home spaces or contain more than one internal street shall contain street lights throughout the manufactured home park. Such lights shall be located at all internal street intersections, at the intersection of any internal street and a public street and elsewhere in the park at a maximum of three hundred (300) feet intervals.

12.3.19 Electric, Telephone and Cable Television Utilities

Each manufactured home space shall have individual electric and telephone service connections provided.

All electric, telephone, and cable television, and other utility lines shall be placed underground.

Each manufactured home must have an individual metered connection to an electric supply and must have an approved fuse disconnect box at the metered location. All wires from meter to manufactured home must be buried underground cable in conformance with the North Carolina Electrical Code.

12.3.20 Mailboxes

Spaces within the manufactured home park shall be provided for cluster mailboxes. Such cluster mailboxes, approved by the United States Postal Service, shall be located at convenient places within the park. Individually owned and located mailboxes shall not be allowed. All cluster mailboxes shall be located within the manufactured home park and shall not front directly on any public road nor be located within any designated manufactured home space. At least one (1) mailbox per manufactured home space shall be provided and the residents of the manufactured home occupying that space shall be provided with a key to open and close the corresponding mailbox. At least one separate parking space shall be provided adjacent to each cluster mailbox for each twenty-five (25) boxes in the cluster.

12.3.21 Administrative Office

One manufactured home may be used solely as an administrative office within the park or an administrative office may be located in a manufactured home that is used as a residence by the resident manager. An administrative office is not required.

12.3.22 Water Service

An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home park. Where a municipal or county water supply is available, connection shall be made thereto and its supply used exclusively.

When municipal or county water supply is not available, adequate water supply shall be developed and its supply used exclusively, in accordance with the standards of the State of North Carolina and the Gaston County Health Department. Any water supply must be capable of providing three hundred (300) gallons of water per day per manufactured home space.

Each space shall be provided a minimum three fourth (3/4) inch size copper or PVC water service line.

12.3.23 Sewage Facilities

- a. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the North Carolina Department of Health and Environment and the County Health Department shall be provided. Individual septic tank systems are permissible in accordance with the requirement of the County Health Department's Sewage Disposal Regulations. There shall be no more than one (1) manufactured home connected to an individual septic tank.

Each manufactured home space shall be provided with at least a three (3) inch PVC or ABS, Schedule 40 or equivalent sewer riser.

A concrete apron shall be installed around all sewer connection pipes for support and protection. The sewer riser pipe shall be located on each space so that the sewer connection is located a distance of at least one hundred (100) feet or greater from any ground water supply.

All material used for sewer connections shall be semi-rigid, corrosion resistant, nonabsorbent, and durable. The inner surface shall be smooth.

A clean-out shall be provided at each space. Surface drainage shall be diverted away from the sewer connection. The sewer connection shall extend at least four (4) inches above ground elevation.

- b. Community sewage disposal systems (commonly referred to as package plants), as permitted by the State of North Carolina, shall be an acceptable method of disposal of residential sewage for manufactured home parks within the jurisdiction of this Ordinance when connection to a publicly owned and maintained sewer system is not possible. When connection to such publicly owned and maintained sewer system is possible, all manufactured homes within the manufactured home park shall be connected to said system. The following information must be submitted when a sewage package plant is proposed.

The developer shall indicate on the plans that a sewage package plant is being proposed for the manufactured home park, and show on the preliminary plan the following:

- (1) Size and location of the package treatment plant.
- (2) All proposed sewer lines, including:
 - location and line size of gravity lines
 - location and line size of force main
 - location and size of pump stations
- (3) Location of discharge point into surface water stream.
- (4) All associated easements and rights-of-way.

- c. The developer shall provide a copy of the State Permit Application to the City Zoning Administrator and the County Health Department at the time of application.

- d. The developer shall submit at the time the application for a permit is submitted to the State, the following information:

- (1) Name of owner and licensed operator of the plant and name of the licensed firm that will operate the package plant, if different from the owner.
- (2) Amount of liability insurance required for operation of the system.
- (3) Name of owner and responsible party for the package plant.
- (4) Other pertinent information.

- e. The developer shall submit the following, upon completion:
- (1) A set of as-built plans and drawings, certified by the project engineer for the package treatment plant and all sewer lines, pump stations and other devices used in the sewer system.
 - (2) Operation and maintenance agreements for:
 - the package treatment plant
 - the sewer lines and other devices which are a part of the sewer system
 - (3) Copy of the executed and notarized agreement(s) for the ownership and maintenance of the package plant and sewer lines.
 - (4) Copy of insurance liability riders, required by the State, pertaining to the operation of the package plant.
 - (5) Copy of the approved State Permit, along with any and all conditions set forth in the operating permit.
 - (6) Copies of other agreements and information for plans pertaining to the maintenance and operation of the sewer system.
- (f) The package plant shall be operated and maintained in accordance with the approved permit form the State of North Carolina. In addition to the operational requirements of the State Permit, the owner or operator of the package plant shall maintain a daily inspection log of visits to the package plant and shall include the following:
- (1) date and time of inspection
 - (2) signature of operator making inspection
 - (3) notation of any problem and corrective action taken
- A copy of this log shall be submitted monthly to the Gaston County Health Department by the tenth (10th) day of the following month. Failure to submit the log report will be deemed a violation of this Ordinance.
- g. Manufactured home park sewer systems using package plants as the main treatment facility should be designed to accommodate the eventual connection to a public sewer system at the time that main outfall lines are placed in areas serving the manufactured home park.

12.3.24 Screening

All manufactured home parks shall be screened from all adjoining properties and public streets. Such screening shall be located within the manufactured home park and shall materially screen all structures within the manufactured home park from all adjacent properties and public streets. All manufactured home setbacks shall be measured from the edge of the screened area nearest the manufactured home.

Required screening shall be installed and maintained in conformance with the standards set forth in Section 5.2 of this Ordinance, provided however, no wall or fence or planted berm shall be used unless the applicant proposes such wall, fence, or berm as a supplement to a planted screen installed in accordance with Subsection 5.2.3 Paragraph A of this Ordinance.

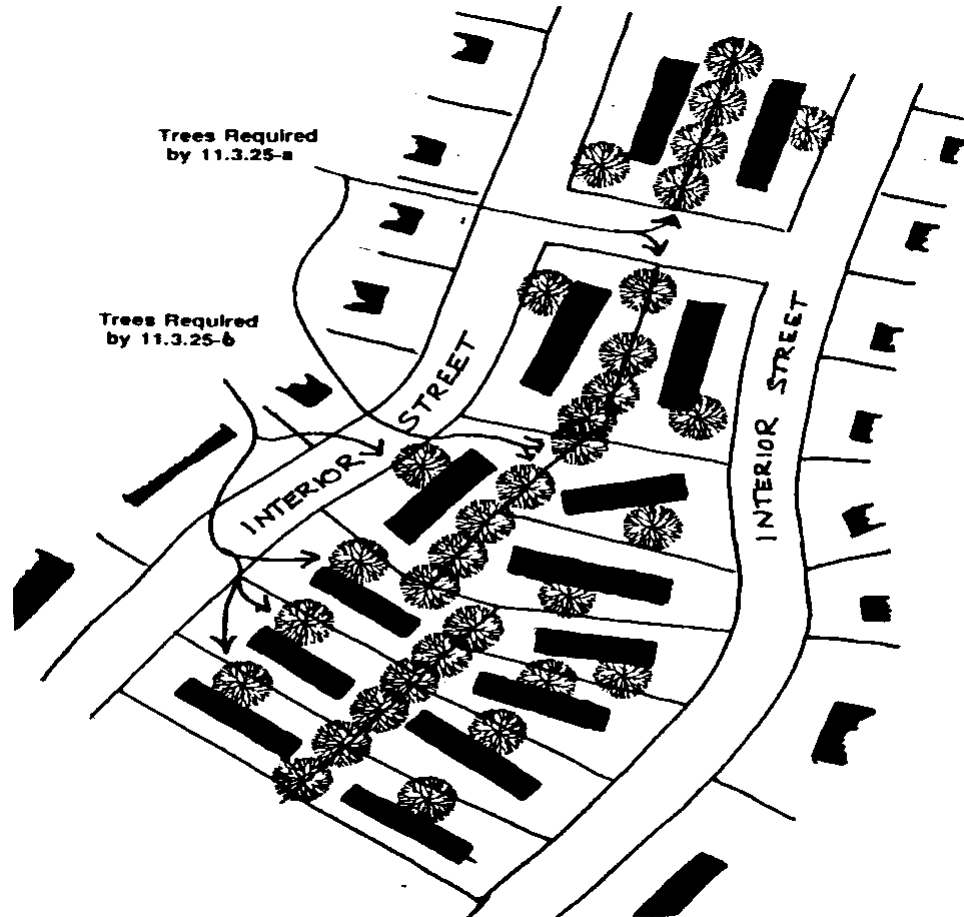
12.3.25 Interior Landscaping

Landscaping inside the manufactured home park shall be provided at locations within the park as follows:

- a. Where manufactured home spaces share an interior rear space (lot) line a row of trees shall be planted. At least four (4) trees per one hundred (100) linear feet shall be planted and at least fifty (50) percent of said trees must be large trees. These trees may be planted within either manufactured home space within five (5) feet of the shared rear space line.
- b. In addition to trees required by 12.3.25a, on each space there shall be provided at least one large tree. Said tree shall be located at least eight (8) feet from any rear space line and outside any interior street right-of-way.

Figure 12.3.25 illustrates the requirements of Subsection 12.3.25. Where any existing trees can contribute to meeting the requirements the applicant is encouraged to use them in lieu of new plant materials provided the spirit and intent of Subsection 12.3.25 are met.

FIGURE 12.3.25



12.3.26 Open Space Areas

Open space areas are required as follows for parks having spaces smaller than 10,000 square feet:

- a. None of the following may be counted as an open space area:
 - (1) Any portion of a manufactured home space;
 - (2) Any parking areas or any area used as a utility lot as set forth in Subsection 12.3.16;
 - (3) Any required street, ditch or shoulder area, except that traffic medians and islands designated as special landscape areas may be counted as open space areas;

- (4) Any land occupied by a building, swimming pool, tennis court or other structure;
 - (5) Any minimum screen area required by Section 5.2.3a;
 - (6) Any area designated for common trash facilities.
- b. Open space areas may consist only of either one or more of the following:
- (1) Buffer areas in addition to any minimum screen areas required by Section 5.2.3a;
 - (2) Natural wooded areas;
 - (3) Open fields or lawns;
 - (4) Garden plots;
 - (5) Special landscaped areas; containing plant material such as traffic islands, medians and flower gardens;
 - (6) Recreation areas in addition to any minimum recreation area(s) required by Subsection 12.3.27.
- c. The amount of required open space area shall be calculated as follows:

<u>For Each Manufactured Home Space In The Following Space Size Category:</u>	<u>Amount Of Area To Be Designated For or Open Space:</u>
9,000 to 9,999 sq. ft	100 sq. ft
8,000 to 8,999 sq. ft	150 sq. ft
7,000 to 7,999 sq. ft	250 sq. ft
6,000 to 6,999 sq. ft	500 sq. ft
5,000 to 5,999 sq. ft	1000 sq. ft

EXCEPTION: Where the total open space area required for the manufactured home park totals less than 2,000 square feet according to the above formula no open space area shall be required.

- d. Open space areas shall be well-maintained by the park owner to prevent the over-growth of plant material and or other conditions which could create unsafe or unhealthy conditions for park residents or adjoining property owners.
- e. The designated open space area within a manufactured home park may consist of a single area or multiple areas.

12.3.27 Recreation Area(s)

This Section requiring designated recreation areas shall only apply to manufactured home parks having ten (10) or more manufactured home spaces less than nine thousand (9,000) square feet in size. Where the application is for an enlargement of an existing manufactured home park, the existing spaces shall be counted for determining the threshold for providing recreation areas and for determining the amount of recreation area required. In such cases, any recreation areas within the existing park shall also be counted toward meeting the requirements of this section.

The total minimum area to be designated within the park as recreation areas shall be calculated according to the following formula:

<u>For Each Manufactured Home Space In The Following Space Size Category:</u>	<u>Amount Of Area To Be Designated For Recreation:</u>
Below 5,000 sq. ft (this applies only to expansion of existing manufactured home parks)	1,000 sq. ft
5,000 sq. ft to 6,999 sq. ft	500 sq. ft
7,000 sq. ft to 8,999 sq. ft	250 sq. ft

When the calculation of required recreation area according to the above formula is greater than zero but less than ten thousand (10,000) square feet the minimum area required shall be increased to ten thousand (10,000) square feet.

The designated recreation area(s) within a manufactured home park may consist of a single area or multiple areas, however, each manufactured home park must have at least one contiguous recreation area of at least 10,000 square feet and no area designated for recreation purposes shall be less than 1,000 square feet in size. Recreation areas may consist of, but are not limited to, adult and/or child play areas with play apparatus, picnic areas, outdoor exercise facilities, playgrounds, ballfields, shuffleboard courts, volleyball courts, tennis courts, basketball courts, and swimming pools. Unimproved areas or buffer areas shall not be counted as required recreation areas. If a developer elects to provide recreation areas in excess of the amount required by this section, such excess may be counted toward the required open space area as required by Subsection 12.3.26. All recreation areas shall be maintained in good condition for their intended recreation purpose at all times by the manufactured home park owner.

12.3.28 Maintenance

The grounds of a manufactured home park shall be kept free of trash, litter and debris. Grounds, buildings and storage areas shall be properly maintained to prevent infestation by rodents, vermin and insects. All grounds shall have proper drainage to prevent the accumulation of water. It shall be the responsibility of the manufactured home park owner to maintain the manufactured home park in accordance with these standards at all times.

PART 13
SPECIAL USES

Section 13.1 Special Uses

This Ordinance provides for a number of uses to be located by right in each general purpose zoning district subject to the use meeting certain area, height, yard and off-street parking requirements. In addition to these uses, the Ordinance allows some uses to be allowed in these districts subject to the issuance of a Special Use Permit. The purpose of having such "Special Uses" is to insure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located.

Section 13.2 Reserved

Section 13.3 Procedures

The procedures for securing a Special Use Permit shall be as follows:

- a. Twelve (12) copies of a completed written application for a Special Use Permit shall be filed with the Zoning Administrator. The application, as a minimum, shall contain or be accompanied by the following items:
 1. Applicant's full name, address, and telephone number; the property owner's full name, address and telephone number, if different from the applicant.
 2. A scaled boundary survey showing the total acreage, and present zoning classifications for the property(ies) for which the special use permit is sought, date and north arrow. On this survey shall be sketched the information required in Sections 13.3(a)(3-8).
 3. All existing easements, rights-of-way and required setbacks for the lot(s) for which the special use permit is sought.
 4. Proposed size, layout and setbacks of all proposed structures. For residential uses this shall include the number of units and an outline of the area where all principal and accessory structures will be located. For nonresidential uses, this shall include the approximate gross floor areas of all structures and an outline of the area where the structures will be located.
 5. Traffic, parking and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets.

6. Landscape plan showing proposed screening and landscaping, including location of walls, fences, berms and natural plantings as well as treatment of any existing natural features within the site.
 7. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps.
 8. Proposed number, size, type and location of freestanding signs.
 9. Proposed phasing, if any, and approximate completion time of the project.
- b. No application shall be considered complete unless it contain or is accompanied by all items listed in Section 13.3 of this Ordinance and a fee, in accordance with a fee schedule approved by the City Council for the submittal of special use permit applications.
 - c. All completed applications shall be submitted to the Zoning Administrator at least fifteen (15) days prior to the Planning Board meeting at which it is to be reviewed. This requirement may be waived by a unanimous vote of the Planning Board membership present at a meeting of the occurring less than fifteen (15) days prior to the date of submission. In no case, shall the meeting at which the Planning Board initially reviews the application occur greater than sixty (60) days after the required number of copies of the completed application have been submitted by the applicant to the Zoning Administrator.
 - d. The Planning Board shall have a maximum of forty-five (45) days from the date at which it initially met to review the application to submit its recommendation to the City Council. If a recommendation is not made during said forty-five (45) day period, the application shall be forwarded to the City Council without a recommendation.
 - e. When dealing with the special use permit process and with the rezoning of properties to a conditional use district, it may be necessary to request information in addition to that listed in Section 13.3 in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board (and/or City Council) may request such additional information of the applicant as it deems necessary.

A request for such additional information shall stay any further consideration of the application by the Planning Board or City Council. This information may include (but not be limited to) the following:

1. Stormwater drainage plan;

2. Existing and proposed topography at four-foot contour intervals or less;
3. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development;
4. Proposed number, type, and location of signs;
5. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study shall include the following information:
 - (a) existing traffic conditions within the study area boundary;
 - (b) traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average daily traffic levels;
 - (c) the distribution of existing and proposed trips through the street network;
 - (d) analyses of the capacities of intersections located within the study area boundary;
 - (e) recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and
 - (f) other pertinent information, including but not limited to noise, and impacts on air quality and other natural resources.

Section 13.4 City Council Decision

Once a recommendation has been received from the Planning Board, or the forty-five (45) day Planning Board review period has expired, the City Council shall schedule a public hearing concerning the application for a special use permit. Said public hearing shall be conducted in a quasi-judicial manner. Notice of said public hearing shall be as follows:

- a. A notice shall be published in a newspaper having general circulation in the Cherryville area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the public hearing. In computing such time, the date of publication is not to be included, but the date of the hearing shall be included.

- b. The City shall conspicuously place a notice in the Cherryville City Hall not less than ten (10) days or more than twenty-five (25) days before the date established for the public hearing.
- c. The City shall conspicuously post a notice on the subject property at least ten (10) days but not more than twenty-five (25) days prior to the public hearing.
- d. At least ten (10) but not more than twenty-five (25) days prior to the public hearing, a notice of the proposed zoning change shall be sent by the City by first class mail to the applicant, the property owner of the property in question (if different than the applicant) and to all contiguous property owners.

If the City Council should find, after conducting a public hearing, that a special use permit should be granted, the City Council may impose such additional reasonable and appropriate special conditions upon such special use permit, as is deems necessary. Any conditions shall relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development and other matters that the City Council may find appropriate or the petitioner may propose. Such conditions to approval may include dedication of any rights-of-way or easements for streets, water, sewer or other public utilities necessary to serve the proposed development. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the City Council. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found elsewhere in this Ordinance.

13.4.1 Burden of Proof

The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which Sections 13.4.2(b) and (d) of this Ordinance require. If any person submits evidence allegedly contrary to any of the facts or conditions listed in Sections 13.4.2(a) and (c) of this Ordinance, the burden of proof for overcoming such evidence shall rest with the applicant.

13.4.2 Required Findings for All Special Use Permits

The City Council shall issue a special use permit only after having evaluated an application and having determined that:

- a. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- b. The use meets all required conditions and specifications, and
- c. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
- d. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Cherryville Land Development Plan.

Section 13.5 Additional Review Criteria

The following specific review criteria for each of the following special uses shall be addressed by the City Council in addition to those general review criteria set forth in Subsection 13.4.2 (Note: The City Council recognizes that these review criteria may in some respects duplicate the general review criteria set forth in 13.4.2 but that these criteria are provided to more specifically address issues that are particularly critical to certain uses).

13.5.1 Planned Residential Developments

- (a) The location and character of the development will be in keeping with the stated purpose for allowing Planned Residential Developments as set forth in 11.1.1 of this Ordinance.
- (b) The proposed ingress and egress points will not result in a substantial amount of vehicular traffic to be channeled onto adjacent local streets (non-collector/non thoroughfare streets).

13.5.2 Manufactured Home Parks

- (a) The proposed ingress and egress points will not result in a substantial amount of vehicular traffic to be channeled onto adjacent local streets (non-collector/non thoroughfare streets).
- (b) The manufactured home park will not only meet the minimum screening specifications set forth in this Ordinance but that the result of such screening will be to screen the manufacture home park for view from adjoining properties and adjoining street rights-of-way.

13.5.3 Manufacturing Uses

- (a) The use will not overly impact the ability of the City to collect and/or treat any wastewater generated by the use or the ability of the City to treat and distribute any potable water needed by the use.
- (b) The use will not overly impact (impact beyond capacity) the system of streets serving the use or that improvements will be made to such streets

in consort with the development of said use, the result of which will be adequate handling of the additional traffic generated.
- (c) That not only will the use meet the minimum screening requirements of this Ordinance, but also that such additional screening will be installed, as necessitated by the visual characteristics of the particular use, such that the use will be screened from view of adjoining residential districts, or that the nature of the topography makes the screening from distant view from such residential areas impossible and that other measures such as heavy on-site landscaping will be taken to lessen any near or distant visual impacts.

13.5.4 Reserved

13.5.5 Multi-Family Developments

- (a) The proposed ingress and egress points will not result in a substantial amount of vehicular traffic to be channel onto adjacent local streets (non-collector/non thoroughfare streets).

13.5.6 Arcade or Amusement Center or Game Room

- (a) That if such use is not located in a Class C Shopping Center, it will be located no closer than three hundred (300) feet from any Residential (R) District.
- (b) That the hours of operation will be limited to the hours between eight o'clock in the morning (8:00 a.m.) and twelve o'clock midnight (12:00 a.m.).

13.5.7 RECREATIONAL VEHICLE PARK

The purpose of these regulations is to allow for the placement and growths of Recreational Vehicle Parks while maintain the health, safety, and general welfare standards of established residential and commercial areas in the Cherryville area.

Camping and Recreational Vehicle Parks shall be allowed pursuant to 7.1.17 with the additional standards outlined below;

- A.** No Recreational Vehicle Park shall exist on a single parcel that is less than 3 acres in size.
 - 1. New Camping and Recreational Vehicles shall be located at least one (1) mile from any existing recreational vehicle park.
 - 2. Density
 - a. There shall be no more than 15 campsites per acre.
 - b. A setback of a minimum of twenty (20) feet shall be required to separate Recreational Vehicle locations.

- B.** All spaces for camping and recreational vehicles shall be located at least one-hundred (100) linear feet from any adjoining lot line. Where the lot line adjoins a public road right-of-way or street, the spaces shall be located at least fifty (50) linear feet from the property line.

- C.** The campground shall be sufficiently wooded to provide an opaque natural buffer between the campground, all adjacent lots, and all adjacent public roads at the time a certificate of occupancy is issued for the use.

- D.** Accessory uses, limited to usage by campground patrons, may include laundry facilities and the selling of convenience items (snacks, beverages, etc.).

- E. Screening**

Screening of property shall abide by Section 5.2 in order to provide an opaque screening of the use from adjoining and adjacent properties. This is not to be counted as open space as outlined in subsection 13.5.7g (below).

- F. Roads and road access**
 - 1. No recreational vehicle site shall have direct access to a public road. Rather, all recreational vehicle sites shall be accessible only from interior roads.
 - 2. Interior roads shall have a minimum width of twenty (20) feet and shall have a maximum length of one thousand (1,000) feet.
 - 3. Interior roads shall be made of an all-weather driving surface capable of supporting emergency vehicles in accordance with the Fire Apparatus Roads Standards in the North Carolina Fire Code.
 - 4. Each recreational vehicle site shall have an address posted thereon to distinguish it from other sites on the property.

- G. Open Space-** A minimum of 800 square feet of area per vehicle space must be provided for active or passive recreation such as but not limited to ball fields, tennis courts, swimming pools, clubhouses, etc.

Section 13.6 Binding Effect

Any special use permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the City Council. However, minor changes in the detail of the approved plan which **(a)** will not alter the basic relationship of the proposed development to adjacent property, and **(b)** will not alter the uses permitted or increase the density or intensity of development, and **(c)** will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site may be made with the approval of the Zoning Administrator.

Section 13.7 Certificate of Compliance

No certificate of compliance shall be issued for any building or land use on a piece of property which has received a special use permit unless the building is constructed or used, or the land is developed or used, in conformity with the special use permit approved by the City Council. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

Section 13.8 One Year Limitation

If a request for a special use permit is denied by the City Council, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial by the City Council. This waiting period shall not be applicable where the application for a special use permit is substantially different from the application that most previously had been denied.

Section 13.9 Change in Special Use Permit

Any request to materially change the special use permit once it has been issued by the City Council shall first be reviewed by the Planning Board in accordance with Section 13.3 of this Ordinance. The City Council may thereafter change or amend any previously approved special use permit, only after having held a public hearing. Notice of the public hearing shall be in accordance with Section 13.4 of this Ordinance. Amendment by the City Council of a previously issued special use permit shall be subject to the same considerations as provided for in Section 13.4 of this Ordinance.

Section 13.10 Implementation of Special Use Permit

Unless the City Council issues a special use permit which either is specifically exempted from any time constraints or has some other specified time period for implementation, the applicant shall have a period of twenty-four (24) months from date of issuance of the special use permit to secure a building permit for the project. If the applicant shall fail to obtain a building permit within the time allowed, the Zoning Administrator shall notify the applicant of such a finding, and within sixty (60) days of said notification, the Planning Board shall make a recommendation concerning the revocation of the special use permit to the City Council. The City Council, after having conducted a public hearing to consider the revocation, may then rescind the special use permit, or extend the life of the special use permit for a specified period of time. Due notice of said public hearing shall be given as prescribed in Section 13.4 of this Ordinance.

Section 13.11 Changes in Special Uses Within Shopping Centers

When there is a change in use in a shopping center and the change is for a use listed as a special use in the Zoning District in which the shopping center is located then a special use permit is required for the change in use.

PART 14

ZONING ADMINISTRATION

Section 14.1 Zoning Administrator

14.1.1 The Zoning Administrator shall administer the provisions of this Ordinance and any other officials designated by the City Council for the Administration of this Ordinance.

14.1.2 Zoning Inspection: Duties Specified. If the Zoning Administrator shall find that any of the provisions of the Ordinance are being violated, he shall cause notification, in writing, to the owner of the property upon which such violation is located, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He shall order discontinuance of illegal uses of land, buildings, or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this Ordinance to ensure its compliance.

The Zoning Administrator shall have the power to conduct any such investigations as he/she may reasonably deem necessary to ensure compliance with the provisions of this Ordinance. For this purpose the Zoning Administrator may, at reasonable times, enter upon any property after obtaining an administrative warrant and presenting credentials, or consent of the premises owner, and no person shall refuse entry, obstruct, hamper or interfere.

14.1.3 Zoning Permit. No building, sign (except as otherwise indicated) or other structure shall be erected, moved, extended or enlarged or structurally altered without a zoning permit having first been issued. A zoning permit shall also be required to be obtained prior to the excavation or filling of any lot for the construction of any building be commenced, and for any change in use of any principal use. A zoning permit may not be issued by the City unless accompanied by a fee in accordance with a fee schedule established by the City Council.

a. Expiration of Zoning Permit

Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within two (2) years, or if the work authorized by it is suspended or abandoned for a period of at least two (2) years. Once a zoning permit has expired, construction work on the lot(s) in question cannot proceed until a new zoning permit has been issued.

b. **Records**

The Zoning Officer shall maintain a record of all zoning permits on file at his office, and copies shall be made available on request to interested parties.

c. **Conditions for Approval**

Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction that materially differ from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Section 14.7 of this Ordinance.

d. **Uses Not Requiring a Zoning Permit**

The following uses may be constructed without a zoning permit having first been issued by the Zoning Administrator:

1. Essential Services, Class 1
2. Signs, as specified in Section 9.8, which do not require a zoning permit

Section 14.2 Certificate Of Compliance

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of compliance has been issued by the Zoning Administrator [except for those uses indicated in Section 14.1(d)]. Any certificate of compliance issued shall state that the structure or portion of a structure is in compliance with the information stated on the zoning permit. A certificate of compliance shall not be issued unless the proposed use of the structure conforms to the applicable provisions of this Ordinance. If the certificate of compliance is denied, the Zoning Administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates of compliance shall be kept on file in the office of the Zoning Administrator and copies shall be furnished, on request to all interested parties.

Section 14.3 Designation Of Class A Status For Placement Of Manufactured Homes On Individual Lots

Prior to the issuance of a zoning permit for the placement of a Class A Manufactured Home on an individual lot, the applicant shall first request a designation of Class A status from the Zoning Administrator. In determining whether the proposed manufactured home, when placed on the lot, will meet the

requirements for Class A manufactured homes, the applicant shall furnish such information as the Zoning Administrator may request in order to make such determination. Such information may include, but shall not be limited to manufacturer's specifications and drawings, photographs, site plan, and elevation drawings. Prior to issuance of a certificate of occupancy by the Gaston County Building Inspections Department, the owner shall obtain a certificate of compliance

as issued by the Zoning Administrator who shall inspect the manufactured home and determine that it meets all the requirements of a Class A Manufactured Home.

Section 14.4 Site Plan Review Requirements

14.4.1 Statement Of Intent

The purpose of these requirements is to promote the orderly development of certain activities in the City and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. To achieve these ends and to assure compliance with all applicable requirements of this Ordinance, site plans for certain uses of land shall be submitted to and reviewed by the Zoning Administrator.

14.4.2 Development And Uses Requiring A Site Plan

Site plan review shall be required for all uses and development other than one or two family residential uses and their accessory structures. Provided however, the Zoning Administrator may waive site plan requirements in either of the following cases when he determines that the submission of a site plan would serve no useful purpose:

- a. Accessory structures;
- b. Any enlargement of a building by less than twenty percent (20%) of the existing size provided such enlargement will not result in a requirement for additional parking;
- c. A change in use where no changes are being made, or are required by this Ordinance, to the building coverage, off-street parking access or other external site characteristics.

14.4.3 Procedure For Preparation

- a. Site plans or any portion thereof shall be prepared by an engineer, architect, landscape architect or land surveyor who is authorized by the State of North Carolina to practice as such;
- b. Site plans shall be prepared to a scale of one inch equal to fifty (50) feet (1" = 50') or larger;

- c. A site plan may be prepared 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;
- d. All horizontal dimensions shown on the site plan shall be in feet;
- e. Decimal fractions of a foot shall be to the closest one hundredth of a foot (0.00) and all bearings shall be indicated in degrees, minutes and seconds;
- f. Every site plan shall show 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 wide by five (5) inches long for City use;
- g. Five (5) copies of the site plan shall be submitted to the Zoning Administrator for review. The Zoning Administrator may request additional copies for outside agency review.

14.4.4 Required Information On Site Plans - All Site Plans Shall Contain The Following Information:

- a. Location of the tract on an inset map at a scale of not less than one inch equal to two thousand feet (1" = 2,000') indicating the scale, the north-arrow, and such information as the names and numbers of adjoining roads, streams, subdivisions, or other landmarks, sufficient to clearly identify the location of the property.
- b. A boundary survey of the tract by bearings and distances certified by a licensed land surveyor or engineer.
- c. The location and dimensions of any sidewalks and curbs and gutters to be installed along public street frontages.
- d. All existing property lines; existing streets and easements, their names, numbers and widths; the location and size of existing sanitary and storm sewers, gas lines, water mains, culverts, and other utilities and their easements; existing buildings; existing watercourses; and any other prominent physical features on or adjoining the tract.
- e. Existing zoning and zoning district boundaries on the tract and on adjoining properties.
- f. The present use of all adjoining properties.

- g. Existing topography with contours drawn at two (2) foot intervals. This requirement for topography information may be waived by the Zoning Administrator for developments smaller than one acre in size and where he determine that there is insufficient topography changes to make such information necessary.
- h. Proposed changes in zoning, if any.
- i. The proposed location, general use, number of floors, height and floor area for each building; and, where applicable, the number, size and type of dwelling units.
- j. All off-street loading spaces, parking and walkways indicating the type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces provided.
- k. All proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made to City or other utility systems; all proposed gas lines and other utilities and their easements.
- l. The location, dimensions and character of construction of proposed streets, alleys, driveways; and the location, type and size of vehicular entrances to the site.
- m. Proposed finished grading at two (2) foot intervals and/or by spot elevations. This requirement may be waived in the same manner as in item (g) above.
- n. Provisions for the adequate disposition of natural and storm water indicating location, sizes, types and grades of ditches, catch basins, pipes, and connections to existing drainage systems or suitable outlet.
- o. Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
- p. Delineation of any flood hazard areas as shown on the City's FEMA maps.
- q. Location, type, size and height of fencing, retaining walls and screen planting where required under the provisions of this or any other City Ordinance.
- r. The location of wooded areas on the property and the location of trees and wooded areas that will be retained.

- s. The location and dimensions of proposed recreation areas, open space and required amenities and improvements.
- t. The location, character, size, height and orientation of proposed signs and outdoor lighting systems.

14.4.5 Compliance With Other Requirements

All features and elements of the site plan shall in all respects conform to all applicable provisions and standards of the General Statutes of North Carolina; the Ordinances of the City of Cherryville; and the standards and requirements of the North Carolina Department of Transportation and the North Carolina Department of Health and Environment.

14.4.6 Procedure For Processing

The Zoning Administrator shall review all site plans submitted to him. The Zoning Administrator shall verify the completeness and compliance of the site plan and circulate the site plan to the relevant City, County and State agencies and officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended. The reviewing agencies and officials may include, but need not be limited to:

- City Director of Public Works and Utilities
- City Engineer
- City Fire Department
- City Police Department
- County Planning Department
- Superintendent of County Schools
- County Health and Environmental Health Departments
- N.C. Department of Transportation
- N.C. Department of Health and Environment
- U.S. Soil Conservation Services, District Office

- a. Except under abnormal circumstances, within twenty-one (21) days of the receipt of the site plan the Zoning Administrator shall approve, approve subject to conditions, or disapprove the site plan and notify the applicant in writing of the action taken. In cases when the site plan approval is subject to conditions or when the site plan is denied approval, the Zoning Administrator shall set forth in writing any conditions or changes which might make the site plan acceptable.

- b. An applicant may appeal any decision of the Zoning Administrator in accordance with Section 15.2 of this Ordinance.
- c. The Zoning Administrator prohibited from being financially interested in any development decision, or from conducting work inconsistent with his or her duties pursuant to G.S. 160D-109(c).

Section 14.5 Right Of Appeal

If a request for a zoning permit is disapproved or if a ruling of the Zoning Administrator is questioned, the aggrieved party may appeal such ruling to the Board of Adjustment in accordance with Section 15.2 of this Ordinance. Said appeal shall be made within ten (10) business days of a written decision made by the Zoning Administrator.

Section 14.6 Remedies

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance, the Zoning Administrator, or any other appropriate City Official, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

Section 14.7 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such 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.

Section 14.8 Enforcement and Penalties

Any person, firm or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five-hundred dollars (\$500) and/or imprisoned for a period not to exceed thirty (30) days. Each day of violation shall be deemed a separate offense, provided that the violation of this Ordinance is not corrected within thirty (30) days after notice of said violation is given.

In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statutes 160A-175, 160D-106 and 160D-404(c), the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.

Subsequent citations for the same violation may be issued by the Zoning Administrator if the offender does not correct the violation within three (3) days (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Zoning Administrator through the Board of Adjustment.

The following penalties are hereby established:

Warning Citation	Correct Violation within 10 Days
First Citation	\$50
Second Citation For Same Offense	\$100
Third and Subsequent Citations for Same Offense	\$500 for Each Day

If the offender fails to pay penalties that have been cited within five (5) business days after the offender has been cited, the City may recover the penalties in a civil action in the nature of debt.

Pursuant to G.S. 160D-404(c), if a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance or other regulation made under authority conferred thereby, the City in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

Pursuant to North Carolina General Statute Section 160A-175, the City may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

The above remedies are cumulative, and the City may pursue any or all of the same at its discretion. Each day that the violation exists shall constitute a separate and distinct offense.

PART 15

BOARD OF ADJUSTMENT

Section 15.1 Powers, Duties and Procedures

(A) The Board of Adjustment shall have all the powers and duties authorized by North Carolina General Statute 160D-302, and in the manner provided for in this Ordinance. Generally, such powers and duties shall include, but not be restricted to the following:

- (1) Hearing and deciding all appeals from decisions made by the Zoning Administrator.
- (2) Hearing and deciding appeals which require interpretation of this Zoning Ordinance.
- (3) Hearing and granting variances from the provisions of this Ordinance.
- (4) Temporary subdivision sales office permit application.
- (5) **RESERVED.**
- (6) Permits for temporary housing in the event of a disaster.
- (7) Hearing applications to replace or for a change in use with respect to nonconformities.

(B) Establishment of the Board of Adjustment

(1) The Board of Adjustment shall consist of three (3) regular members appointed by the Cherryville City Council who reside inside the corporate limits of the City of Cherryville and two (2) regular members appointed to said Board by the Gaston County Board of Commissioners as a representative of the extraterritorial jurisdiction, said extraterritorial representative being a resident of such area. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board.

(2) Two (2) alternate Board of Adjustment members shall also be appointed. Said members shall serve in the absence of regular Board of Adjustment members. Said alternate members shall be appointed in the same manner as regular members. Such alternate members, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all of the powers

and duties of such regular member so absent. One (1) alternate member shall reside inside the Cherryville corporate limits and one (1) shall reside in the area of extraterritorial representation. The Gaston County Board of Commissioners shall appoint said member representing the extraterritorial jurisdiction. The Cherryville City Council shall appoint the alternate member representing the City of Cherryville.

Section 15.2 Administrative Review

(A) The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator and apply such interpretation to particular fact situations.

(B) The Board of Adjustment may, after having held a evidentiary hearing on the matter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed or make an interpretation or determination with reference to the appeal.

(C) Any person who has standing under G.S. 160D-1402(c) or the city may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Administrator in accordance with Section 15.6. The notice of appeal shall state the grounds for the appeal.

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

(E) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(F) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the Administrator. Posting of signs is not required.

(G) The Administrator shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(H) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the Administrator certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of this chapter. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this chapter shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications affected by the issue being appealed.

(I) The Administrator shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

(J) When hearing an appeal pursuant to G.S. 160D-947 or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160D-1402(j).

(K) The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.

Section 15.3 Variance

(A) When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this Ordinance relating to the construction or alteration of buildings or structures or the use of land.

(B) The request for a variance for a use expressly, or by inference, prohibited in the district involved, shall not be granted.

(C) The Board of Adjustment may only grant a variance only after having first held an evidentiary hearing on the matter. When unnecessary hardships would result from carrying out the strict letter of these zoning regulations, the Board of Adjustment shall vary any of the provisions of the zoning regulations upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the zoning regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) 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.

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

(4) The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance, such that public safety is secured and substantial justice is achieved.

(D) The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Ordinance provided the conditions are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Section 14.8 of this Ordinance.

(E) Unless otherwise authorized by the Board of Adjustment, any order of the Board of Adjustment in granting a variance shall expire, if a building permit or certificate of occupancy (for a use is a building permit is not required) has not been obtained within two (2) years from the date of the Board of Adjustment's decision.

Section 15.4 Nonconformities

(A) The Board of Adjustment shall hear and decide appeals from any land owner.

(1) to make a change in use of a nonconforming use

(2) to replace a nonconforming use or structure which has been destroyed

(3) to make a change in location of a nonconforming use of land

(4) for a special exception to allow an expansion of a nonconforming use.

(B) The Board of Adjustment may only grant a change in nonconforming use, replacement of a nonconforming use that has been destroyed, or change in location of a nonconforming use of land after having first held an evidentiary hearing and having determined that:

(1) (a) said change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation, and (b) that the proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question, and

(2) that the decision to grant the change will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

(C) The Board of Adjustment, in granting said changes, may prescribe appropriate conditions and safeguards in conformity with this Ordinance in order to conform with Section 15.4(A)(1)(a)(b). Violation of such conditions and safeguards when made a part of the terms upon which the change was granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Section 14.8 of this Ordinance.

Section 15.5 Application Procedure

The following regulations apply to all applications submitted to the Board of Adjustment:

15.5.1 Before a petition for an administrative appeal, temporary use permit or variance shall be heard an evidentiary hearing conducted by the Board of Adjustment, a completed application shall be submitted to the Zoning Administrator along with a fee in accordance with fee schedule established by the City Council. Said fee shall be waived for any petition initiated by the Zoning Administrator or other official of the City of Cherryville who initiates a request on behalf of the City. A map clearly identifying the subject property and all contiguous pieces of properties shall accompany the application.

In addition, a list of names and addresses of the owners of said properties, obtained from the most recent official tax records, shall be provided by the applicant.

15.5.2 The Board of Adjustment shall hold an evidentiary hearing on an application no later than sixty (60) days after the completed application has been filed with the Zoning Administrator. The Board of Adjustment shall decide on the matter that was presented at the evidentiary hearing within thirty-one (31) days of the close of the evidentiary hearing. The decision of the Board of Adjustment shall

be in writing and signed by the chair or other duly authorized member of the board. The decision is effective upon filing the written decision with the clerk to the Board. The decision of the board shall be delivered by personal delivery, electronic mail, or sent by first class mail to the applicant, property owner and to any person who has submitted written request for a copy, prior to the date the decision becomes effective by the Zoning Administrator within five (5) working days after a determination on the application has been made by the Board of Adjustment. The Zoning Administrator shall certify that proper notice has been made.

15.5.3 The City of Cherryville shall give notice of all evidentiary hearings. Said notice shall become a part of the record of the proceedings of the Board of Adjustment. Notice shall be given in the following manner:

- (1) The City shall send notices by first class mail to the applicant, to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to owners of all contiguous pieces of property at least ten (10) days, but not more than 25 days prior to the evidentiary hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice.
- (2) Notice shall also be conspicuously posted by the City in the Cherryville City Hall at least ten (10) days prior to the evidentiary hearing. Said notice shall indicate the nature of the evidentiary hearing and the date, time and place at which it is to occur.
- (3) A conspicuous notice shall also be posted by the City in a conspicuous location on the subject property(ies) indicating the nature of the evidentiary hearing and date, time and place at which it is to occur. Said sign shall be posted on the property(ies) at least ten (10) days but not more than 25 days, prior to the hearing.

15.5.4 The concurring vote of four-fifths (4/5) of the Board of Adjustment shall be necessary to, grant a variance or issue a temporary use. 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 provision, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application

Section 15.6 Appeals from the Board of Adjustment

15.6.1 An application for a rehearing shall be made in the same manner as provided for in the original hearing. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing, and/or graphically. The Board of Adjustment shall deny a rehearing, if, in its judgment, such change in facts, evidence or conditions has not been proven.

In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed in the same manner as in the original hearing.

An evidentiary hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members.

15.6.2 Every quasi-judicial decision of the Board of Adjustment shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to G. S. 160D-1402. A petition for review shall be filed with the Clerk of Superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with Section 15.5. When first class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

(all of Section 15 amended March 10, 2014 per NC House Bill 276)

PART 16 (Reserved)

PART 17 (Reserved)

PART 18 (Reserved)

PART 19
AMENDMENTS

Section 19.1 Amendments To Text And Map

Zoning regulations and restrictions, and zone boundaries may from time to time be amended, supplemented, changed, modified or repealed in the following manner:

- 19.1.1** The Planning Board, City Council or any person may institute applications for a change in the Zoning Ordinance text or map.
- 19.1.2** The application for a change in a zoning district shall be made on a form provided by the City.
- a. Each noncontiguous parcel of land for which a rezoning is requested shall be considered as a separate application, and a fee (in accordance with a fee schedule established by the City Council) shall accompany each application. There shall be no fee for applications instituted by the Zoning Administrator or any City of Cherryville official acting on behalf of the City.
- b. Each application shall be signed and contain the following information:
- (1) Applicant's full name, address, and telephone number; the property owner's full name, address and telephone number, if different from applicant.
 - (2) Applicant's interest in the property.
 - (3) If the proposed change would require a change in the zoning map, the current zoning of the property and the type of zoning requested. In addition, an accurate and scaled diagram showing shall accompany the application:
 - a. All property lines with dimensions, distances of lot from the nearest street intersection and north arrow.
 - b. Adjoining street rights-of-way and paving widths.
 - c. Zoning classification of all contiguous lots.
 - (4) The names and addresses of all contiguous property owners as shown on the most current records of the Gaston County Tax Supervisor's Office.

- c. Except for rezoning involving a conditional zoning district, neither the Planning Board nor the City Council shall evaluate a rezoning petition based on any specific proposal for the use or development of the property. The petitioner shall refrain from using any graphic materials or descriptions before either body except for those that would apply to any use permitted in the requested zoning district.
- d. A metes and bounds survey or description shall accompany the application if the petition for rezoning is for an area less than the entire lot.

19.1.3 The application for a change in the text shall be on a form provided by the City and shall be accompanied by a fee (in accordance with a fee schedule established by the City Council). The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change.

19.1.4 The Planning Board shall consider no application unless it has been properly completed and submitted to the Zoning Administrator at least fifteen (15) days prior to the meeting at which it is to be reviewed. This requirement may be waived by a unanimous vote of the Planning Board membership present at a meeting of the Planning Board occurring less than fifteen (15) days prior to the date of submission. In no case shall the meeting at which the Planning Board initially reviews the application occur greater than thirty (30) days after the completed application was submitted to the Zoning Administrator. The Planning Board shall have thirty (30) days from the date at which it initially met to review the application to submit its recommendation to the City Council. Said recommendation shall address whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable along with other matters that the Planning Board deems appropriate and a statement as to why Planning Board considers its recommendation to be reasonable and in the public interest. If a recommendation is not made during said thirty (30) day period, the application shall be forwarded to the City Council without a recommendation.

19.1.5 If a petition for rezoning is proposed, the Planning Board shall consider the matter. If a recommendation is made to the City Council, it shall be as follows:

- a. Grant the rezoning as requested, or
- b. Grant the rezoning with a reduction of the area requested, or
- c. Grant the rezoning to a more restrictive general zoning district or classification(s) (but less restrictive than the existing zoning classification) as shown in Section 19.1.7 of this Ordinance;

- d. Grant the rezoning with a combination of Sections 19.1.5(a) (b) and (c), or
- e. Denial of the application request.

19.1.6 If a petition to amend the text of this Ordinance is proposed, the Planning Board shall consider the matter. If a recommendation is made to the City Council, it shall be as follows:

- a. Adoption of the amendment(s) as written, or
- b. Adoption of the amendment as revised by the Planning Board, or
- c. Rejection of the amendment.

19.1.7 The list of all general zoning districts in descending degrees of restrictiveness is as follows:

- | | |
|----------------------------|-----------------------------|
| 1. R-40 (most restrictive) | 6. RO |
| 2. R-15 | 7. B-1 |
| 3. R-12 | 8. B-2 |
| 4. R-9 | 9. B-3 |
| 5. RMF | 10. GMC (least restrictive) |

19.1.8 The Zoning Administrator shall transmit any decision of the Planning Board to the City Council. Once the Planning Board has taken action or the time for action by the Planning Board has expired, the City Council may call a legislative hearing on the proposed action. Notification of the legislative hearing shall be made in the following manner:

- a. A notice shall be published in a newspaper having general circulation in the Cherryville area once a week for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the legislative hearing. In computing such time, the date of publication is not to be included, but the date of the hearing shall be included.
- b. A notice shall be conspicuously placed by the City in the City Hall not less than ten (10) days nor more than twenty-five (25) days before the date established for the legislative hearing.
- c. A conspicuous notice shall be posted by the City in at least one (1) conspicuous place on the subject property (or at appropriate locations along the boundary of the rezoning area sufficient to be seen by the public where the rezoning consists of more than one tract of property or a tract with more than one road frontage) at least ten (10) days prior to the legislative hearing. A notice shall not be posted for any zoning petition that only involves a proposed change to the Zoning Ordinance text.

- d. At least ten (10) but not more than twenty-five (25) days prior to the legislative hearing, a notice of the proposed zoning change shall be sent by the City by first class mail to the affected property owners, owners of all adjoining properties, including those separated by a street, railroad, or other transportation corridor, and owners within five hundred (500) feet of the area under consideration in the proposed map amendment. In order to expand extraterritorial jurisdiction a notice shall be mailed at least thirty (30) days prior to the date of hearing. A single notice may be mailed at least (30) days prior for extraterritorial jurisdiction expansion in conjunction with zoning map amendment.

First class mail notice shall not be required for any zoning petition that only involves a proposed change to the Zoning Ordinance text. First class mail notices shall also not be required if the proposed zoning action involves a zoning map amendment that directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners. In lieu of sending first class mail notice to all the affected and abutting property owners, the Town may elect to publish in a newspaper of local circulation a notice of the legislative hearing that includes one or maps showing the boundaries of the area affected by the proposed map amendment. Said newspaper notice shall be not less than one-half of a newspaper page in size. Said notice shall map shall satisfy the final two advertisements published to satisfy the requirements of Section 19.1.8(a).

Any such enlarged newspaper notice shall only be effective for affected or abutting property owners who reside in the area of general circulation of the newspaper in which the notice is published. Such property owners who reside outside of the newspaper circulation area shall nonetheless be sent first classes mail notice in the prescribed 10-25 day period prior to the legislative hearing.

- e. The person(s) mailing any such notices shall certify to the City Council that fact, and the certificate shall be deemed conclusive in the absence of fraud.

19.1.9 A written petition of protest may be filed with reference to any proposed changes in the zoning regulations or in the zone boundaries. In a case of protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in the proposed change, or of those immediately adjacent thereto either in the rear thereof, or on either side thereof, extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the City Council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of this Ordinance as a result of annexation or otherwise.

No protest against any proposed change shall be valid or effective unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Zoning Administrator in sufficient time to allow the City at least two (2) normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a legislative hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed by the City Council and furnished by the Zoning Administrator, and such form may prescribe any reasonable information deemed necessary to permit the Zoning Administrator to determine the sufficiency and accuracy of the petition.

19.1.10 After the legislative hearing has been conducted and officially closed, the City Council shall render a decision concerning the proposal not later than the next regularly scheduled City Council meeting. The decision of the City Council shall be limited to one of the various alternatives listed in Sections 19.1.5 and 19.1.6 of this Ordinance. Any final decision made by the City Council shall be accompanied by a statement that address (1) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (2) other matters that the City Council deems appropriate and (3) why it considers the action taken to be reasonable and in the public interest. A copy of the City Council's decision shall be sent to the applicant by the Zoning Administrator by first class mail within five (5) working days after the City Council's decision.

19.1.11 If the City has denied an application for the change of any zoning district or change in zoning text, it shall not, thereafter, accept any application for the same change of zoning districts affecting the same property or any portion thereof or similar change in the zoning text until the expiration of one (1) year from the date of such previous denial.

Section 19.2 Additional Provisions Pertaining To Conditional Zoning Map Amendments

The procedures in this section exist to supplement the procedures set forth in Section 19.1 of this Ordinance, to clarify special requirements for a conditional rezoning.

19.2.1 Purpose

The conditional rezoning process allows particular uses to be established, but only in accordance with a specific development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and/or on the entire community which cannot be predetermined and controlled by general district standards or the criteria governing planned developments. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular

property even through the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations, the adopted Land Use Plan, and other plans for the physical development of the City as adopted by the City Council. The review process established herein provides for the accommodation of such uses by a reclassification of property into a conditional zoning district. Conditional zoning decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions.

19.2.2 Conditional Rezoning Provisions

A conditional rezoning may be based on any district, but is not intended to relieve hardships that would otherwise be handled using a variance procedure. A conditional rezoning application must be made by the owners of the property or their authorized agents. A conditional rezoning may contain fair and reasonable conditions to assure conformance with this Ordinance and other plans adopted by the City Council and to obtain sufficient compatibility with surrounding properties. Site specific standards proposed by an applicant shall take into account the following considerations:

- a. The proposed conditional zoning district's use appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the current Land Use Plan.
- b. The use(s) requested are among those listed as an eligible permitted use in the general use district as included in the rezoning request.
- c. The design of the proposed conditional zoning district uses minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare and vibration and not creates a nuisance.
- d. The use limitations and conditions as proposed and/or imposed for the requested district can reasonably be implemented and enforced for the subject property.
- e. When implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general zoning district. If any standards area proposed that are different from the underlying zoning district, the applicant must clearly demonstrate that the overall resultant project is greater than that which is typically allowed by the general district.

- f. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district.

Rezoning of property to a conditional zoning district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals, which may not be undertaken for some time. The applicant shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the City Council. Only those conditions mutually agreed upon by the City Council and the applicant, with input from the public, may be incorporated into the Conditional Zoning District. The applicant must provide written consent to the mutually agreed upon conditions. No conditional zoning district shall be established until the owner(s) of the property(ies) in question (or his authorized agent) proposing the district has submitted an application for the conditional rezoning of the property and the City Council has approved such application in accordance with the procedures stated herein.

19.2.3 Plans and Additional Information

Every application for the rezoning of property to a conditional zoning district shall be accompanied by a site plan, drawn to scale, and any necessary supporting information together which conform to all the requirements set forth in Section 19.1 of this Ordinance. When dealing with a conditional rezoning process it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Zoning Administrator, Planning Board, or City Council of Cherryville may request additional information that is required.

19.2.4 Submittal to the Zoning Administrator

Submittal to the Zoning Administrator of an application for a conditional rezoning shall be in accordance with the schedule set forth in Section 19.1.4 of this Ordinance.

19.2.5 City Council Decision

A rezoning, under the conditional rezoning process, does not confer upon the applicant any privileges for development under that zoning district unless and until all additional development permits required for construction of the property in question have been approved.

Prior to issuance of a special use permit within an approved conditional zoning district the application shall be subject to all of the procedures, hearing, and findings as set forth in Section 13.4 (and 13.5 if applicable) of this Ordinance.

19.2.6 Effect of Approval

- a. If a petition for a conditional rezoning is approved under this Part, the district that is established, and all conditions attached to the approval are binding on the property as an amendment to these regulations and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional zoning district.
- b. If a petition is approved subject to conditions, the Zoning Administrator shall record with the register of deeds a notice that development of the subject property is subject to conditions and that such conditions are on file at the Zoning Administrator's Office.
- c. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A condition district shall be identified by the same designation as the underlying general zoning district preceded by the letters CZ (For Example, "CZ-B-1").
- d. Any special use permit issued in relation to a conditional zoning district shall be subject to the same requirements as any other special use permit as set forth in Part 13 of this Ordinance.

19.2.7 Alterations to Approval

Changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this Part.

19.2.8 Change in Conditional Zoning

Once a petition for rezoning to a conditional zoning district has been approved by the City Council, any request to materially change the conditional zoning for a property may only be made by the property owner or his authorized agent only after a legislative hearing has been duly advertised and held in accordance with Section 19.1.8 of this Ordinance.

PART 20

VESTED RIGHTS PROCEDURES

Section 20.1 Purpose

Pursuant to G.S. 160D-108 and not withstanding any other provision of this Ordinance or amendment thereto, a landowner may establish vested rights which shall entitle said landowner to develop property in accordance with the permit for which he/she is seeking approval. To apply for vested right, a landowner shall first submit to the Zoning Administrator an application for a development approval. Once the Zoning Administrator deems the application to be complete, it shall follow the Town approval process applicable for said permit.

Section 20.2 Permit Choice

If an application is submitted for development review and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the applicant chooses the version of this ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the said map or text amendment prior to acting on the development permit.

Section 20.3 Application Completeness Review

20.3.1 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 provisions of this Ordinance, an application has not been submitted.

On receiving a development application, the Zoning Administrator shall, within a reasonable time, determine whether the application is complete or incomplete. A complete application is one that:

- a. Contains all information and materials required by Zoning Administrator for submittal of the applicable type of application, and in sufficient detail, format, and readability for City if Cherryville staff to evaluate the application for compliance with applicable review standards; and

- b. Is accompanied by the fee established for the applicable type of application

20.3.2 Application Incomplete

On determining that the application is incomplete, the Zoning Administrator shall, as appropriate, provide the applicant written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a completeness review.

If the applicant fails to resubmit an application within 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 Town Clerk within 15 calendar days of the application abandonment date, the application fee paid for the withdrawn application shall be refunded.

20.3.4 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.

Section 20.4 Development Approval

The effect of a development approval shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any development approval beyond a two (2) year period may only be authorized by the Town Council where it is found that due to:

1. sizing and phasing of the development; or
2. level of investment; or
3. need for the development; or
4. economic cycles; or
5. market conditions, building permits for all phases of the development cannot be secured within two years

For multi-phase developments of at least 25 acres, vesting can be up to seven years for the entire development at the time a site plan approval is granted for the initial phase of the long-term development.

Section 20.5 Substantially Commencing Development

A valid development approval shall not expire if work on the project has substantially commenced within the initial validity period. Substantial commencement of work shall be determined by the Zoning Administrator based on any of the following:

- a. The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
- b. The development has installed substantial on-site infrastructure; or
- c. The development has received and maintained a valid building permit for the construction and approval of a building foundation

Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to G.S. 160D-108.

PART 21

LEGAL STATUS PROVISIONS

Section 21.1 Conflict With Other Laws

Whenever the regulations of this Ordinance require a greater width or size of yards, or other open space, or require a lower height of buildings or fewer number of stories or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute or agreement, the regulations and requirements of this Ordinance shall govern.

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

This Ordinance is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the City of Cherryville (adopted by the City Council on January 10, 1977, 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 Zoning Ordinance of the City of Cherryville enacted in January 10, 1977, as amended, which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any Zoning Ordinance heretofore in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality, the same as if this Ordinance had not been adopted, and any and all violations of the existing Zoning Ordinance, prosecutions for which have not yet been initiated, 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 21.2 Separability

Should any section or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 21.3 Effective Date

This Ordinance shall take effect and be enforced as of the 10th day of July, 1995.

THIS ORDINANCE IS HEREBY ADOPTED BY THE CITY COUNCIL OF THE CITY OF CHERRYVILLE ON THIS THE 10TH DAY OF JULY, 1995.

MAYOR, CITY OF CHERRYVILLE

ATTEST:

CITY CLERK