



**Cullowhee Community Planning Area  
Proposed Development Standards  
Recommended by Cullowhee Community Planning Advisory Committee 01/15/15**

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**ARTICLE I. AUTHORITY, PURPOSE,  
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**Sec. 1-1. Authority; title**

This ordinance is adopted pursuant to the authority vested in Jackson County by the General Assembly of the State of North Carolina in provisions of the North Carolina General Statutes, which include N.C.G.S.153A, Article 18 as amended. This ordinance is entitled Cullowhee Community Planning Area Development Standards.

**Sec. 1-2. Purpose**

These regulations have been adopted in accordance with N.C.G.S. 153A-342 in order to promote the health, safety, and general welfare of the community; to provide for sound and orderly development; to facilitate the adequate provision of transportation, water, sewerage, schools, and parks; to promote the economic prosperity of the community; to preserve the community's unique scenic quality; to conserve the natural resources and environmental quality of the community; and to protect and conserve the heritage of the community.

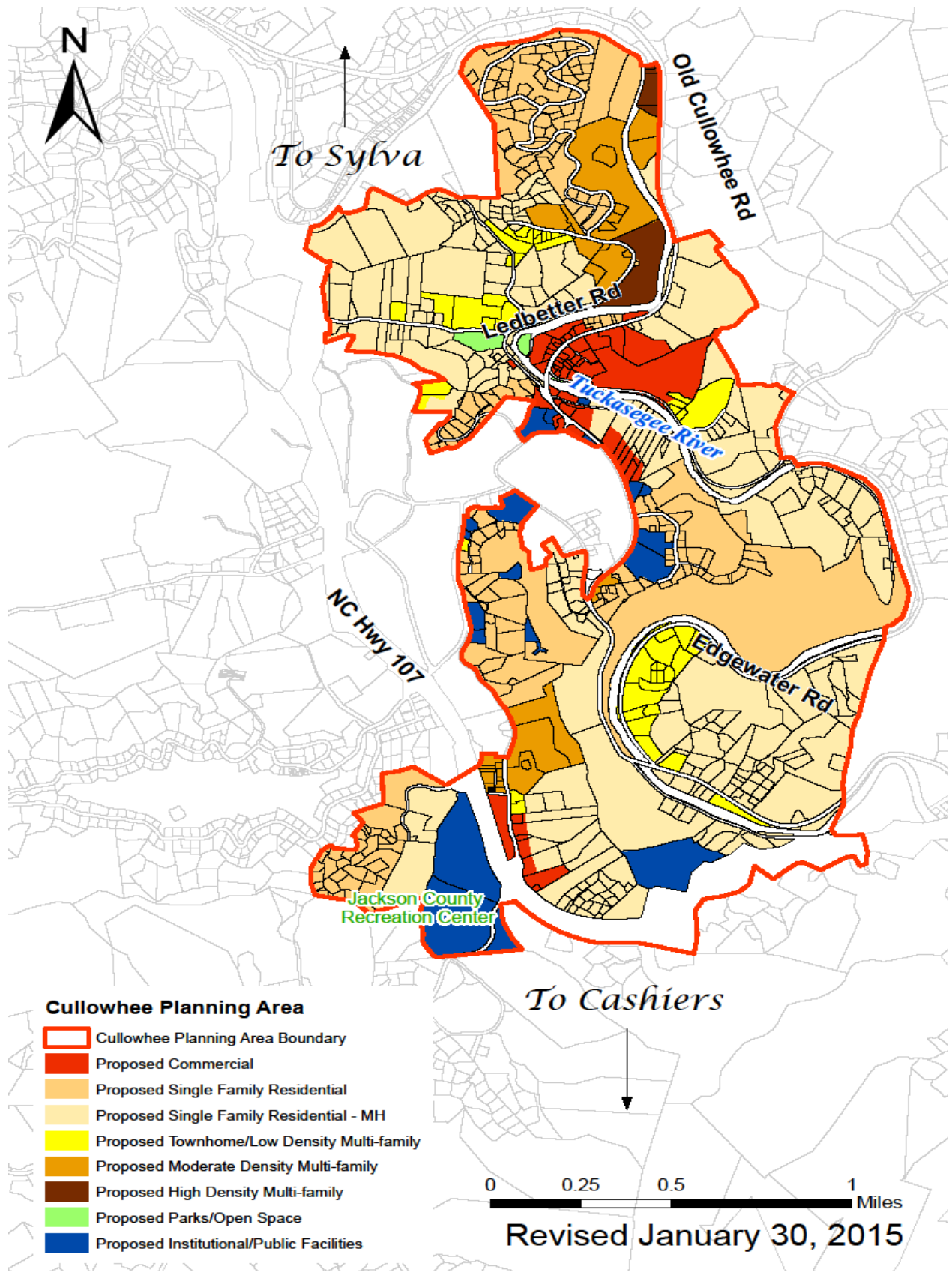
**Sec. 1-3. Jurisdiction**

- a) *General.* The provisions of this chapter shall apply within the area defined as the Cullowhee Planning Area, as defined on the map so labeled. This map shall be recorded in the office of the Register of Deeds for Jackson County and filed in the office of the Jackson County Planning Department.
  
- b) *Bona fide agricultural use.* The provisions of this ordinance shall not apply to bona fide agricultural uses as defined by the North Carolina General Statutes.

**ARTICLE II. OFFICIAL MAP, RULES OF CONSTRUCTION, AND DEFINITIONS**

**Sec. 2-1. Official zoning maps; identification.**

The boundaries of the zoning districts are effective at the same time this ordinance is effective by the adoption by the Jackson County Board of Commissioners of a map entitled "Cullowhee Planning Area Zoning Map" (hereafter "zoning map"). The zoning map, together with all amendments adopted by the Jackson County Board of Commissioners, are incorporated herein by reference as if fully set forth herein. The zoning map shall be maintained in the office of the Jackson County Planning Department.



## **Sec. 2-2. Interpretation of district boundaries.**

The following rules of interpretation shall apply to the zoning maps:

- a) *District designation.* A district name on the zoning map indicates that the regulations pertaining to that district extend throughout the whole area bounded by the district boundary lines within which the name is shown.
- b) *District boundary determination.* Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning maps, the following rules shall be used to interpret the zoning maps.
  - (1) Where a district boundary is shown to coincide with a property line, the property line shall be considered to be the district boundary, unless otherwise noted.
  - (2) Where a district boundary is located within a roadway or public right-of-way or easement, it will be considered to be in the center of the roadway or public right-of-way or easement.
  - (3) Where a district boundary is shown dividing a lot, each part of the lot shall conform with the standards of the district in which that part is located.

## **Sec. 2-3. General rules of construction.**

- a) *Interpretation and application of these regulations.*
  - (1) The words “shall”, “must”, and “will” are mandatory in nature; the word “may” is permissive.
  - (2) Except where specifically defined in this ordinance or in the publication entitled A Glossary of Zoning, Development, and Planning Terms (Planning Advisory Service Report #491/492), all words shall carry the standard dictionary meaning.
  - (3) Any act authorized by this ordinance to be carried out by a specific official of Jackson County is authorized to be carried out by a designee of such official.
- b) *Relation of this chapter to any pending actions.* The adoption of this ordinance shall not affect any action, suit, notice of violation, citation or proceeding that may be pending at the date this chapter becomes effective.

## **Sec. 2-4. Conflict or inconsistency with other laws, covenants, or deed restrictions.**

- a) *Relation of this chapter to other regulations.* This ordinance is not intended to abrogate any other law, ordinance, or regulation. Where standards or regulations imposed by this ordinance are either more restrictive or less restrictive than standards imposed by any

other law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards shall govern.

- b) *Conflicts with covenants, deed restrictions, etc.* This ordinance is not intended to abrogate any covenant, deed restriction, or other private agreement. Where regulations of this ordinance impose higher standards or requirements than covenants, deed restrictions, or other private agreement, then the requirements of this ordinance shall govern.

## **Sec. 2-5. Definitions**

Unless specifically defined in this section, words shall have the meaning found in the publication entitled A Glossary of Zoning, Development, and Planning Terms (Planning Advisory Service Report # 491/492) or the standard dictionary definition.

- a) **Accessory Apartment** - a separate and complete dwelling unit located on the same lot as the single family dwelling or business that is the principal building or use.
- b) **Automobile service station** - a business used for the sale of gasoline and other motor vehicle fuels and may provide for the minor care, repair, or maintenance of motor vehicles.
- c) **Bed and Breakfast (B&B)** – a transient lodging establishment, generally in a single family dwelling or detached guesthouse, primarily engaged in providing overnight or otherwise temporary lodging for the general public.
- d) **Buffer** - an area of natural or planted vegetation or an area of such vegetation in combination with berms, fences, and/or walls serving as a separation between two areas or land uses.
- e) **Building height** - the vertical distance measured from the lowest grade point adjacent to the building wall to the highest point of the roof surface or parapet for flat and shed roofs, to the highest break line of mansard/gambrel roofs, and to the median height between edge of eave and the highest ridge for pitched/gable and hip roofs. The existing natural grade of the property may not be raised around a new building or foundation in order to comply with the height requirements of this ordinance. Chimneys, bell towers, steeples, copulas and other similar decorative elements may extend an additional ten feet above the highest point of the roof or parapet.
- f) **Cullowhee Community Planning Area** - that area indicated on the map entitled “Cullowhee Community Planning Area” as the portion of the Cullowhee community subject to the development standards set forth herein.
- g) **Changeable copy sign** - any permanently unframed sign that is primarily devoted to and designed for changeable copy text and graphics. The copy shall not be changed more than twice in a 24 hour period.
- h) **Civic event** - an event held, organized, and/or sponsored by a governmental agency, an

agency or organization funded by a local government, a recognized non-profit civic agency or organization, a religious organization, or similar agency or organization.

- i) **Cutoff** - A light distribution designation for a fixture that has no more than 2.5% of the lamp's light (intensity) emitted at or above a horizontal (plane) line drawn through the bottom of the fixture and no more than 10% of the lamp's light (intensity) emitted (at an) in the area between that horizontal line and a line drawn at an angle 10 degrees below that horizontal (plane) line in all directions around the fixture.
- j) **Development identification sign** - a sign bearing only the name of the multiple tenant development.
- k) **Drive-through lane** - a travel lane that provides vehicular access to a customer service facility located within the principal structure or within an accessory structure, which is intended to enable the customer to transact business with a customer service person located with the principal structure (or with an automated service machine) without exiting the motor vehicle. The lane provides access to and egress from the drive through facility.
- l) **Externally illuminated sign** - any sign that reflects light from a source intentionally directed upon it.
- m) **Financial institution** - bank, savings bank or other institution/business involved in the banking business.
- n) **Foot-candle** - A unit of measurement for luminance. A unit of luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.
- o) **Freestanding pole sign** - a sign that is permanently affixed to the ground by a pole and is not a part of the building.
- p) **Full cutoff** - A light distribution designation for a fixture that has no light (intensity) emitted at or above a horizontal (plane) line drawn through the bottom of the fixture and no more than 10% of the lamp's light (intensity) emitted in the area between that horizontal line and a line drawn at an angle 10 degrees below that horizontal (plane) line, in all directions around the fixture.
- q) **Identification sign** - sign used to identify or advertise the name, logo, or other identifying symbol of a building, business, profession, etc. conducted on the property upon which the sign is located.
- r) **Internally illuminated sign** - a sign designed to provide light through exposed lighting on the sign face or through transparent or translucent material from a light source within the sign.
- s) **Joint identification sign** - a sign bearing the names of individual tenants located within a multiple tenant development (may include the name of the development).
- t) **Lodging facility** - motel, hotel or other business providing lodging to guests for a fee.
- u) **Manufactured Home, Class A** - A manufactured home meeting or exceeding the United



States Department of Housing and Urban Development standards (all manufactured homes built after June 14, 1976), which is of multi-sectional or double-wide design.

- v) **Manufactured Home, Class B** – a manufactured home constructed to meet or exceed United States Department of Housing and Urban Development code requirements for manufactured homes, and which has a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run.
- w) **Menu board** - freestanding or wall mounted sign primarily designed for the display of menu items and prices for restaurants providing drive through service.
- x) **Multiple tenant development** - a development containing a number of individual and/or separate activities or businesses that share facilities such as parking, pedestrian areas, etc.
- y) **Off-premise sign** - any sign used to advertise, identify, or direct attention to business products, operations, or services sold or offered at a site other than the site where the sign is located.
- z) **Outdoor Storage** –Storage of any materials, merchandise, products, lumber and building supply materials, landscape materials, stock, supplies, machines, operable and/or inoperable, vehicles, equipment, manufacturing materials, or chattels of any nature which are not kept in a structure having at least four walls and a roof for more than 24 hours continuous hours.
- aa) **Outdoor Display** –The temporary placement of commercial materials, inventory or goods including, but not limited to, furniture, crafts, farm implement sales, and farmers markets, outside the building in which the principal business selling the goods is located. The display must be located on property owned or maintained by the business displaying the goods. Displayed goods must comply with the standards set forth in this ordinance. Such display must be clearly incidental and subordinate to the principal business.
- bb) **Portable sign** - any sign designed to be readily relocated and that is not permanently affixed to the ground or a building.
- cc) **Recreational facilities, governmental** - facilities owned or operated by governmental agencies for public recreational uses.
- dd) **Recreational uses, restricted to membership** - recreational uses, such as country clubs, operated for the social and recreational benefits of members, guests, and employees and not as a business for profit.
- ee) **Sight visibility triangle** - the triangular area formed by a diagonal line connecting 2 points located on intersecting street right-of-way lines (or the right-of-way line and a curb or edge of a driveway), with the points located 30' from the intersection.
- ff) **Sign height** - the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the base of the sign at grade.
- gg) **Semicutoff** - A light distribution designation for a fixture that has no more than 5% of the lamp's light (intensity) emitted at or above a horizontal line drawn through the bottom of the fixture and no more than 20% of the lamp's light (intensity) emitted (at an) in the area

between that horizontal line and a line drawn at an angle 10 degrees below the horizontal line, in all directions around the fixture.

- hh) **Site plan** - a plan, prepared to scale, that accurately shows all information required by these regulations with respect to a development proposal.
- ii) **Suspended or transom sign** - a sign that is suspended from the underside of a horizontal plane surface and is supported by that surface.
- jj) **Temporary sign** - a sign with or without a structural frame, not permanently attached to any structure or the ground, and intended for a limited period of display.
- kk) **Temporary event sign** - a sign with or without a structural frame, not permanently attached to any structure or the ground, the sole purpose is to announce a community event or permitted temporary use event.
- ll) **Tent sales** - sales of goods and/or services that take place in a temporary or non-permanent structure, such as a tent, pavilion, or greenhouse. The tent sale shall be on the property of and conducted by an established business located within the Cullowhee Planning Area as a special event to promote said business.
- mm) **Temporary use** - a use that is in operation for a limited amount of time and that does not use permanent facilities or makes use of permanent facilities only for a limited time. Temporary use permits are required only for those temporary uses that are in operation for at least one (1) day or eight (8) hours.
- nn) **Vehicular use area** - all portions of the site or property designed to receive vehicular traffic, including parking, driveways, dumpster pads, loading and unloading areas.
- oo) **Wind sign** - a suspended sign made of a flexible material such as plastic, canvas, or waterproof paper, including, but not limited to, pennants, spinners, or streamers.
- pp) **Yard/garage sale signs** - temporary directional signs, no larger than 4 sq.ft. per sign, limited to 4 signs per event, for residential one or two day yard/garage sales, no more than 2 per year per residence.

### **ARTICLE III. ADMINISTRATIVE AND ADVISORY BODIES**

#### **Sec. 3-1. Jackson County Board of Commissioners**

- a) *Powers and duties.* Without limiting any authority granted to the Jackson County Board of Commissioners by laws and regulations, the Jackson County Board of Commissioners shall have the following powers and duties with respect to this ordinance, to be carried out in accordance with the terms of this ordinance:
  - (1) To adopt new text for and amendments to the text of this ordinance
  - (2) To adopt new zoning maps and amendments to the zoning maps

- (3) Such additional powers and duties as may be set forth for the Jackson County Board of Commissioners elsewhere in this ordinance and in other laws and regulations.

### **Sec. 3-2. Jackson County Planning Board**

- a) *Powers and duties.* Without limiting any authority granted to the Jackson County Planning Board by laws and regulations, the Jackson County Planning shall have the following powers and duties with respect to this ordinance, to be carried out in accordance with the terms of this ordinance:
  - (1) To review and make recommendations regarding recommendations of the Cullowhee Community Planning Council for new text for and amendments to the text of this ordinance
  - (2) To review and make recommendations regarding recommendations of the Cullowhee Community Planning Council for new zoning maps and amendments to the zoning maps
  - (3) Such additional powers and duties as may be set forth for the Jackson County Planning Board elsewhere in this ordinance and in other laws and regulations

### **Sec. 3-3. Cullowhee Community Planning Council**

- a) *Powers and duties.* The Cullowhee Community Planning Council shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:
  - (1) To review all new text for and proposed amendments to this ordinance, and proposals to zone or change the zoning of all property regulated under this ordinance and to make recommendations to the Jackson County Planning Board for action thereon;
  - (2) To review and decide on approval of requests for conditional use permits in accordance with the procedures set forth in this ordinance.
  - (3) To hear and decide applications for approval of variances from the terms of this ordinance, in accordance with the procedures set forth in section \_\_-1.
  - (4) To hear and decide appeals from any order, requirement, permit, decision, or determination made by an administrative officer of Jackson County in enforcing any provision of this ordinance, in accordance with the procedures set forth in.
  - (5) The Cullowhee Community Planning Council shall appoint a committee, composed of at least four (4) members of the Council, to serve as the Design Review Committee. The members of the Design Review Committee should have some knowledge of design and construction. The Design Review Committee shall

have the following powers and duties, to be carried out in accordance with the terms of this ordinance.

- a. To conduct design review of proposed development and redevelopment in the Cullowhee Planning Area and make recommendations to the Cullowhee Community Planning Council regarding the compliance of the proposed development or redevelopment with the standards set forth in the Cullowhee Community Design Standards.
- b. Such additional powers and duties as may be set forth for the Design Review Committee elsewhere in this ordinance.

*b) Membership; terms; vacancies*

(1) The Cullowhee Community Planning Council shall consist of 7 regular members appointed by the Jackson County Board of Commissioners. All members shall be residents of, own property in, and/or own a business in the Cullowhee Planning Area.

(2) All members shall serve 3-year terms. All members shall serve a maximum of 2 consecutive terms. Terms of initial appointments shall be staggered as set forth in the Planning Council's rules of Procedures.

(3) Vacancies shall be filled by the Jackson County Board of Commissioners.

*c) Meetings.* The Cullowhee Community Planning Council shall hold regular monthly meetings on a day and at a time scheduled by the Cullowhee Community Planning Council.

*d) Rules and records.* The Cullowhee Community Planning Council shall prepare and adopt rules of procedure under which it will operate. The Cullowhee Community Planning Council shall keep minutes of its meetings.

#### **ARTICLE IV. GENERAL AND CONDITIONAL USE DISTRICTS**

##### **Sec. 4-1. Enumeration and description of districts; designation of districts on official zoning map.**

*a) Criteria for zoning districts.* For the purposes set forth in Article I, the Cullowhee Planning Area is divided into zoning districts taking into account the design, size, and/or location of one or more of the following:

- (1) Transportation facilities;
- (2) Schools, parks, and other public facilities;

- (3) Availability of sanitary sewer and/or septic systems;
- (4) Access to and location of other utility services;
- (5) Potential hazards from fire and flooding;
- (6) Access to light and air from buildings;
- (7) Topography and other natural features; and/or
- (8) Current uses of land and buildings for residences, businesses, churches, schools, and for other uses, and height of buildings, the size and location of yards, and the density of development in each of the zoning districts hereinafter mentioned

b) *Enumeration and description of zoning districts.* The following general use districts are established in this article: Commercial, Institutional, Multi-Family Residential High Density, Multi-Family Residential Medium Density, Townhome Residential Low Density, Single Family Residential, Parks/Open Space.

#### **Sec. 4-2. C Commercial District**

- a) *Purpose.* The purpose of the Commercial District is to provide opportunities for commercial development with standards to assure that the development is sustainable and maintains the character of the community.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- d) *Conditional Uses.* See Table of Permitted Uses. Any development or redevelopment that exceeds 75,000 square feet in gross floor area.
- e) *Prohibited Uses.* Any use not listed as a permitted use, a use subject to additional standards, or a conditional use. This specifically includes adult uses and video/internet gaming establishments.
- f) *Development Standards*
  - (1) *Lot size standards.* New lots in the Commercial District shall not be less than 0.25 acres (10,890 square feet).
  - (2) *Lot width standards.* New lots in the Commercial District shall not be less than 50 feet in width.
  - (3) *Density standard.* There shall be no greater than thirty (30) dwelling units per acre on any lot in the Commercial District.
  - (4) *Building height standard.* New structures in the Commercial District shall not exceed forty (40) feet in height.
  - (5) *Setback standards.* The following minimum setbacks shall be required for structures in the Commercial District:
    - a. Front: 15 feet
    - b. Side: 10 feet

- c. Rear: 20 feet
- d. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
- (6) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the Commercial District shall be 70 percent.
- (7) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6-3 of this chapter.
- (8) *Parking and loading standards.* Parking shall be provided as required by Section 6-4 of this chapter. There shall be a maximum of two (2) rows of parking permitted in front of building(s). Parking shall be permitted beside and behind buildings. No parking shall be permitted in required buffers, setbacks, or open space.
- (9) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development.
- (10) *Open space standard.* Lots in the Commercial District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

**Sec. 4-3. I Institutional District**

- a) *Purpose.* The purpose of the Institutional District is to provide areas for the development of institutional facilities in an environment that supports their functions and provides for the infrastructure needed to serve the development.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- d) *Conditional Uses.* See Table of Permitted Uses. Any development or redevelopment that exceeds 75,000 square feet in gross floor area.
- e) *Prohibited Uses.* Any use not listed as a permitted or a conditional use.
- f) *Development Standards*
  - (1) *Lot size standards.* New lots in the Institutional District shall not be less than 0.25 acres (10,890 square feet).
  - (2) *Lot width standards.* New lots in the Institutional District shall not be less than 50 feet in width.
  - (3) *Density standard.* There shall be no greater than twenty (20) dwelling units per acre on any lot in the Institutional District.
  - (4) *Building height standard.* New structures in the Institutional District shall not exceed forty (40) feet in height.

- (5) *Setback standards.* The following minimum setbacks shall be required for structures in the Institutional District:
  - a. Front: 25 feet
  - b. Side: 10 feet
  - c. Rear: 20 feet
  - d. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
- (6) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the Institutional District shall be 70 percent.
- (7) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6-3 of this chapter.
- (8) *Parking and loading standards.* Parking shall be provided as required by Section 6-4 of this chapter. No parking shall be permitted in required buffers, setbacks, or open space.
- (9) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development.
- (10) *Open space standard.* Lots in the Institutional District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

#### **Sec. 4-4. MFH Multi-Family Residential - High Density District**

- a) *Purpose.* The Multi-family Residential High Density District is established to provide standards for high density development that minimizes the impact on surrounding properties in areas that have the infrastructure necessary to serve the development.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses. Any development or redevelopment that contains more than 100 units or 200 bedrooms.
- d) *Conditional Uses.* See Table of Permitted Uses. Any development or redevelopment that exceeds 75,000 square feet in gross floor area.
- e) *Prohibited Uses.* Any use not listed as a permitted use, use subject to additional standards, or a conditional use.
- f) *Development Standards*
  - (1) *Lot size standards.* New lots in the MFH District shall not be less than 5 acres for townhomes and apartments. For single family dwellings, lot sizes shall be those set forth in Section 4-7.

- (2) *Lot width standards.* New lots in the MFH District shall not be less than 500 feet in width.
- (3) *Density standard.* There shall be no greater than twenty-four (24) bedrooms per acre on any lot in the MFH District. Single family density shall be determined by permitted lot size.
- (4) *Building height standard.* New structures in the MFH District shall not exceed forty (40) feet in height. This height requirement may be increased up to eighty (80) feet provided that for each additional one (1) foot in building height, the building is set back an additional two (2) feet from the setback required by Section 4-4.f(5) below.
- (5) *Setback standards.* The following minimum setbacks shall be required for structures in the MFH District:
  - a. Front: 40 feet
  - b. Side: 25 feet
  - c. Rear: 30 feet
  - d. Multi-family developments of more than 12 units shall be setback a minimum of 50 feet from the Tuckasegee River. No parking, grading, or activity other than passive recreation shall occur within this setback.
  - e. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
  - f. No parking, vehicular access areas, or structures shall be located within the required setbacks. Driveways may cross the setbacks. Recreational facilities may be located within the setback upon approval by the Cullowhee Community Planning Council.
- (6) *Distance between buildings.* When located on the same property, the distance between buildings shall be equal to the side setback set forth in Section \_\_\_ plus one (1) foot for each one (1) foot in building height above 35 feet.
- (7) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the MFH District shall be 70 percent.
- (8) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6-3 of this chapter. No grading shall occur within the required buffer other than that required for access drives.
- (9) *Parking and loading standards.* Parking shall be provided as required by Section 6-4 of this chapter. No parking shall be permitted in required buffers, setbacks, or open space.
- (10) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages. A sidewalk connection shall be provided from each building to the street or road providing primary access to the property. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development. This standard shall not apply to single family home developments of less than 12 lots/homes.



- (11) *Open space standard.* Lots in the MFH District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

**Sec. 4-5. MFM Multi-Family Residential - Medium Density District**

- a) *Purpose.* The Multi-Family Residential – Medium Density District is created to provide opportunities for development of medium density residential uses and supporting uses in areas with infrastructure to serve the uses where the development will not adversely impact surrounding properties.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- d) *Conditional Uses.* See Table of Permitted Uses. Any development or redevelopment that contains more than 60 units or 120 bedrooms.
- e) *Prohibited Uses.* Any use not listed as a permitted use, use subject to additional standards, or a conditional use.
- f) *Development Standards*
- (1) *Lot size standards.* New lots in the MFM District shall not be less than 2 acres for townhomes and apartments. For single family dwellings, lot sizes shall be those set forth in Section \_\_\_.
  - (2) *Lot width standards.* New lots in the MFM District shall not be less than 200 feet in width.
  - (3) *Density standard.* There shall be no greater than eighteen (18) bedrooms per acre or twelve (12) dwelling units per acre on any lot in the MFM District. Single family density shall be determined by permitted lot size.
  - (4) *Building height standard.* New structures in the MFM District shall not exceed forty (40) feet in height. This height requirement may be increased up to eighty (80) feet provided that for each additional one (1) foot in building height, the building is set back an additional two (2) feet from the setback required by Section 4-5.f(5) below.
  - (5) *Setback standards.* The following minimum setbacks shall be required for structures in the MFM District:
    - a. Front: 40 feet
    - b. Side: 25 feet
    - c. Rear: 30 feet
    - d. Multi-family developments of more than 12 units shall be setback a minimum of 50 feet from the Tuckasegee River. No parking, grading, or activity other than passive recreation shall occur within this setback.
    - e. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
    - f. No parking, vehicular access areas, or structures shall be located within the required setbacks. Driveways may cross the setbacks. Recreational

facilities may be located within the setback upon approval by the Cullowhee Community Planning Council.

- (6) *Distance between buildings.* When located on the same property, the distance between buildings shall be equal to the side setback set forth in Section 4-5.f(5) above plus one (1) foot for each one (1) foot in building height above 35 feet.
- (7) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the MFM District shall be 60 percent.
- (8) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6-3 of this chapter. No grading shall occur within the required buffer other than that required for access drives.
- (9) *Parking and loading standards.* Parking shall be provided as required by Section 6-4 of this chapter. No parking shall be permitted in required buffers, setbacks, or open space. A maximum of 2 rows of parking is permitted in front of any building(s). Parking is permitted beside and behind any building(s).
- (10) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages. A sidewalk connection shall be provided from each building to the street or road providing primary access to the property. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development. This standard shall not apply to single family home developments of less than 12 lots/homes.
- (11) *Open space standard.* Lots in the MFM District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

#### **Sec. 4-6. TH Townhome Residential – Low Density District**

- a) *Purpose.* The Townhome Residential – Low Density District is established to provide opportunities for low density multi-family development in areas that can serve as a transition between higher intensity and lower intensity uses.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- d) *Conditional Uses.* See Table of Permitted Uses. Any development or redevelopment that contains more than 40 units or 75 bedrooms.
- e) *Prohibited Uses.* Any use not listed as a permitted use, use subject to additional standards, or a conditional use.
- f) *Development Standards.*

- (1) *Lot size standards.* New lots in the TH District shall not be less than 1 acre for townhomes. For single family dwellings, lot sizes shall be those set forth in Section 4-7.
- (2) *Lot width standards.* New lots in the TH District shall not be less than 100 feet in width.
- (3) *Density standard.* There shall be no greater than ten (10) dwelling units (townhomes) or 12 bedrooms (multi-family developments) per acre on any lot in the TH District. Single family density shall be determined by permitted lot size.
- (4) *Building height standard.* New structures in the TH District shall not exceed forty (40) feet in height.
- (5) *Setback standards.* The following minimum setbacks shall be required for structures in the TH District:
  - a. Front: 25 feet
  - b. Side: 20 feet
  - c. Rear: 25 feet
  - d. Multi-family developments of more than 12 units shall be setback a minimum of 50 feet from the Tuckasegee River. No parking, grading, or activity other than passive recreation shall occur within this setback.
  - e. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
  - f. No parking, vehicular access areas, or structures shall be located within the required setbacks. Driveways may cross the setbacks. Recreational facilities may be located within the setback upon approval by the Cullowhee Community Planning Council.
- (6) *Distance between buildings.* When located on the same property, the distance between buildings shall be equal to the side setback set forth in Section 4-6.f(5) plus one (1) foot for each one (1) foot in building height above 35 feet.
- (7) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the TH District shall be 50 percent.
- (8) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6-3 of this chapter. No grading shall occur within the required buffer other than that required for access drives.
- (9) *Parking and loading standards.* Parking shall be provided as required by Section 6-4 of this chapter. No parking shall be permitted in required buffers, setbacks, or open space. No parking is permitted in front of any building(s) for townhomes. Parking is permitted beside and behind building(s).
- (10) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages for townhome projects. A sidewalk connection shall be provided from each building within a townhome development to the street or road providing primary access to the property. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property to be developed for townhomes on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements

for the proposed development. This standard shall not apply to single family home developments of less than 12 lots/homes.

- (11) *Open space standard.* Lots in the TH District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

#### **Sec. 4-7. SF Single Family Residential District**

- a) *Purpose.* The Single Family Residential District is established to preserve areas for the development or single family residences and related uses.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- d) *Conditional Uses.* See Table of Permitted Uses.
- e) *Prohibited Uses.* Any use not listed as a permitted use, use subject to additional standards, or a conditional use.
- f) *Development Standards.*
- (1) *Lot size standards.* Lots that are served by public water *and* sewer shall not be less than 0.25 acres (10,890 square feet). Lots that are served by either public water *or* public sewer (not both) shall not be less than 0.5 acres (21,780 square feet). Lots that are *not* served by public water *or* public sewer shall be no less than 1.0 acre (43,560 square feet).
  - (2) *Lot width standards.* New lots in the Single Family District shall not be less than 50 feet in width.
  - (3) *Density standard.* On lots served by both public water and public sewer, there shall be no more than 4 dwelling units per acre. On lots served by either public water or public sewer but not both, there shall be no more than 2 dwelling units per acre. On lots not served by public sewer or public water, there shall be no more than 1 dwelling unit per acre.
  - (4) *Building height standard.* New structures in the SF District shall not exceed forty (40) feet in height.
  - (5) *Setback standards.* The following minimum setbacks shall be required for structures in the SF District:
    - a. Front: 20 feet
    - b. Side: 15 feet
    - c. Rear: 20 feet
    - d. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
  - (6) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the SF District shall be as required by the Jackson County Water Recharge Ordinance.
  - (7) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6.3 of this chapter. No grading shall occur within the

required buffer other than that required for access drives unless approved by the Cullowhee Community Planning Council.

- (8) *Parking and loading standards.* Parking shall be provided as required by Section 6.4 of this chapter.
- (9) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages for subdivisions of more than 12 lots/homes. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval for subdivisions of more than 12 lots/homes. The dedication of the easement(s) shall count toward the open space requirements for proposed subdivision development.
- (10) *Open space standard.* Lots in the SF District shall contain open space as required by the Jackson County Subdivision Ordinance.

#### **Sec. 4-8. SF-MH Single Family Residential – MH District**

- g) *Purpose.* The Single Family Residential – MH District is established to preserve areas for the development or single family residences, including manufactured homes, and related uses.
- h) *Permitted Uses.* See Table of Permitted Uses.
- i) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- j) *Conditional Uses.* See Table of Permitted Uses.
- k) *Prohibited Uses.* Any use not listed as a permitted use, use subject to additional standards, or a conditional use.
- l) *Development Standards.*
  - (1) *Lot size standards.* Lots that are served by public water *and* sewer shall not be less than 0.25 acres (10,890 square feet). Lots that are served by either public water *or* public sewer (not both) shall not be less than 0.5 acres (21,780 square feet). Lots that are *not* served by public water *or* public sewer shall be no less than 1.0 acre (43,560 square feet).
  - (2) *Lot width standards.* New lots in the Single Family – MH District shall not be less than 50 feet in width.
  - (3) *Density standard.* On lots served by both public water and public sewer, there shall be no more than 4 dwelling units per acre. On lots served by either public water or public sewer but not both, there shall be no more than 2 dwelling units per acre. On lots not served by public sewer or public water, there shall be no more than 1 dwelling unit per acre.

- (4) *Building height standard.* New structures in the SF-MH District shall not exceed forty (40) feet in height.
- (5) *Setback standards.* The following minimum setbacks shall be required for structures in the SF-MH District:
  - e. Front: 20 feet
  - f. Side: 15 feet
  - g. Rear: 20 feet
  - h. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
- (6) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the SF-MH District shall be as required by the Jackson County Water Recharge Ordinance.
- (7) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6.3 of this chapter. No grading shall occur within the required buffer other than that required for access drives unless approved by the Cullowhee Community Planning Council.
- (8) *Parking and loading standards.* Parking shall be provided as required by Section 6.4 of this chapter.
- (9) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages for subdivisions of more than 12 lots/homes. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval for subdivisions of more than 12 lots/homes. The dedication of the easement(s) shall count toward the open space requirements for proposed subdivision development.
- (10) *Open space standard.* Lots in the SF-MH District shall contain open space as required by the Jackson County Subdivision Ordinance.

**Sec. 4-9. P/OS Parks/Open Space District**

- a) *Purpose.* The Parks/Open Space District is created to preserve publicly owned parks and open space properties.
- b) *Permitted Uses.* See Table of Permitted Uses.
- c) *Uses Subject to Additional Standards.* See Table of Permitted Uses.
- d) *Conditional Uses.* See Table of Permitted Uses.
- e) *Prohibited Uses.* Any use not listed as a permitted use, use subject to additional standards, or a conditional use.
- f) *Development Standards.*

- (1) *Lot size standards.* New lots in the P/OS District shall be no less than 0.25 acres (10,890 square feet).
- (2) *Lot width standards.* New lots in the P/OS District shall not be less than 40 feet in width.
- (3) *Density standard.* There is no minimum or maximum density in the P/OS District.
- (4) *Building height standard.* New structures in the P/OS District shall not exceed forty (40) feet in height.
- (5) *Setback standards.* The following minimum setbacks shall be required for structures in the P/OS District:
  - a. Front: 20 feet
  - b. Side: 15 feet
  - c. Rear: 20 feet
  - d. Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
- (6) *Impervious surface standard.* The maximum impervious surface coverage of a lot in the P/OS District shall be as required by the Jackson County Water Recharge Ordinance.
- (7) *Landscaping/buffering standard.* Landscaping and/or buffering shall be provided as required by Section 6.3 of this chapter. No grading shall occur within the required buffer other than that required for access drives unless approved by the Cullowhee Community Planning Council.
- (8) *Parking and loading standards.* Parking shall be provided as required by Section 6.4 of this chapter.
- (9) *Pedestrian facilities standards.* A sidewalk meeting NC DOT standards shall be required along all street and road frontages. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for proposed development.
- (10) *Open space standard.* For projects involving construction of buildings and/or parking areas, 40% of the site must be preserved as open space, which should be maintained in a vegetated state natural to the region of Western North Carolina.

**TABLE OF PERMITTED USES**

<b>Land Use</b>	<b>Zoning District</b>							
	<b>C</b>	<b>INST</b>	<b>MF H</b>	<b>MF M</b>	<b>T H</b>	<b>S F</b>	<b>SF- MH</b>	<b>P/OS</b>
<b>Residential:</b>								
Accessory apartments	P	P	P	P	P	U	U	N
Fraternity and Sorority Dwelling	N	N	U	U	U	N	N	N
Duplexes	N	N	P	P	P	U	U	N
Dwellings, multi-family (more than 2 units on a single parcel or on contiguous parcels owned by the same owner, and are developed over a period of two (2) years)	P	P	P	P	P	N	N	N
Dwellings, single family detached	P	P	P	P	P	P	P	N
Dwellings, single family attached (Townhomes)	P	N	P	P	P	N	N	N
Manufactured homes, Class A	N	N	U	U	U	N	U	N
Manufactured home, Class B	N	N	U	U	U	N	U	N
Manufactured home parks	N	N	U	U	U	N	N	N
Student rentals	P	P	P	P	U	U	U	N
<b>Recreational:</b>								
Arboretums	P	P	N	N	N	N	N	P
Camps, campgrounds	P	N	N	N	N	N	N	P
Golf courses	P	N	P	P	P	P	P	P
Recreational uses, commercial indoor	P	N	N	N	N	N	N	N
Recreational uses, commercial outdoor	P	N	N	N	N	N	N	N
Recreational uses, governmental	P	N	P	P	P	N	N	P
Recreational uses, restricted to membership, non-profit	P	P	P	P	P	N	N	P



<u>Land Use</u>	<u>Zoning District</u>							
	<b>C</b>	<b>INST</b>	<b>MF H</b>	<b>MF M</b>	<b>T H</b>	<b>S F</b>	<b>SF- MH</b>	<b>P/OS</b>
<b>Residential:</b>								
Adult day care centers	P	P	P	P	N	N	N	N
Child day care centers	P	P	P	P	N	N	N	N
Churches	P	P	P	P	P	P	P	N
Civic, social service, and fraternal facilities	P	P	P	P	N	N	N	N
Colleges	P	P	N	N	N	N	N	N
Libraries	P	P	P	P	N	N	N	N
Medical centers	P	P	N	N	N	N	N	N
Schools	P	P	N	N	N	N	N	N
<b>Public/semi-public:</b>								
Amphitheaters	P	P	N	N	N	N	N	P
Community centers	P	P	P	P	P	P	P	N
Community gardens	U	U	U	U	U	U	U	P
Conference centers	P	P	P	N	N	N	N	N
Fire/police stations	P	P	P	P	P	N	N	N
Museums	P	P	N	N	N	N	N	N
Post offices	P	P	N	N	N	N	N	N
Public utilities and related facilities	P	P	P	U	U	U	U	N
<b>Office/business:</b>								
Automobile service stations (storage of abandoned and inoperable vehicles prohibited)	P	N	N	N	N	N	N	N

<b><u>Land Use</u></b>								
	<b>C</b>	<b>INST</b>	<b>MF H</b>	<b>MF M</b>	<b>T H</b>	<b>S F</b>	<b>SF- MH</b>	<b>P/OS</b>
Barber shops and salons	P	N	N	N	N	N	N	N
Bars, nightclubs	C	N	N	N	N	N	N	N
Bed and Breakfast	P	N	P	P	U	U	U	N
Bookstores	P	N	N	N	N	N	N	N
Brew Pub/Microbrewery	P	N	N	N	N	N	N	N
Candy, pastry, ice cream, coffee, and snack shops	P	N	N	N	N	N	N	N
Car washes	U	N	N	N	N	N	N	N
Convenience stores	P	N	N	N	N	N	N	N
Delicatessens	P	N	N	N	N	N	N	N
Distributive businesses	U	N	N	N	N	N	N	N
Drive through facilities	U	U	N	N	N	N	N	N
Event venues	U	N	U	U	N	N	N	N
Financial institutions	P	P	N	N	N	N	N	N
Florists	P	N	N	N	N	N	N	N
Fruit and vegetable markets	P	N	N	N	N	N	N	N
Gift shops	P	N	N	N	N	N	N	N
Hardware/garden supply stores	P	N	N	N	N	N	N	N
Health and fitness facilities	P	?	N	N	N	N	N	N
Home occupations	P	P	U	U	U	U	U	N
Instructional services	P	?	N	N	N	N	N	N
Laundry and dry cleaning establishments	P	N	N	N	N	N	N	N

<u>Land Use</u>	<u>Zoning District</u>							
	<b>C</b>	<b>INST</b>	<b>MF H</b>	<b>MF M</b>	<b>T H</b>	<b>S F</b>	<b>SF- MH</b>	<b>P/OS</b>
Lodging facilities	P	?	N	N	N	N	N	N
Motor vehicle repair	U	N	N	N	N	N	N	N
Offices	P	P	N	N	N	N	N	N
Outdoor storage	U	N	N	N	N	N	N	N
Pharmacies	P	P	N	N	N	N	N	N
Plant nurseries, sales and greenhouses	P	N	N	N	N	N	N	N
Printing and publishing	P	N	N	N	N	N	N	N
Restaurants	P	N	N	N	N	N	N	N
Retail gasoline sales	P	N	N	N	N	N	N	N
Retail sales	P	N	N	N	N	N	N	N
RV Parks	N	N	U	U	U	N	N	N
Self-storage facilities	U	N	N	N	N	N	N	N
Studios, galleries, and workshops for artists, craftspeople, designers, and photographers	P	N	N	N	N	N	N	N
Theaters	P	N	N	N	N	N	N	N
<b>Other:</b>								
Accessory structures	P	P	P	P	P	P	P	N
Drive through facilities	U	N	N	N	N	N	N	N
Manufacturing, assembly, or finishing operations	U	N	N	N	N	N	N	N
Parking lots	P	P	P	P	P	N	N	N

<u>Land Use</u>										
			C	INST	MFH	MFM	TH	SF	SF-MH	P/OS
Planned development			C	C	C	C	C	C	C	N
Telecommunication towers (Wireless Telecommunications Structures)			P	P	P	P	C	C	C	N
Legend	P = Permitted Use	U= Use Permitted, Subject to Additional Standards	C = Conditional Use		N = Not Permitted					
See Ordinance for detailed requirements for Uses Permitted, Subject to Special Requirements and for Conditional Uses										

**Sec. 4-10. Conditional Zoning Districts**

a) *Conditional Zoning Districts Established.* Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the *Cullowhee Vision Plan*, proposes to impose special limitations and conditions on the use of the property proposed for rezoning, or desires increased flexibility in the use and/or development of the property. Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined Chapter standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project. For each General Use Zoning District, there is a corresponding Conditional Zoning District (CD) which corresponds to each of the districts authorized by this Chapter as follows: C-CD; INST-CD; MFH-CD; MFM-CD; TH-CD; SF-CD; SE-MH-CD; and P/OS-CD. Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land uses are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a use by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted *Cullowhee Vision Plan*, and adopted district. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of

neighboring properties. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Zoning District is a means by which such special conditions can be imposed in order to achieve the purpose of this Chapter and the recommendations of the Comprehensive Plan. The Conditional Zoning District classification will be considered for rezoning only with the consent of the property owner. If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Chapter that the authorization of such Conditional Zoning District shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

- b) *Plans and other Information to Accompany Petition.* Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and use of the property.
- c) *Approval of Conditional Zoning District.* Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general use district zoning decisions. Conditional Zoning District decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, the Cullowhee Vision Plan, strategic plans, corridor plans, and other land-use policy documents.
- d) *Conditions to Approval of Petition.* In approving a petition for the reclassification of property to a Conditional Zoning District, the Cullowhee Community Planning Council may recommend, and the Board of Commissioners may request that reasonable and appropriate conditions be attached to the approval of the petition. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to County ordinances and the Cullowhee Vision Plan or other land use plan, that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the impact of the proposed use on surrounding property, support facilities (such as parking areas and driveways), pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, provision of open space, and other matters that the Commissioners may find appropriate or the applicant may propose. Such conditions to

approval of the petition may include dedication to the County, State, or public entity, as appropriate, of any rights-of-way or easement for roads, pedestrian facilities, water, sewer, or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the applicant may be incorporated into the petition.

- e) *Effect of Approval.* If a petition for conditional zoning is approved, the development and use of the property shall be governed by the existing Chapter requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Section 4-10.f), Alterations to Approval. Changes to the site plan layout shall not increase the number of structures. Following the approval of the petition for a Conditional Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example, "SF-CD").
  
- f) *Alterations to Approval.* Except as provided herein, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Official Zoning Map and shall be processed in accordance with the procedures of this Chapter. The Planning Director or designee shall have the delegated authority to approve an amendment to an approved site plan. The standard for approving or denying such an amendment shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial. For nonresidential development, an increase in the intensity of the development is limited to ten (10) percent of the approved structure size or 1,000 square feet, whichever is less. For residential development, increases in density are limited to ten (10) percent of the development or no more than five (5) dwelling units, whichever is less. The Planning Director, however, shall have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because Cullowhee Community Planning Council consideration and public hearing is deemed appropriate under the circumstances. If the Planning Director

declines to exercise this authority, the applicant may request a map amendment as permitted by this Chapter.

- g) *Review of Approval of a Conditional Zoning District.* It is intended that property shall be reclassified to a Conditional Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Cullowhee Community Planning Council may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Council determines that progress has not been made in accordance with the approved petition and conditions, the Planning Council shall forward to the Board of Commissioners a report, which may recommend that the property be classified to another district.

## **ARTICLE V. CONDITIONAL USES AND USES SUBJECT TO SPECIAL REQUIREMENTS**

**Sec. 5-1. Uses by right, subject to special requirements.** The uses listed below are permitted provided the specific requirements identified for each use are met.

a) *Accessory Apartments*

- (1) Gross floor area of accessory apartment shall not exceed 500 square feet or 40% of the gross floor area of the principal dwelling unit, whichever is greater. In no case shall the size of the accessory apartment exceed 50% of the gross floor area of the principal dwelling unit on the property.
- (2) Accessory apartment may be located in the same structure as the principal dwelling unit or in a separate structure.
- (3) Accessory apartments shall be located only on lots containing one single-family detached structure and conforming accessory structures.
- (4) Only one accessory apartment shall be permitted per single-family detached dwelling.
- (5) Accessory apartments shall not be considered as additional dwelling units for the purpose of determining minimum lot size or maximum density.

b) *Bed and Breakfast Inns*

- (1) Not more than 5 guest rooms
- (2) Parking must be located to the side or rear of the principal structure and screened from adjacent properties
- (3) Meals and refreshments shall be provided on a regular basis for registered guests only; activities for larger events shall be limited to 12 events per year provided a temporary use permit is obtained for such events
- (4) Owner must live on site
- (5) One sign not to exceed 8 square feet per face and 6 feet in height is permitted

c) *Community Gardens*

- (1) Must provide adequate parking for gardeners
- (2) Must have part-time or volunteer garden manager

d) *Drive-Through Facilities*

- (1) Shall be located at the side or rear of the principal structure.
- (2) Maximum of 2 lanes providing drive through services permitted

e) *Duplex*

- (1) One duplex structure permitted per parcel
- (2) Lot size for duplex shall be 1.25 times that required for single-family dwelling
- (3) No parking permitted in any setbacks

f) *Event Venues*

- (1) No parking permitted in setbacks in residential districts
- (2) All outdoor activities must end by 10:00 PM Sunday – Thursday and 11:30 PM on Friday and Saturday
- (3) Adequate facilities for safe disposal of all waste shall be provided on-site.

g) *Fraternity and Sorority Dwelling*

- (1) A Fraternity and Sorority Dwelling shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.
- (2) A Fraternity and Sorority Dwelling is subject to Section 6-3, Landscape Standards, including the provision of a “B” buffer along any property line abutting a residential use.
- (3) A Fraternity and Sorority Dwelling shall contain a minimum of 250 square feet for each resident.
- (4) A Fraternity and Sorority Dwelling shall be located within two (2) miles of the school with which it is affiliated.
- (5) The open space requirement for a Fraternity and Sorority Dwelling shall be 25% of the property.

h) *Home Occupations*

- (1) Neighborhood Home Occupations. Customary home occupations are permitted in residential districts where such occupations are carried on in the residence and/or accessory buildings subject to the following limitations.
  - a. Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-



residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

- b. No more than 25% percent of the heated living space shall be used for home occupations. Basements and garages, attached or detached, may also be used for home occupations and shall not count toward the 25% limit specified herein.
- c. No outdoor display of goods or materials shall be allowed on the property.
- d. One non-illuminated sign is allowed which shall not exceed four square feet in area.
- e. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.
- f. Accessory buildings may be used for home occupations provided the building area is not larger than 1,000 square feet. If multiple buildings are used, the total combined square footage shall not exceed 1,000 square feet.
- g. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.
- h. The customary home occupations referred to in this subsection may include the merchandising and the sale of goods and products at retail, and the manufacture and assembly of goods and products.
- i. Occupations that have no non-resident employees, no signs, no on-site retail sales, or no visits from the general public do not require a home occupation permit.

(2) Rural Home Occupations. Rural home occupations are those, which by their nature are not compatible on small lots near other residences, and may require an outdoor storage area for goods and materials associated with the business.

- a. Rural home occupations may be allowed on parcels that are no smaller than three acres in size.
- b. Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees

working on-site shall not exceed four. The use shall be subordinate to its use for residential purposes by its occupants.

- c. No more than 25% percent of the heated living space shall be used for home occupations. Basements and garages, attached or detached, may also be used for home occupations and shall not count toward the 25% limit specified herein.
- d. One non-illuminated sign is allowed which shall not exceed four square feet in area.
- e. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference that is a nuisance off the lot. All operations must conform to the Jackson County Noise Regulations contained in Article III, Chapter 10, of the Jackson County Code of Ordinances. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.
- f. Accessory buildings may be used for home occupations provided the building is not larger than 2,500 square feet gross floor area. If multiple buildings are used, the total combined square footage shall not exceed 2,500 square feet gross floor area.
- g. Commercial driveway permits may be required to assure traffic hazards are minimized. The driveway shall be located and improved such that it provides all weather access and does not interfere with other traffic using said drive. Any need for parking generated by the conduct of such home occupation shall be met off the street.
- h. Buildings, material storage and operations used for home occupations shall be setback from side and rear property lines a minimum of 50 feet except for noise generating operations, as determined by staff, in which case the setbacks shall be a minimum of 100 feet. The front setback shall be a minimum of 40 feet and shall be measured from the property line or the edge of the road right-of-way, whichever is greater.
- i. To lessen the impact on adjacent properties, visual screening shall be installed to provide at a minimum an "A" buffer as described in section 6-3.
- j. All required permits from Jackson County, the North Carolina Department of Transportation or other local and state agencies must be obtained prior to the issuance of the home occupation permit.

- (3) Conditional Use Permits for Home Occupations. Home occupations for which the number of non-resident and the number of total employees will exceed the standards contained in Sections 5-1.h(1) or 5-1.h(2), above, may be authorized by means of a conditional use permit issued pursuant to Section 8-4 of this Ordinance. In any event, the number of non-resident employees shall not exceed six (6) and the number of total employees shall not exceed eight (8).

*i) Manufactured Home, Class A*

- (1) Shall be composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site;
- (2) Shall meet or exceed the construction standards of the US Department of Housing and Urban Development,
- (3) Shall conform to the following appearance criteria:
  - a. The manufactured home shall have a minimum width, as assembled on the site, of 24 feet;
  - b. The tongue, axles, removable towing apparatus and transporting lights shall be removed after final placement on the site and before occupancy;
  - c. A continuous, permanent masonry curtain wall, unpierced except for ventilation and covered access, shall be installed under the unit;
  - d. The pitch of the manufactured home's roof shall be a minimum vertical rise of one foot for each four feet of horizontal rise (1:4) and finished with shingles;
  - e. The roof shall be finished with roofing material with a fire rating of Class C or better;
  - f. The exterior siding shall consist predominantly of horizontal or vertical vinyl, aluminum, wood, or hardboard siding with reflectivity not to exceed that of flat white paint;
  - g. The primary entrance shall have a landing which is no smaller than six feet by six feet in size; and
  - h. The home shall be placed on the lot such that the primary entrance faces the front of the lot.

*j) Manufactured Home, Class B*

- (1) Must be constructed after July 1, 1976;
- (2) Must exceed U.S. Department of Housing and Urban Development (HUD) standards in effect at the time of construction;
- (3) Shall conform to the following appearance criteria:

- a. A continuous, permanent masonry curtain wall, unpierced except for ventilation and covered access, shall be installed under the unit;
- b. Must have a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run;
- c. The primary entrance shall have a landing which is no smaller than six feet by six feet in size; and
- d. The home shall be placed on the lot such that the primary entrance faces the front of the lot.

*k) Manufactured Home Parks*

- (1) Manufactured home parks shall be located on well-drained sites that shall be properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- (2) The minimum lot size for a manufactured home park shall be 3 acres.
- (3) The maximum allowable density in the manufactured home park shall be 8 dwelling units per buildable acre (land area excluding floodways, wetlands, and slope in excess of twenty-five (25) percent).
- (4) The park shall be buffered from all adjacent uses through the installation of an “A” buffer as detailed in section 6-3 of this ordinance.
- (5) The operator/manager of a manufactured home park shall designate and enforce a uniform type of underpinning of all manufactured homes in the community, which shall be maintained in good condition at all times.
- (6) The minimum land area required for any mobile home space shall be 5,000 square feet.
- (7) Manufactured homes in the park shall be Class B or better.
- (8) Each manufactured home shall be located at least 25 feet from any other manufactured home structure within the park, excluding storage buildings for use by residents of the home.
- (9) No permanent addition shall be constructed to any mobile home.
- (10) No mobile home space shall be within 25 feet of any public street right-of-way nor within 25 feet of any property line.
- (11) Each home shall be setback at least 20 feet from the edge of any traveled way within the park.
- (12) There shall be front and rear steps and/or deck for each manufactured home.
- (13) An acceptable plan for collection and disposal of garbage shall be included in the site plan for the manufactured home park. All garbage containers, other than those for an individual home, shall be screened and provided with an enclosure with a door or gate that can be closed.

- (14) Each residential unit in a manufactured home park shall be served with public water and sanitary sewer systems.
- (15) Each manufactured home space shall have a permanent site number sign that is clearly visible from the street running in front of the home.
- (16) A minimum of two (2) parking spaces, located off the internal access road, shall be provided for each manufactured home.
- (17) A visitor parking area, consisting of one (1) space for each two (2) manufactured home units located within the park, shall be provided. This parking area does not have to be paved.
- (18) Adequate and suitable recreation facilities shall be developed within the park consisting of at least 200 square feet of recreation area for each mobile home space in the park. Safety, convenience of the park residents, presence of existing vegetation, and good drainage are among the features that shall be considered in locating the recreational areas.
- (19) Street/road standards
  - a. All internal streets and roads shall be paved.
  - b. All internal streets and roads shall have a minimum travelway width of 16 feet.
  - c. Pedestrian trails or sidewalks, meeting the standards of Jackson County, shall parallel all internal streets and roads.
  - d. A sidewalk meeting NC DOT standards shall be constructed along all portions of the property abutting a public road.
  - e. Street trees as required by section 6-3 of this ordinance shall be planted along both sides of all internal streets/roads and along streets/roads abutting the mobile home park.

*l) Manufacturing, Assembly, or Finishing Operations*

- (1) No outdoor storage of chemicals, solvents, etc.
- (2) Manufacturing, assembly, or finishing operations

*m) Motor Vehicle Repair*

- (1) No unregistered vehicles shall be stored on the property.
- (2) Vehicle storage areas shall be screened from adjacent properties with an "A" buffer as described in Section 6-3 of this Ordinance.
- (3) All repair activities shall be conducted inside an enclosed building.

*n) Public Utilities and Related Facilities*

- (1) Public utilities and related facilities must be screened from adjacent properties/uses by an "A" buffer as described in section 6-3 of this Ordinance.

- (2) Permitted facilities shall be limited to switching boxes and transformer stations and buildings.
- (3) No employees shall be based at the facility.

*o) RV Park*

- (1) The minimum parcel size for an RV Park is 3 acres.
- (2) Each RV space must be provided water and electrical connections.
- (3) An approved wastewater disposal facility must be provided for use by guests.
- (4) The minimum space for each RV shall be 1250 square feet.
- (5) All internal roads within the RV Park must be a minimum of 16 feet for two-way traffic and 10 feet for one-way traffic.
- (6) All internal roads within the RV Park shall be paved.
- (7) Pedestrian trails or sidewalks, meeting the standards of Jackson County, shall abut all internal roads.
- (8) Adequate and suitable recreation facilities shall be developed within the park consisting of at least 200 square feet of recreation area for each mobile home space in the park. Safety, convenience of the park residents, presence of existing vegetation, and good drainage are among the features that shall be considered in locating the recreational areas.
- (9) A means for collection and disposal of garbage from each home must be provided. All garbage containers, other than those for an individual RV site, shall be screened and provided with an enclosure with a door or gate that can be closed.

*p) Outdoor Storage*

- (1) Storage of items shall be ancillary to the principal use.
- (2) Storage areas shall be located to the side or rear of the principal structure
- (3) Only items sold or serviced by the business may be stored on the site.
- (4) Areas containing items stored for more than 4 consecutive days must be screened from adjacent properties, public rights-of-way, and roadways with an "A" buffer as described in Section 6-3 of this Ordinance

*q) Self-service Storage Facilities*

- (1) Self-service storage facilities shall be screened from adjacent properties, public rights-of-way, and roadways with an "A" buffer as described in Section 6-3 of this Ordinance.
- (2) Unenclosed storage of vehicles, campers, etc. shall be located at the rear of the property.
- (3) All vehicles stored on the property shall be registered and operable.

r) *Student Rentals*

- (1) Maximum number of unrelated persons in home shall be:
  - a. Three (3) unrelated persons if home is more than  $\frac{3}{4}$  mile from WCU campus
  - b. Five (5) unrelated persons if home is  $\frac{3}{4}$  mile or less from WCU campus
- (2) Parking must be provided as required by Section 6-4 of this Ordinance, with no parking permitted in required setbacks.

**Sec. 5-2. Conditional Uses.**

The following uses require the granting of a conditional use permit by the Cullowhee Community Planning Council, as provided for in Section 8-4 of this ordinance:

a) *Bars, Nightclubs*

- (1) All outdoor music, events, activities must end by 10:00 PM
- (2) All lighting must comply with Jackson County lighting standards

b) *Cellular Telecommunications Towers*

- (1) All telecommunications towers must be setback 200' from all residential structures on the same property and 200' from the property line of a property used for residential purposes.
- (2) All cellular telecommunications towers must comply with standards set forth in the Jackson County Cellular Telecommunications Ordinance.
- (3) The Jackson County Board of Commissioners shall have final review and approval as set forth in the Jackson County Cellular Telecommunications Ordinance.

c) *Planned Developments*

d) *Telecommunication Towers (Wireless Telecommunications Structures)*

- (1) Shall be subject to the Jackson County Telecommunications Ordinance
- (2) Conditional use in the SF and TH districts

**Sec. 5-3. Planned Developments.**

The goal of the Planned Development provisions is to encourage flexibility in the development of land and to provide tools and incentives for achieving this flexibility. Use of the Planned Development option will result in the more efficient and economical use of land and resources. A mixture of uses and building types is permitted in Planned Developments, subject to limitations noted below. Incentives are provided to achieve goals related to the more efficient use of resources. The Planned Development provisions allow greater flexibility in design but may have conditions attached during the approval process. Approval of planned developments

by the Cullowhee Community Planning Council in accordance with the procedure set forth below is required.

a) *Permitted Use*

- (1) Planned Developments in non-residential districts – any use identified as a permitted use in any district in the Cullowhee Planning Area with the exception of single family home.
- (2) Planned Developments in residential districts - any use identified as a permitted use in any district in the Cullowhee Planning Area provided that the gross square footage of all non-residential uses shall not exceed 15% of the total gross square footage of all uses.

b) *Minimum Lot Size.* The minimum lot size for a planned development shall be one acre. Within the planned development there shall be no minimum lot size for individual structures.

c) *Density.* The base residential density shall be 125% of the residential density of the district in which the planned development is proposed. Residential density may be increased above the permitted base residential density in accordance with the incentives identified below.

- (1) Open space exceeds the requirements of this ordinance – see section 5-3.j) below
- (2) Best management practices, such as bioretention and rain gardens, are used to manage stormwater quality – density increase of 5%
- (3) No grading or development of areas with a slope in excess of 30% - density increase of 5%
- (4) All residential, commercial, and/or mixed use buildings in the planned development achieve an energy star rating – density increase of 5%
- (5) Landscaping of parking areas exceeds the requirement by 50% – density increase of 5%

d) *Building Height.* The base building height in a Planned Development shall be 40 feet. The Planning Council may approve a building height of up to 80 feet provided that the increased height is compatible with the surrounding neighborhood and does not adversely impact adjacent uses.

e) *Setbacks.* The perimeter setbacks for the Planned Development shall be the setbacks for the district in which the development is located. Within the Planned Development there shall be no setbacks other than those required by building and/or fire code standards.

f) *Impervious Surface.* The Planned Development shall comply with the impervious surface limits of the district in which it is located. Impervious surfaces may be increased if best



management practices (i.e. non-structural stormwater controls such as grassed swales and rain gardens) are used to manage and retain stormwater. The permitted increase in impervious surfaces shall be on a 2:1 ratio basis. For example, if 10% of the total stormwater generated by the development's impervious surfaces is managed and retained through the use of best management practices, a 5% increase in the permitted impervious surfaces shall be allowed; if 60% of the total stormwater generated by the development's impervious surfaces is managed and retained, a 30% increase in the permitted impervious surfaces shall be permitted. This ratio ensures that there is a net decrease in the amount of stormwater and pollutants generated from a development. Stormwater retention systems shall be designed by a licensed engineer or landscape architect and their installation and construction certified by the designer. Standing water and installations that allow for water to collect and stagnate so as to provide a suitable breeding ground for vectors (e.g. mosquitoes) and pathogens should be prohibited.

- g) *Landscaping and Buffering Standards.* The Planned Development shall be buffered from abutting properties as required by the landscaping standards set forth in Section 6-3. The type of buffering required shall be determined by the use within the Planned Development that is adjacent to the abutting property. Within the Planned Development parking lots shall be landscaped and street trees provided as required by Section 6-3. Dissimilar uses within the Planned Development shall be buffered from each other as required by the buffering requirements of Section 6-3.
- h) *Parking and Loading Standards.* Parking and loading areas shall be provided as required by Section 6-4 of this ordinance
- i) *Pedestrian Facilities.* A sidewalk or approved pedestrian trail shall be provided along all streets abutting the property on which the Planned Development is located. Sidewalks and/or approved pedestrian trails shall connect all uses within the Planned Development. Within parking areas constructed as part of a Planned Development, pedestrian connections shall be provided to allow the safe movement of pedestrians through the parking area. Pedestrian connections shall be provided from any sidewalk or pedestrian facility abutting a street or road to the main entrance of any non-residential building, mixed use building, and/or any multi-family residential building.
- j) *Open Space.* A minimum of 15% of the total land area of the Planned Development shall be set aside as open space. Density bonuses shall be provided for the provision of open space exceeding the minimum amount as follows:

<u>Amount of site provided as open space</u>	<u>Density Bonus</u>
20% - 25%	5%
26% - 35%	10%
36% - 45%	15%
> 45%	20%

- k) *Approval process.* Planned Developments shall be considered a conditional use and shall be subject to the approval process for conditional uses set forth in Section 8-4 of this ordinance.

## **ARTICLE VI. DEVELOPMENT STANDARDS**

### **Sec. 6-1. General Standards**

- a) *General.* A building, structure, or lot shall not be developed, used, or occupied unless it meets the minimum setback requirements set forth in Article VIII of this chapter for the use district in which it is located, except as otherwise established in this chapter for particular uses or for encroachments as set forth in (f) below.
- b) *Method for calculating setbacks.*
- (1) *Minimum setback.* Minimum setback is the distance determined by measuring perpendicularly from and along the entire boundary of the property (property line) to the building line. Front setbacks shall be measured from the edge of pavement of the street fronting the property, provided that no structure or building is placed within the street or road right-of-way. In no case shall the minimum setback be closer to the street than the right-of-way line. A setback may be the front, rear, or side setback. Except for through lots as noted in section 6-1.b(4) below, there shall be one front setback area for each property.
  - (2) *Overlap of setbacks.* When more than one setback depth applies, the greatest setback dimension must be met.
  - (3) *Corner lots - setbacks.* Unless otherwise specified in the zoning district regulations, the second street side of a corner lot shall have a setback requirement of 50% of the front setback requirements in that district.
  - (4) *Through lots - setbacks.* Unless otherwise specified in the zoning district regulations, both street sides of through lots shall be considered a front yard and shall conform to the front setback regulations or the established building lines in the area (see section 6-1.c) below).
- c) *Adjusting building lines.* Where there are lots that comprise 50% or more of the entire length of street frontage on the same side of the street, located on the same block, and that are developed such that buildings on those lots have front setbacks that do not vary

more than 10', no building hereafter erected or structurally altered shall be required to have a front setback greater than the average front setback depth of those lots. Provided further, no front setback need exceed the average setback of the adjoining buildings on either side, if the adjoining buildings are less than 250' apart

d) *Allowable encroachments into required setbacks.* The following buildings and structures may encroach into required setbacks as set forth below unless specifically prohibited elsewhere in this ordinance.

- (1) Sills, cornices, and similar ornamental features projecting from a building may encroach up to 18" into any required setback.
- (2) Bay windows, balconies, and similar features projecting from a principal building may encroach up to 3' into any required setback.
- (3) Decks, steps, covered and uncovered porches, patios, and terraces may encroach into a required rear setback, but no closer than 6' to the rear property line.
- (4) Decks, steps, covered and uncovered porches, patios, and terraces may encroach up to 10' into a required front setback.
- (5) Accessory buildings and structures may encroach into any required rear setback, but no closer than 5' to the rear property line.
- (6) Fences and walls may be located within the required minimum front or rear setback, provided the fence or wall does not exceed 6' in height.
- (7) Ramps for handicap accessibility and fire escapes required by the North Carolina State Building Code may encroach into any required setback

e) *Applicability of other ordinances.* Should other ordinances adopted by Jackson County, including but not limited to the Mountain and Hillside Development Ordinance and the Watershed Protection Ordinance, impose standards more restrictive than those set forth in this ordinance, the most restrictive standard shall apply.

## **Sec. 6-2. Traffic impact analysis.**

a) *Purpose.* The purpose of this section is to ensure that applicants for new construction, additions and/or expansions to existing structures, and/or changes of use consider and mitigate the traffic of the development on the existing and/or proposed roadway system. While the State of North Carolina has built and maintains a public transportation system that meets typical needs, project applicants may need to assist in improving transportation facilities in order to maintain the existing level of service by accommodating additional traffic generated by the development. These transportation facilities involve pedestrian, non-motorized vehicular traffic and motorized vehicular traffic. The Transportation Impact Analysis (TIA) is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. The TIA helps identify where the development may have a significant impact on safety, traffic, and transportation operations, and provides a means for the developer and government agencies to mitigate

these impacts. Ultimately, the TIA can be used to evaluate whether the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow.

- b) *When Required.* All proposals for new construction, additions and/or expansions to existing structures, and/or changes of use that will result in total peak hour trips equal to or greater than 100 peak hour trips using trip generation rates from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers or an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the ITE Trip Generation Manual shall include an analysis of the traffic to be generated.
  
- c) *Thresholds for Mitigation.* Jackson County requires consideration of roadway and/or operational improvements when the proposed development increases the intersection Volume-to-Capacity Ratio (V/C) beyond the thresholds indicated in the table below. The County evaluates the impacts of proposed development at intersections (primarily under existing year conditions) based on the increase in V/C ratio as a result of the projected site traffic. This increase is determined by comparing the V/C ratio under existing development conditions and proposed development conditions.

<b>Existing V/C</b>	<b>Allowable Increase in V/C By Development</b>
<b>0.00—0.60</b>	0.10
<b>0.61—0.70</b>	0.07
<b>0.71—0.80</b>	0.05
<b>0.81—0.90</b>	0.03
<b>0.91—1.00+</b>	0.02

- d) *Improvements May Be Required.* Based on the findings of the analysis, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the facilities as necessary to provide an acceptable level of service. Mitigation measures may involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation management strategies.

- e) *Preparation.* The applicant shall provide the full rationale, from a North Carolina Licensed Engineer, to support the recommendations of this analysis. The submission shall include all pertinent traffic data and computations affecting the design proposal.
- f) *TIA Types.* A TIA will vary in range and complexity depending on the type and size of the proposed development. The TIA requirements as described may be modified by the Planning Director as appropriate. There are two different types of reports as follows:
- (1) Rezoning Transportation Impact Analysis Report: Evaluates whether adequate transportation capacity exists or will be available within a reasonable time period to safely and conveniently accommodate proposed uses permitted under the requested land use or zoning classification.
  - (2) Transportation Impact Analysis Report: Required for certain permitted and conditional uses, subdivisions, and planned developments exceeding the specific trip generation threshold.
- g) *TIA Contents.* A traffic impact analysis report shall address the impact of projected horizon year (2 years after build-out by phase or entire development as appropriate) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation. The rezoning traffic analysis or the traffic impact report shall contain the following:
- (1) Site description: A detailed report, containing illustrations and narrative, shall describe the site's characteristics and adjacent land uses, as well as any anticipated development within the site's vicinity influencing future traffic conditions.
    - a. A rezoning traffic analysis shall provide a description of the development's potential uses.
    - b. A traffic impact report shall include access plans, staging plans, and land use/intensity information.
  - (2) Study area: The report shall indicate the geographic location of the study area, roadway segments, critical intersections, and access points to be analyzed. The study area shall extend not less than one-half mile from the site.
  - (3) Existing traffic conditions: An analysis of the existing traffic conditions, including all data used for the analysis shall be provided in the report, including:
    - a. Traffic count and turning movement information, including the date and source from which this information was obtained;
    - b. Correction factors used to convert collected traffic data into representative average daily traffic volumes;
    - c. Roadway characteristics, including:
      - i. Design configuration of existing or proposed roadways;
      - ii. Existing traffic control measures;
      - iii. Existing driveways and turning movement conflicts in the vicinity of the site:
        - a. Existing level of service (LOS) for roadways and intersections without project development traffic.

LOS shall be calculated for the weekday peak hour, and in the case of uses generating high levels of weekend traffic, the Saturday peak hour.

- (4) Horizon year(s) and background traffic: The report shall identify the horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. Unless otherwise approved, development impacts shall be examined for the first (1st) and tenth (10th) years after the development is completed.
- (5) Trip generation, trip reduction, and trip distribution: A summary of projected a.m. and p.m. peak hour and average daily trip generation for the proposed development shall be provided in addition to projected trip distribution to and from the site. The factors used to determine trip generation, reduction, and distribution are also to be included in the summary.
- (6) Traffic assignment: The report shall identify the projected roadway segment, intersection or driveway traffic volumes, with and without the proposed development, for the horizon year(s) of the study.
- (7) Impact analysis: The report shall address the impact of projected horizon year(s) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.
- (8) Mitigation/alternatives: The report shall identify alternatives for achieving traffic service standards, including:
  - a. Additional rights-of-way necessary to implement mitigation strategies.
  - b. Suggested phasing improvements necessary to maintain compliance with traffic service standards.
  - c. Other alternatives, including transportation management strategies.
  - d. Anticipated costs of recommended improvements.

*h) Procedures:*

- (1) The applicant shall work with the Planning Director to determine if a traffic study is necessary and its associated parameters.
- (2) The report shall be submitted to the Planning Director for distribution to staff and related roadway jurisdictions. The Planning Director shall notify the applicant if additional studies or analysis are necessary.
- (3) Once a report is determined to be complete, a finding shall be made by the Planning Director on the traffic impact study. Proceedings on any application that were stayed pending completion of traffic analysis may resume.

*i) Report findings:* If a proposed development does not meet the applicable service level standards, one or more of the following actions may be necessary:

- (1) Reduce the size, scale, scope, or density of the development to decrease traffic generation.
- (2) Divide the project into phases, allowing for only one phase at a time until traffic capacity is adequate for the next phase of development;

- (3) Dedicate right-of-way for street improvements;
- (4) Construct new streets;
- (5) Expand the capacity of existing streets;
- (6) Redesign ingress and egress to the project to reduce traffic conflicts;
- (7) Alter the use and type of development to reduce peak hour traffic;
- (8) Reduce existing traffic;
- (9) Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;
- (10) Integrate non-vehicular design components (i.e. pedestrian and bicycle and transit improvements) to reduce trip generation;
- (11) Recommend denial of the application for which the TIA is submitted.

**Sec. 6-3. Landscaping and buffering standards.**

a) *Purpose.* The abundant and diverse tree and vegetative cover found in the Cullowhee area contributes to the aesthetic quality of the community and provides numerous economic and ecological benefits. The landscaping and buffering standards set forth below require landscaping between dissimilar uses, along streets and roads, and in parking areas in order to:

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

b) *General Information.*

(1) Applicability

- a. Bufferyard plantings, street trees, and parking lot trees and shrubs are required for new developments and major redevelopments within the Cullowhee Community. The following developments must bring the

entire site into compliance with the landscaping and buffering requirements of this ordinance as set forth in this section:

- i. Any new private or public development.
  - ii. Renovations with a total cost exceeding 50% of the assessed value of the building, according to Jackson County tax records.
  - iii. Expansions exceeding 50% of the pre-expansion floor area or paved surface.
  - iv. Existing unpaved parking lots that are paved over or existing paved lots that are demolished and repaved.
- b. Expansions or additions that are less than 50% of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge.
- (2) Landscape Plan Required. Applicants are encouraged to meet with Jackson County Planning Department staff prior to submitting a site plan to discuss applicable landscape requirements, other ordinance requirements, and coordination of plantings with other construction activity. A landscape plan drawn to scale must be submitted with the site plan and prepared in accordance with Site Plan Requirements.
- (3) Alternative compliance. The landscape requirements are intended to set minimum standards for quality development and environmental protection; they are not intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with the landscape requirements. The Jackson County Planning Department staff may alter the landscape and buffering requirements as long as existing or added landscape features of the development site comply with the intent of this chapter. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:
- a. Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;
  - b. Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may



justify alternative compliance when changing the use of an existing building in a developed area; or

- c. An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements, and exhibits superior design quality. The property owner or developer must submit a plan of the area for which alternative compliance is requested to the Jackson County Planning Department. The site plan shall show the existing site features and any additional material the property owner or developer will plant or construct to meet the intent of the landscape and buffer requirements of this section. A section drawing may be required if there are grade changes that affect the character of the buffer and landscape requirements. In addition, the applicant must submit a written statement describing the need for alternative compliance. The Planning Department shall render a decision approving, approving with conditions, or denying the request within 10 working days of reviewing the request for alternative compliance.

c) *Existing Vegetation.* Preserving existing trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved as well as individual trees. Existing trees and shrubs that are preserved may be credited toward required buffer trees, street trees, and parking lot trees as specified in subsection 6-3.c)(1) below.

- (1) Credits and other incentives to preserve existing vegetation. Existing trees that are preserved may be credited for required trees as follows:

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

In order to receive credit, existing vegetation that is preserved must be in good health and condition. Trees designated to be preserved must be indicated on the

landscape plans. Protective barriers must be shown on the landscape and grading plans in accordance with the requirements of subsection 6-3.c)(2) below. If a preserved tree dies within 24 months of completion of the project, it must be replaced with the total number of trees that were credited to the existing one.

(2) Protection of existing trees during construction.

- a. No grading or other land-disturbing activity can occur on a site with existing trees that are designated to be preserved in order to meet the landscape requirements until protective barriers are installed by the developer. Trees designated for preservation that are counted toward the landscape requirement must be protected by barriers, while trees designated for protection that do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of existing trees to be preserved and the location of the protective barriers must be shown on the landscape and grading plans, with the dimension between the tree trunk and the barrier indicated. Barricades or barriers must be placed around the critical root zone of any existing trees to be preserved that are within 50' of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, an eight-inch diameter tree would have a barricade surrounding it located eight feet from the trunk of the tree. All protective barriers must be maintained throughout the building construction process. Protective barriers shall consist of either:
  - i. A fence that is at least three feet high and constructed in a post and rail configuration; or
  - ii. A fence with posts placed no further than 10 feet apart covered with a 4-foot orange polyethylene laminar safety fencing.
- b. All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area including:
  - i. Grading;
  - ii. Filling, unless an aeration system that is certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist is installed to protect the tree from suffocation;
  - iii. Parking;
  - iv. Storage of debris or material, including topsoil;
  - v. Disposal of hazardous waste or concrete washout;

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

d) *Bufferyard Requirement.*

- (1) Requirement. Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. Bufferyards shall be required between a proposed development and a dissimilar existing land use to provide a transition between them. A bufferyard is a strip of land with existing vegetation, planted vegetation, a landscaped earth berm or grade change, a fence, a wall, or a combination of the above. The bufferyard width and number of plantings required will vary based upon the size of the proposed and existing land uses. Information on determining bufferyard width is provided in section 6-3.d)(6).
- (2) Responsibility for bufferyard. The required bufferyard shall be the responsibility of the property owner developing the property or changing the land use. Bufferyards must be located on the property being developed or on which the land use is changing, between the property lines and any vehicle use areas, buildings, storage, service areas, or any other area of activity. The bufferyard shall extend along the entire property line that abuts the incompatible land use up to any required street tree planting strip.
- (3) Setbacks. If a setback requirement is less than the minimum buffer requirement, the bufferyard width requirement shall override the setback requirement.
- (4) Use of bufferyards. Required bufferyards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated trails or greenways, utilities, drainage ways, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Utility easements may be included in the width of the bufferyard with the following conditions:
  - a. Utility lines should be located to cross perpendicular to a bufferyard, if possible, to minimize the impact.
  - b. If utility lines must run with a bufferyard, they must be located along the edge of the bufferyard.

- c. The developer should minimize the amount of plantings in the utility easement area so that they will not have to be removed or pruned if the utility line needs maintenance. If the developer plans to plant in the utility easement, approval must be obtained from the affected utility companies to ensure that the plantings will not interfere with the installation, operation, or maintenance of the utility lines. Trees and shrubs planted within the utility easement will not count toward the bufferyard planting requirement unless they are approved by the utility companies.
- (5) Placement of bufferyard plantings. The exact placement of the required plants shall be the decision of the developer or designer, but shall be approved by the Jackson County Planning Department. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from an area accessible to the public or from adjacent properties. Trees and shrubs should be planted at least 5 feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property.
- (6) Determination of bufferyard requirements. To determine if a bufferyard is required between two adjacent land uses and, if so, what bufferyard width and planting density is required, the following procedure should be used:
- a. Identify the proposed land use and the adjacent land use(s) on the list of permitted uses found in Article 4 of this ordinance. Note the category under which the proposed use is listed (for example, post office is listed under the category of Public/semipublic and restaurant is listed under the category Office/business).
  - b. Identify the size (acreage) of the property being developed and of the abutting properties.
  - c. Use the following table to determine buffer requirements for the development. This process must be done for each property line, except where the property to be developed abuts a street or road, to determine if a buffer planting is required.

<b>PROPOSED USE CATEGORY</b>	<b>EXISTING USE CATEGORY</b>	<b>PROPOSED USE SITE SIZE</b>	<b>EXISTING USE SITE SIZE</b>	<b>BUFFER REQUIRED</b>
Any	Same as proposed use	<1 acre	<1 acre	None
Any	Different than proposed use	<1 acre	<1 acre	A buffer
Any	Different than proposed use	<1 acre	>1 acre	A buffer
Any	Same as proposed use	>1 acre	<1 acre	A buffer
Any	Same as proposed use	>1 acre	>1 acre	B buffer
Any	Different than proposed use	>1 acre	>1 acre	B buffer
Any	Different than proposed use	>1 acre	<1 acre	B buffer
Any	Same as proposed use	<1 acre	>1 acre	B buffer
Apartments < 25 bedrooms	Any	Any	Any	A buffer
Apartments ≥ 25 bedrooms	Any	≥ 1 acre	Any	B buffer

- d. Example: A property owner proposes to build a retail gift shop on property containing 0.84 acre. On the west side of the property is a florist shop on a 0.55 acre lot. No buffer is required along this property line, as both uses are classified as “Office/business” and both properties are under an acre. On the east side of the property is a church on a 5 acre

parcel. An “A” buffer would be required along this property line, as the use categories are different, the proposed use site size is less than an acre and the existing use site size is more than an acre.

- (7) Mixed uses. When a lot has a combination of different land uses, the buffer is calculated based upon the category of land use occupying the greatest percentage of the lot.
- (8) Buffer not required when a street separates incompatible land uses. If a street or road is located between two land uses that would require a buffer between them, no buffer shall be required along the street or road frontage of the property being developed; however, street trees are required along the property to be developed.
- (9) Buffer requirement when development site abuts a vacant lot. If the property to be developed abuts a vacant lot, an “A” buffer shall be provided on the property to be developed.
- (10) Buffer description table

	<u>“A” Buffer</u>	<u>“B” Buffer</u>
<u>Minimum buffer width</u>	15 feet	20 feet
<u>Total number plants per 100 linear feet</u>	18	26
<u>Number of evergreen trees</u>	6	8
<u>Number of large deciduous trees</u>	2	3
<u>Number of small deciduous trees</u>	2	3
<u>Number of shrubs (at least 75% must be evergreen)</u>	8	12

- (11) Existing vegetation in the buffer. Existing vegetation in the buffer area may be counted toward the required plantings according to section 6-3.c)(1). The Planning Department staff must approve the use of existing vegetation to meet the buffer requirement.
- (12) Buffer reductions. The width of the buffer may be reduced up to 50% with the use of a fence or wall. Fences and walls must meet the following standards:
  - a. Fences or walls shall be constructed of wood, brick, stone, or other masonry (except plain block) and be architecturally compatible with the proposed structure. Seventy-five percent (75%) of the fence or wall must be opaque with any spaces evenly distributed. A detailed drawing of the fence or wall must be shown on the site or landscape plan and approved by the Jackson County Planning Department staff.

- b. Fences and walls shall be a minimum of 6' tall;
  - c. The finished side of the fence or wall shall face the abutting property; and
  - d. A planting strip with a minimum width of 5' shall be located between the fence or wall and the property line. The strip shall be planted with trees and/or shrubs on the side that faces the abutting property. The trees and/or shrubs shall be spaced no further than 8' apart in order to screen at least 50% of the fence or wall at maturity.
- e) *Screening of dumpsters, loading docks, outdoor storage areas, and utility structures.* All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or bufferyard. Landscaping shall not interfere with the access and operation of any such structure or facility. All unenclosed outdoor storage areas greater than 15 square feet shall also be screened from adjacent properties and streets. Screen types include:
- (1) A continuous hedge of evergreen and/or densely twigged shrubs planted in a 5' strip with plants spaced no more than 5' apart or a row of evergreen trees planted no more than 8' apart.
  - (2) A fence or wall with a minimum height of 6' with the finished side of the fence or wall facing the abutting property or the street.
- f) *Street trees.* Street trees are required for all new non-residential development. Street trees shall be required at the rate of 1 large maturing (over 35' in height at maturity) for every 40 linear feet of property abutting a street or road or 1 small maturing tree (less than 35' in height at maturity) for every 30 linear feet of property abutting a street or road, if overhead utility lines are present. This does not imply that trees must be spaced exactly 30' or 40' apart, but may be clustered together with a minimum spacing of 15'. Trees should be spaced no more than 65' apart. Street trees shall be placed in a planting strip on private property and not within the street or road right-of-way. No street tree can be located farther than 20' from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary but the minimum width cannot be less than 7' and the average width shall be at least 10'. The planting area must be covered with living material, including ground cover and shrubs, or mulch so that no soil is exposed. No stone mulch is permitted in the planting area.
- g) *Parking lot landscaping requirements.*
- (1) Requirements for new developments. Trees and shrubs are required in and around parking lots with more than 6 spaces to enable the parking areas to blend in with the natural appearance of Cullowhee, to provide attractive views from roads and adjacent properties, to reduce stormwater runoff, and to help filter

exhaust from vehicles. There are 3 parking lot planting requirements that may apply to a development depending upon its relation to other properties and public rights-of-way.

- a. *Perimeter and Interior Plantings.* Parking lots, loading areas, and other vehicle use areas must be planted with 1 deciduous tree and 2 shrubs for every 2,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas (including gravel surfaces). At least 75% of the required deciduous parking lot trees must be large-maturing trees. Trees and shrubs must be placed within 20 feet of the vehicular use area to count as parking lot landscaping. When 4 or more trees are required in a parking lot with interior rows, 50% of the trees and shrubs must be planted in islands or medians located within the parking lot. Each parking space shall be located within 45 feet of a tree. In calculating this distance, measurements shall be taken from the trunk of the tree to the closest point of the parking space. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow. Trees and shrubs shall not impede vehicular or pedestrian visibility.
- b. *Planting strip.* A planting strip with a minimum width of 5 feet shall be planted between the vehicular use area and the abutting property when any vehicular use area is located within 50 feet of an abutting property and no buffer is required, except for driveway openings that run perpendicular to the planting strip. This planting strip shall ensure that parking lots are separated from one another. One large evergreen or deciduous tree and 5 evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in subsection a. (above) if the planting strip is located within 20 feet of the vehicle use area. Adjacent businesses on separate properties that share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the use of the shared parking or driveway.
- c. *Buffering from the street.* Vehicular use areas greater than 2,500 square feet that are located within 30 feet of a street or road must be buffered from the street or road. This buffer is required in addition to the street trees planted in a 10 foot planting strip as required by section 6-3.f). The buffer must contain plants that will be at least 3 feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changes combined with plant material. A vegetative buffer shall contain



at least 1 evergreen or deciduous shrub for every 5 feet of vehicular use area buffer required. If a fence or wall is used, at least 1 shrub must be planted for every 8 linear feet of fence or wall. Shrubs should be evenly distributed on each side of the fence. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirement.

- (2) Size of planting islands. Tree planting islands within vehicular use areas shall be a minimum of 150 square feet and have no width less than 9 feet.
- (3) Protection of trees. Planting areas and islands shall be protected by curbing, bollards, or parking barriers if a tree or shrub is within 6 feet of the edge of the pavement. Trees in islands should be set back at least 4 feet from the edge of the island so as not to interfere with car doors opening.

*h) Multi-family residential developments.* In addition to other landscaping requirements, multi-family residential developments, including townhome developments with more than 20 dwellings, shall provide one large maturing deciduous tree for every three dwelling units, planted within the required open space on the property.

*i) Compliance and maintenance.*

- (1) Certificate of occupancy. Landscaping must be installed and inspected prior to receiving a certificate of occupancy for the construction. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in the amount of 150% of the cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of occupancy shall be issued. The financial surety shall be canceled and/or returned upon completion of the required landscaping.
- (2) Maintenance. The owner or lessee of the property on which landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or to replace dead, damaged, or diseased plant material or to replace a broken fence or wall shall constitute a violation of this ordinance and shall be subject to the penalty provisions set forth in section 12-2 if no corrective action is taken within 30 days of receiving notice. If an act of God or other catastrophic event occurs that destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must comply with the minimum size, spacing, and quantity standards of

this ordinance.

*j) Plant specifications*

- (1) Recommended plant species. (Appendix A) The use of plant materials that are indigenous to the region and readily available from local nurseries is encouraged. Native plant materials are acclimated to the area, are better suited for survival, and maintain the character and appearance of the Cullowhee Community.
- (2) Minimum plant size requirements:
  - a. Large maturing deciduous tree: Greater than 35 feet in height at maturity. Minimum size at planting shall be 2 inches caliper with a 12 to 14 foot height.
  - b. Small maturing deciduous tree: Less than 35 feet in height maturity. Minimum size at planting shall be 1 ½ inches in caliper with an 8 to 10 foot height.
  - c. Evergreen tree: Minimum height at planting shall be 6 feet.
  - d. Deciduous shrub: Minimum size at planting shall be a 3 gallon container or 10 inch root ball with a height of 18 inches.
  - e. Evergreen shrub: Minimum size at planting shall be a 3 gallon container or 10 inch root ball with a height of 18 inches.
- (3) Plant standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1. Plants must be healthy, well-branched, and free of disease and insect infestation.

**Sec. 6-4. Parking, loading, and access standards.**

- a) *Purpose.* Off-street parking, loading, and access standards are established for the following purposes:
  - (1) To ensure the uniform development of parking areas throughout the Cullowhee community.
  - (2) To provide for safe and adequate space for the temporary parking of vehicles.
  - (3) To promote the efficient use of parking areas.
  - (4) To ensure the safety of vehicles entering and exiting parking areas from and to the public road system.
- b) *Parking lot design.* The following standards shall be met in designing off-street parking facilities.
  - (1) Parking aisles shall have a minimum width of 12' for one-way traffic and 18' for two-way traffic.

- (2) Parking spaces shall be a minimum of 9' by 18', except handicapped spaces. Handicapped spaces shall comply with the standards set forth in the North Carolina Accessibility Code.
- (3) Parking lots with more than 50 spaces shall provide channelized automobile storage space with a length of 50' at all entrances from public rights-of-way.
- (4) Parking spaces and corresponding access drives required by this section shall be constructed of a material that will prevent the exposure of subsoil. Suitable materials for parking areas include, but are not limited to, porous asphalt, concrete, compacted stone, gravel, and aggregates such as bituminous surface treatment and chip and seal. Parking areas with gravel, stone, or similar non-durable surfaces shall have access drives with a hard, durable surface (asphalt, concrete, etc.). The hard, durable surface shall extend a minimum of 25' from the edge of the access road.
- (5) No access to individual off-street parking spaces shall be allowed directly from the public right-of-way. Public rights-of-way shall not be used for maneuvering in the process of entering or leaving individual off-street parking spaces.

c) *Off-street parking requirements.*

- (1) *Number of spaces required.* The requirements for off-street parking are set forth in the table below. For uses not listed in the table, the Jackson County Planning Department shall determine the appropriate minimum and maximum number of parking spaces based on the needs of the proposed use and the general guidelines below, referencing the American Planning Association Planning Advisory Service Report Number 432 (Off-Street Parking requirements).
- (2) *Parking areas exceeding the required number of spaces.* The number of parking spaces for proposed use may exceed the required number of spaces identified for that use; however, if the number of parking spaces exceeds the required number of spaces for that use by more than 50%, the required landscaping for the parking area shall be 150% of that required by section 6-3 of this ordinance.

<b>TYPE OF LAND USE</b>	<b>ONE PARKING SPACE REQUIRED FOR EACH</b>
<b>Residential:</b>	
Multi-family dwellings (including townhomes)	1 bedroom plus 0.25 space per unit for guests
<b>Public Facilities and Institutions:</b>	
Adult care facilities	2 employees plus 1 space per 6 adults
Amphitheaters	4 seats
Child care facilities	2 employees plus 1 space per 10 children
Churches	1 per 3 seats in sanctuary
Civic, social service and fraternal facilities	350 sq. ft.
Colleges	1 per employee plus 1 space per 3 full time students
Community centers	350 sq.ft.
Fire/police stations	5 per bay
Libraries	350 sq.ft. plus 1 space per 2 employee
Medical centers	250 sq.ft.
Museums	350 sq.ft. plus 1 space per 2 employees
Parks	half acre of park land
Post Offices	500 sq.ft. of floor area
Schools	0.5 classroom plus 1 space per 5 students in high school
<b>Office, Business &amp; Industrial Uses:</b>	
Automobile service stations and auto repair garages	1 service bay plus 1 space per 2 employees

Bakeries	2 employees plus 1 space per 3 seats
Barber shops and salons	0.5 operator stations plus 1 space per 2 employees on shift of greatest employment
Bed and breakfast	1 room plus 1 space for the owner and 1 space for each employee
Car wash	0.5 wash bays plus 2 stacking spaces per wash bay
Clinics, veterinary	250 sq. ft.
Clinics	200 sq. ft.
Conference center	200 sq. ft.
Convenience store with gas pumps	300 sq. ft. (spaces at gas pumps are not recognized as parking spaces)
Financial institutions	300 sq. ft.
Health and fitness facilities	200 sq. ft.
Instructional Services	200 sq. ft.
Laundry & dry cleaning	300 sq. ft.
Lodging facilities	2 guest rooms plus additional spaces as required for other uses within the hotel/motel
Manufacturing, assembly, or finishing operations	2 employees
Offices	300 sq. ft.
Restaurants (plus stacking area for 8 vehicles for each drive-thru lane)	3 seats plus 1 space per 2 employees on shift of greatest employment
Retail sales	300 sq. ft.
Studios, galleries, and workshops	2 employees plus 1 space per 350 sq. ft of retail floor space for artists, craftspeople, designers

Theaters	4 seats
Self-service storage facilities	10 storage units plus 1 space per 2 employees

d) *Shared and remote parking*

- (1) *Shared parking.* The Jackson County Planning Department shall approve the joint use of up to 100% of the required parking spaces for 2 or more uses located on the same or adjacent parcels, provided that the developer can demonstrate that the spaces provided will meet the need for parking. This may be done by demonstrating that an adequate number of spaces are provided for all uses or by demonstrating that the uses will not overlap in hours of operation or in demand for the shared spaces. Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area.
- (2) *Remote parking.* If the required number of parking spaces for any land use cannot be reasonably provided on the same lot on which the principal use is located, the parking spaces may be provided on any land within 500 feet of the property on which the principal use is located. The zoning district regulations for the property on which the parking is located must permit the principal use that the parking spaces serve. Any remote parking spaces located on a different parcel than the use served shall be guaranteed by a written agreement between the owner of the remote parking area and the owner of the principal use.

e) *Access point requirements.* The following standards shall be met when designing vehicular access points from public roads to individual non-residential properties

- (1) Width of access points:

	<u>Minimum</u>	<u>Maximum</u>
<u>One-way</u>	14 ft	20 ft
<u>Two-way</u>	24 ft	36 ft

- (2) *Distance from street intersections.* The minimum distance between access points and street intersections shall be 50 feet.
- (3) *Distance from other access points.* The minimum distance as measured along the right-of-way line, or the edge of the roadway for private roads, between the edge of adjacent access points on different properties shall be 50 feet. The minimum distance between the edges of adjacent access points on the same property shall be 100 feet.
- (4) *Distance from property line.* Unless the access point is shared between two or more adjoining properties, all access points shall be located at least 5 feet from all property lines perpendicular to the road.
- (5) *Sites unable to meet distance requirements.* For sites with insufficient road frontage to meet minimum spacing requirements, consideration shall first be given to providing access via connection to a side road, utilization of a joint or shared driveway with an adjacent property that meets the recommended spacing requirement, or development of a service road to serve multiple properties. If these options are not available, the Planning Director may grant approval of an alternate access request, taking into consideration access to the property and safety.
- (6) *Street or driveway access permit.* An application for a site specific Street and Driveway Access Permit shall be submitted to the North Carolina Department of Transportation in accordance with minimum rules and procedures set forth in the Policy on Street and Driveway Access to North Carolina Highways. The District Engineer for the North Carolina Department of Transportation will notify and consult with the Jackson County Planning Department regarding access locations or signalization requested as part of any permit application.

**Sec. 6-5. Stormwater management standards.**

a) *Purpose.* The stormwater standards set forth below are provided to protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas; and to protect water quality and natural ecosystems by requiring the filtering of sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

b) *General information.*

(1) Applicability. The requirements set forth in this section shall apply to new and existing development as follows:

a. New development:

- i. For new development where the impervious surface is between 1000-5000 square feet, a stormwater management

system concept plan is required that follows design guidelines given in the most recent edition of the *Stormwater Best Management Practices Manual* published by the North Carolina Department of Environment and Natural Resources.

- ii. For new development where the amount of impervious surface being created is 5000 square feet or more, the requirements for a stormwater management plan set forth in subsections c and d of this Section shall apply.

b. Existing Development:

- i. For existing development where the amount of impervious surface is being expanded by 25% or more of the original amount and the total amount of impervious surface is less than 5000 square feet, a stormwater management system concept plan is required that follows the design guidelines given in the most recent edition of the *Stormwater Best Management Practices Manual* published by the North Carolina Department of Environment and Natural Resources.
- ii. For existing development where the impervious surface is being expanded and the total amount is over 5000 square feet, the requirements for a stormwater management plan set forth in subsections c and d of this Section shall apply.

(2) Stormwater Management Measures Required

- a. For projects meeting the thresholds identified in (a)(ii) and (b)(ii) above, the property owner and/or developer shall provide a stormwater management plan that accommodates the stormwater run-off generated by a 10-year, 24-hour rain event or, if the property is located within a designated Protected Watershed Area, the 25-year storm. Stormwater measures shall be designed to remove, at a minimum, 85% of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event. Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.
- b. Stormwater measures shall be designed by an appropriately qualified engineer, landscape architect or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted best practices. Innovative designs that utilize “low impact” and non-structural control and treatment measures are encouraged.
- c. Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected



property or within a common area under the management of a property owners' association or similar entity.

c) *Stormwater Management Plan Requirements* The stormwater management plan shall show:

- (1) The existing site topography and proposed site drainage improvements in sufficient detail to facilitate plan review and construction. The plan drawings shall be presented at a scale no larger than 1 inch = 50 feet.
- (2) Engineering drawings showing plan, profile and details of piping, drainage structures, swales, and channels tying into a network of pre-existing manmade or natural channels.
- (3) Written project specifications governing work performance and materials.
- (4) Computations and assumptions sufficient to support the design of piping, drainage structures, retention/detention ponds, and permanent erosion control measures.
- (5) Location of proposed structural stormwater controls;
- (6) Low impact design elements;
- (7) Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains;
- (8) Flow paths;
- (9) Location of floodplain/floodway limits;
- (10) Relationship of site to upstream and downstream properties and drainages;
- (11) Location of proposed stream channel modifications, such as bridge or culvert crossings;
- (12) Whatever other narrative statements are necessary to adequately describe the proposed site improvements.
- (13) The stormwater management plan shall be filed with the Jackson County Planning Department, and a copy shall be simultaneously submitted to the Jackson Soil and Water Conservation District, at least 30 calendar days prior to the commencement of the proposed activity.

d) *Stormwater Permit Required.* The Jackson County Planning Department shall review all stormwater plans required by this Ordinance to ensure compliance therewith. In making this determination, the County shall use the *Stormwater Best Management Practices Manual* published by the North Carolina Department of Environment and Natural Resources or other commonly accepted information and engineering data. The County will review each complete plan submitted to them and within 30 calendar days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Incomplete plans shall be returned for completion. The 30 day review period will not begin until all

required items are submitted. The Planning Department shall have five business days to check the plans for completeness. Failure to approve, approve with modifications, or disapprove a complete Stormwater Management System Concept Plan within 30 calendar days of receipt shall be deemed approval. Disapproval of a plan must specifically state, in writing, the reasons for disapproval. If, following commencement of a land-disturbing activity pursuant to an approved plan, the County determines that the plan is inadequate to meet the requirements of this ordinance, the County may require any revision of the plan that is necessary to comply with this ordinance. Failure to approve, approve with modifications, or disapprove a revised Stormwater Management System Concept Plan within 15 calendar days of receipt shall be deemed approval of the plan. The County shall establish an expiration date of three years for Stormwater Management System Concept Plans approved under this ordinance. Fees as established by the Jackson County Board of Commissioners shall be due and payable upon submission of the application. If a person initiates land-disturbing activity which would have required a permit without obtaining such a permit, the Planning Department is authorized to double the regular permit fee.

e) *As-Built Plans and Final Approval.* For all developments subject to these standards, upon completion of a project, and before final project approval or a certificate of occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management plans and designs. The applicant shall submit actual “as built” plans for all stormwater management facilities or practices after final construction is completed. The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the County is necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.

f) *Inspection and Maintenance of Measures.*

- (1) All stormwater improvements must be maintained so they will continue to serve their intended functions. If the stormwater improvements are to be turned over to a property owners association or a property owner, the developer must maintain stormwater improvements until accepted by a property owners association or property owner. The developer must disclose which party will be responsible for continued maintenance on the record plat and on the stormwater management

plan. The developer will be responsible for the installation, operation, and maintenance of the stormwater controls until ownership is conveyed. The responsibility and agreement for operation and maintenance for the stormwater system is transferred with title, as each property is conveyed.

- (2) The County shall have the right to demand an inspection report at any time should there be reasonable belief that any stormwater structure or feature is constructed or being maintained in violation of this ordinance. Such inspection report shall be prepared by a registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The report shall contain the following:
  - a. The name and address of the land owner.
  - b. The recorded book and page number of the lot of each stormwater control.
  - c. A statement that an inspection was made of all stormwater controls and features.
  - d. The date the inspection was made.
  - e. A statement that all inspected controls and features are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance.
  - f. The signature and seal of the engineer, surveyor, or landscape architect.
- (3) Should the stormwater inspection reveal substantial maintenance or repair recommendations, it shall be the owner's responsibility to retain a registered professional engineer or landscape architect competent in the area of stormwater management to develop plans and specifications for such repairs within 30 days from finding that substantial maintenance or repair recommendations are necessary. Maintenance or repair work must commence within 60 days, and be completed within a reasonable amount of time, from the finding that substantial maintenance or repair recommendations are necessary. The owner of each stormwater measure, whether structural or non-structural in design, shall maintain it so as not to create or permit a nuisance condition.

#### **Sec 6-6. Architectural design standards.**

- a) *General.* Building design and architecture are critical components for quality development. Building architecture design standards are intended to promote compatibility within a development and throughout the Cullowhee Planning Area, allow creativity and diversity of design, protect property values and neighborhood quality, and provide a safe and attractive environment for residents and visitors alike in the community.

b) *Applicability.* The standards in this section shall apply to all non-residential development and to multi-family residential development proposing 12 or more dwelling units.

c) *Building Materials and Color*

(1) Materials

- a. All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, brick, or other high quality masonry material. No building shall be covered with sheet or corrugated metal or with vinyl siding.
- b. Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacturer specifications.
- c. Cornices shall be constructed of brick, stone, wood, pre-cast concrete, or other high quality, long-lasting material.
- d. Architectural accent materials located above the roof line shall be constructed of brick, stone, wood, pre-cast concrete, architectural quality steel, fiber cement siding or other high quality, long-lasting material.

(2) Colors

- a. Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.
- b. Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding natural and built environment to minimize contrast between the structure and the surrounding area.
- c. All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

d) *Building Massing and Configuration*

- (1) Buildings located on steep areas shall conform to hillside topography by stepping or staggering the mass of the proposed structure up or down the slope.
- (2) Building masses shall maintain a balance of scale and proportion using design components that are harmonious with natural landforms and landscaping.
- (3) Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.

e) *Building Façade Character.* Elements of articulation shall be employed on any building visible from the public right-of-way or public street or pedestrian walkway to reduce the apparent bulk and uniform appearance of large buildings, provide visual interest and variety, and reinforce local architecture.

(1) Buildings Containing Non-Residential Uses

The following requirements apply to any building containing non-residential uses, regardless of whether the building also contains residential uses:

- a. Buildings with a façade length of more than forty feet shall incorporate offsets to break the plane of the façade. The distance between required offsets shall be every forty (40) feet.
- b. A building façade that is less than or equal to the height of the building shall not require an offset.
- c. The depth or projection of the offset shall be at least two (2) feet.
- d. The change in wall plane (i.e., offset) shall extend at least twenty percent (20%) of the length of the façade wall.

(2) Buildings Containing Residential Uses

The following requirements apply to any building containing only residential uses:

- a. The distance between required offsets shall be twenty (20) feet, provided that a building façade that is less than twenty-five (25) feet in length shall not require an offset.
- b. The depth or projection of the offset shall be at least two (2) feet regardless of the length of the adjacent façade walls.
- c. The change in wall plane (i.e., offset) shall extend at least twenty percent (20%) of the length of the façade wall.

f) *Minimum Wall Articulation*

Any building greater than forty (40) feet in length, measured horizontally, that faces a public right-of-way or private street or pedestrian walkway shall include at least three (3) of the following features:

- a. change in texture or masonry pattern
- b. change in color
- c. windows
- d. dormers
- e. trellises with vegetation
- f. covered porch
- g. balconies
- h. parapet walls designed to meet the minimum requirements set forth of Section 6-6, i) Roof Form and Articulation, of this Ordinance.

All sides of the building shall include articulation, materials, and design characteristics consistent with those on the primary front façade in terms of quality and detail, unless the public's view of a rear or side building elevation from a public right-of-way or private street or pedestrian walkway is blocked by intervening buildings, topography, a solid screen wall at least six (6) feet high built using materials consistent with the building, or landscaping measuring at least fifteen (15) feet in height at maturity.

g) *Windows*

- (1) The first floor front elevation of all commercial buildings shall incorporate windows that cover at least 40% of the wall plane. Windows shall be clear glass; opaque or reflective glazing shall not be permitted.
- (2) The first floor front elevation of all multi-family residential buildings shall incorporate windows that cover at least 12% of the wall plane. Windows shall be clear glass; opaque or reflective glazing shall not be permitted.

h) *Entrance*

All entranceways shall be clearly defined, highly visible, and feature no less than three (3) of the following:

- a. canopies or porticos;
- b. overhangs;
- c. recesses or projections;
- d. arcades;
- e. arches;
- f. outdoor patios;
- g. windows;
- h. awnings;
- i. architectural features that are integrated into the building structure or design; or planters or wing walls that incorporate landscaped areas or places for sitting.

i) *Roof Form and Articulation*

The roof of any building shall present a distinctive profile and add interest to larger buildings, and complement the character of other buildings included on the same lot or parcel.

(1) *Flat Roof Buildings*

The roof of any building with a flat roof shall include parapets to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed fifteen percent (15%) of the height of the supporting wall, unless required for in Section 6-6.j), Rooftop Equipment Screening, of this Ordinance, and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall.

Parapets used to conceal the roof and roof-top equipment for any building shall not extend a constant height for more than one hundred (100) feet in length.

(2) *Slope Roof Buildings*

The roof of any building with a slope roof shall include at least two (2) of the following to maintain proportional building architecture:

- a. three (3) or more roof slope planes
- b. overhanging eaves, extending no less than one (1) foot past the supporting wall

- c. sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run.

(3) **Additional Requirements**

Consistent roof treatments, whether flat or sloping, shall be provided on all sides of the building.

The back side of all cornices, parapets, and roofline that are visible from an adjacent public right-of-way shall be finished with materials consistent with the associated building.

j) *Rooftop Equipment Screening*

**Screening Requirements**

- (1) All rooftop mechanical equipment and vents greater than eight (8) inches in diameter shall be:

- a. screened from the line of sight of public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement;
- b. screened by either a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide.

k) *Franchise Architecture*

To maintain the unique character of the Cullowhee Planning Area, buildings shall not be constructed or renovated using franchise architecture. Franchise or national chains may be permitted in the Cullowhee Planning Area, but must follow the standards of this Ordinance to create a building that is compatible with the Cullowhee Planning Area.

l) *Architectural Unity*

All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials.

**Sec 6-7. Flexible development standards.**

- a) *Purpose.* This section provides the Jackson County Planning Department with the authority to permit deviations from the development standards for setbacks, lot width, and number of parking spaces required by this ordinance, provided certain conditions are met. The flexible development standards shall be administered in order to promote the

orderly development and redevelopment of property within the Cullowhee Community. Decisions shall be in writing and conditions may be placed on the approval of flexible development standards to ensure that the intent of this ordinance is achieved. Decisions of the Planning Department may be appealed to the Cullowhee Community Planning Council as outlined in section 9-2 of this ordinance.

- b) *Flexible standards permitted.* The Jackson County Planning Department may approve the following flexible development standards.
- (1) *Setbacks.* The Planning Department is authorized to approve deviations from the required setbacks set forth in Article IV of this ordinance by up to 10%, provided there are site or structural conditions that preclude strict adherence to the setback requirements or the proposed location of the structure will allow preservation of existing vegetation.
  - (2) *Parking.* The Planning Department is authorized to approve parking lots for uses that have up to 25% less than the required number of spaces set forth in section 6-4, provided that the applicant provides proof that the proposed number of spaces will meet the needs of the use; the project is a redevelopment of an existing structure and there is insufficient space on the site to accommodate the required parking; or the reduced parking will permit the preservation of existing vegetation.
  - (3) *Lot dimension.* The Planning Department is authorized to approve deviations of up to 10% in the required lot widths set forth in Article IV, provided the reduced lot width will not inhibit the reasonable use of the lot.

## **ARTICLE VII. SIGN REGULATIONS**

### **Sec. 7-1. Purpose and scope.**

- a) *Purpose.* The purpose of this article is to provide sign standards and regulations that permit the adequate identification of activities and businesses while at the same time promoting signs that do not unduly detract from the aesthetics and natural appeal of the Cullowhee Planning Area; that reduce intrusions and protect property values; that provide for improved public safety while minimizing undue distraction of the motoring public; that provide standards for the erection and maintenance of signs; that provide for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; and that generally enhance and strengthen the long term economic viability of the Cullowhee Planning Area.
- b) *Scope.* The provisions of this article shall apply to the erection and maintenance of all signs and sign structures within the Cullowhee Planning Area, and it shall be unlawful



following the effective date of this ordinance to erect, maintain, or alter any sign or sign structure except in conformance with the provisions of this article.

**Sec. 7-2. General provisions.**

- a) *Permit requirement.* Except as otherwise provided in sections 7-2.b) and 7-2.c), it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign permit. Application for the permit shall be made in writing on forms provided by the Jackson County Planning Department. The procedure for applying for a sign permit is found in section 8-6 of this ordinance. Failure to obtain a sign permit shall constitute a violation of this ordinance.
  
- b) *Signs exempt from regulation.* Unless otherwise prohibited in this or other applicable regulations, the following signs are exempt from regulation under this ordinance:
  - (1) Signs that are not designed to be visible beyond the boundaries of the property upon which they are located and/or from any public thoroughfare or right-of-way, except as such signs may be permitted hereafter.
  - (2) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs and signs posted under governmental authority that note the donation of buildings, structures, or streetscape materials (such as, but not limited to, benches, trash cans, lampposts, and park facilities).
  - (3) Flags of the United States, the State of North Carolina, Jackson County, any religious, fraternal, or civic organization, or any educational or cultural facility and/or any one corporate flag per lot provided that they do not exceed 5' x 8' or 40 square feet in area, that they are displayed on flagpoles not exceeding 25 feet in height, that no more than one flagpole is located on a lot of less than one acre and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided the size, height, and setback requirements as established in this exemption are met.
  - (4) Decorative and incidental flags identifying that the business establishment is open or serving as a decorative feature provided that the area of any single flag does not exceed twelve (12) square feet not to exceed 2 flags per lot.
  - (5) Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday/celebration.
  - (6) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables and gas lines, and similar devices and signs providing direction around such conditions.

- (7) Merchandise, pictures, or models of products or services that are incorporated as an integral part of a window display.
- (8) Signs displayed on trucks, buses, trailers, or other vehicles that are being operated in the normal course of a business, such as signs indicating the name of the owner or business and that are affixed or painted onto moving vans, delivery trucks, contractor's vehicles and equipment and the like, are exempt from regulation provided that, when not being operated, the vehicles are parked or stored in areas appropriate for their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent possible. All such vehicles must have current and valid registration and inspection.
- (9) Trademarks or product names that are displayed as part of vending machines, dispensing machines, and gasoline pumps.
- (10) Signs required for or specifically authorized for a public purpose by any law, statute, or ordinance. These signs may be of any type, number, and area, height above grade, location, or illumination authorized by law, statute, or ordinance under which such signs are required or authorized.
- (11) Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular property and that are located on the property to which the information pertains. No advertising may be affixed to such a sign.
- (12) Temporary signs/banners providing directions or other information in conjunction with a community festival or civic event subject to the following: Banners are limited to 60 square feet; may not contain commercial advertisement; and may not be placed within the DOT Right of Way; banners are permitted 14 days prior to the event and must be removed within 24 hours of the close of the event.
- (13) Signs affixed to the windows of vehicles displaying the terms of sale of the vehicle.
- (14) Yard/garage sale signs for one/two day residential use provided they are put in place no sooner than 48 hours prior to the event and removed immediately following the close of the event.
- (15) Signs posted on private property related to trespassing or public safety, such as danger from animals. However, said signs shall not exceed 3 square feet in size and not more than 2 signs shall be placed on any parcel of land.
- (16) Private commercial signs indicating charge card information or general instructions, restrictions, etc. thereof.
- (17) Signs displayed in commercial zones that are sponsored by municipal, school, civic, and other non-profit organizations.

- c) *Signs exempt from permit requirements.* The following signs are permitted in any location and do not require a sign permit. However, the signs must conform to the requirements set forth below as well as to other applicable requirements of this ordinance.
- (1) *Real estate signs.* Temporary signs advertising the sale, rental, or lease of the property on which the sign is located, provided the signs are not illuminated and do not exceed 2 signs per lot, do not exceed 4 feet in height, and do not exceed 4 square feet per face for residential property, or do not exceed 8 feet in height and 32 square feet per face for commercial property. All such signs shall be removed within 7 days after the closing of the sale, rental, or lease of the property.
  - (2) *Commemorative signs.* Commemorative signs that do not exceed 8 square feet per face in area and 8 feet in height.
  - (3) *Directional signs.* Directional signs (i.e. signs indicating entrance and exit locations) shall be located on the premises to which the directions are indicated. Directional signs shall not exceed 4 square feet per face, 2 faces per sign, and shall not exceed 3 feet in height if freestanding. Directional signs shall not be located on the roof of any structure. The maximum number of directional signs permitted per lot shall be 4.
  - (4) *Incidental signs.* Signs containing information necessary or convenient for persons coming onto a property shall be located on the premises to which the information pertains. No advertising may be contained on the sign and the signs shall be single faced only and wholly attached to a building (including the windows or doors). If advertising (name or logo) is used on these signs, it shall be considered as part of the total allowable signage for the property.
  - (5) *Political signs.* Signs of candidates for election or for issues on a ballot shall be allowed provided such signs do not exceed 12 square feet in area per face and 2 faces per sign. All such signs must be removed within 10 days after the election or referendum to which the sign applies. The property owner and the political candidate shall be equally responsible for the removal of the sign.
  - (6) *Construction signs.* Construction signs shall be permitted provided such signs do not exceed 1 sign per street/road frontage, with a maximum of 2 signs per construction site. The signs shall not exceed 24 square feet in area per display face a height of 10 feet. Construction signs shall be removed within 14 days of the issuance of a certificate of occupancy for the construction project.
  - (7) *Automatic teller machine signs.* Signs contained on automatic teller machines that do not exceed 15 square feet in area per machine.
  - (8) *Directional signage for temporary uses.* Temporary uses may provide directional signs to provide directions to the temporary use or event. Such signs may be placed off the site of the proposed event. Directional signage for temporary uses

shall not exceed 4 square feet per face, 2 faces per sign, and shall not exceed 3 feet in height if freestanding. Directional signs shall not be located on the roof of any structure. Directional signs shall be in place not more than one (1) day prior to the use or event and shall be removed within one (1) day following the cessation of the use or event. The maximum number of directional signs permitted shall be 4 per use or event.

- d) *Noncommercial messages.* Any sign, display, or device permitted under this article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting, and spacing requirements of this ordinance.

### **Sec.7-3. Prohibited signs.**

The following signs and/or sign features shall not be erected or maintained within the Cullowhee Planning Area. The Cullowhee Planning Council shall not have authority to grant variances to permit prohibited signs to be installed.

- a) *Signs on roadside appurtenances.* On- or off-premise signs on roadside appurtenances, including, but not limited to, utility poles, planters, trees, and refuse containers, with the exception of governmental or commemorative signs.
- b) *Signs located in public road rights-of-way.* Signs, whether temporary or permanent, within any public road right-of-way with the exception of governmental notices or signs, unless an encroachment for the sign has been approved by the NC DOT and a sign permit issued by the Jackson County Planning Department. No traffic control device or its support shall bear any advertising or commercial signage or any message that is not essential to traffic control. Any unauthorized sign placed within NC DOT right-of-way by a private organization or individual is prohibited as outlined in the North Carolina Administrative Code 19A NCAC 2E.0415 (Advertising Signs Within Right-of-Way).
- c) *Signs on vehicles.* Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign are prohibited. Any such vehicle must have current and valid registration and inspection. The vehicle must be parked so as to minimize its visibility from the street to the greatest extent possible.
- d) *Roof signs.* Roof signs are prohibited. However, signs on the surface of a mansard roof and on parapets are permitted provided the signs do not extend above the mansard roof or parapet to which they are attached. No sign shall project above the roof of any building.
- e) *Wind signs.* Wind signs as defined in section 2-5 of this chapter are prohibited.

- f) *Off-premise signs.* Off-premise signs are prohibited.
- g) *Signs of illusion.* Signs with optical illusion of movement by means of a design that represents a pattern capable of reversible perspective, giving the illusion of movement.
- h) *Signs resembling traffic signals.* Signs displaying intermittent light resembling the flashing light used in traffic signals or any word, phrase, symbol, or character in a manner that might be misconstrued as a public safety warning or traffic sign.
- i) *Animated signs and flashing lights.*
- j) *Abandoned signs or sign structures.*
- k) *Portable or moveable display signs.*
- l) *Signs obstructing access.* Signs that obstruct free access to or from a driveway or a required door, window, fire escape, or other required exitway.

**Sec. 7-4. On-premise signs.**

- a) *General provisions for permitted on-premise signs.* Following the effective date of this ordinance, on-premise signs shall not be erected or maintained within the Cullowhee Planning Area except in compliance with the provisions set forth in this article.
  - (1) Computation of sign area.
    - a. The area of a sign shall be considered to be that of the smallest geometric figure consisting of contiguous lines that encompasses all lettering, wording, design, or symbols, together with all background on which the sign is located and any illuminated part of the sign is an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of the sign, but supports and bracing that are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.
    - b. The space between one identification sign and one changeable copy sign on a signpost or structure or attached to a building shall not be included in the total square footage if both signs serve a single business located on the lot. The space between 2 or more changeable copy components of a sign or between 2 or more permanent copy components of a sign shall be included in the total square footage of sign area allowed.
    - c. Where three-dimensional figures are used as signs, the area shall be the total of all sides of the figure used in conveying the intended message.

- (2) Encroachment into right-of-way. No part of any sign shall be located on or extended into a public right-of-way except as permitted for projecting signs in this article.
- (3) Time/date/temperature signs. Time/date/temperature signs that do not exceed 10 square feet per face shall not be included in the allowable sign area. However, if an existing freestanding sign is located on the lot, then the time/date/temperature sign must be incorporated into the existing freestanding sign.
- (4) Signs for non-conforming uses. Signs for non-conforming uses, where the non-conforming use may continue, shall be permitted provided the signs comply with all regulations for signs set forth in this article.
- (5) Illumination. Illuminated signs shall be subject to the following conditions:
  - a. Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign face and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.
  - b. Internally illuminated signs are prohibited.
  - c. Lighting of off-site commercial signs is prohibited.
  - d. Upward lighting of signs is prohibited unless otherwise approved by the Planning Department.
- (6) Temporary signs. Temporary signs that are affixed to the inside of a window and that do not exceed a total for all such signs of 16 square feet in area are allowed for each business. Additionally, temporary signs and banners announcing grand openings, sales, etc. are permitted provided they do not exceed 32 square feet in area, are removed after 30 days, and the business does not have more than 2 such signs or banners per year.
- (7) Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.

b) *On-premise signs: single tenant development in the Commercial and Institutional Zones.* The following regulations shall apply to all signs for single tenant development in the designated Commercial and Institutional zones within the Cullowhee Planning Area. Any sign not specifically allowed shall be deemed as prohibited.

- (1) Permitted signs may be either:

<i>Freestanding</i>	<i>Attached</i>
Pole Ground Changeable copy Menu board	Projecting Window Wall Awning/canopy Suspended or transom Changeable copy Menu board

- (2) The sign(s) shall meet the following requirements for commercial and institutional zones depending on the type of sign:

<i>Type of Sign</i>	<i>Maximum Height</i>	<i>Maximum Size per Face</i>
Freestanding pole sign	15 feet	40 square feet
Changeable copy sign	15 feet	12 square feet
Ground sign	12 feet	32 square feet
Wall sign	N/A	32 square feet

- (3) Two businesses or product identification signs are permitted per lot, only 1 of which may be a free-standing sign. The allowed square footage for attached signs may be divided into a maximum of 4 signs. Corner and through lots are permitted one additional free-standing sign on separate street/road frontages.
- (4) If the free-standing sign is less than the maximum square footage permitted for the district in which it is located, then the difference may be used to increase the size of the attached signage by that difference.
- (5) Setbacks for free-standing pole or ground signs shall be a minimum of 10 feet.
- (6) Signs shall not be located in any public right-of-way and shall not be located within a sight visibility triangle.
- (7) Projecting signs (excluding awning/canopy signs) shall not project more than 3 feet from the façade of the building. Clearance over sidewalks and pedestrian walkways shall be at least 7 feet and clearance over streets, roads, or driveways shall be at least 14 feet. Signs shall not project above the building soffit, eave line, or building parapet.
- (8) Suspended or transom signs shall have a minimum clearance of 7 feet over sidewalks and pedestrian walkways.
- (9) Wall signs shall not project more than 12 inches from the wall.
- (10) One external menu board with two faces is allowed per restaurant (in addition to permitted signage previously described). The total sign area (the surface area of both faces combined) shall not exceed 24 square feet. The sign shall not be

located so that the copy is designed to be visible to vehicular traffic from the roadway.

- (11) The total square footage for all attached signs for a building may not exceed one square foot for every linear foot of the building's street frontage up to a maximum size of 32 square feet.
- (12) Stationary sandwich boards ("A-frames") shall be allowed in the Commercial and Institutional Zones with the following requirements:
  - a. Each business is allowed one sandwich board immediately adjacent to their place of business
  - b. The sandwich boards shall be placed no more than six feet from the store front of the business it advertises, shall not impede the flow of pedestrian traffic, nor impede the sightlines of motor vehicle traffic
  - c. The signage shall not exceed eight square feet per advertising surface area with no more than two surface areas per sandwich board (total of 16 square feet) nor a total height to exceed four feet
  - d. Signage shall be constructed of materials that will not rapidly deteriorate, easily deface, degrade, or become a hazard to the safety and general welfare of the public in any way
  - e. Off-premises sandwich board signs shall be allowed if the adjacent business owner provides a written agreement for the placement of the sign or the sign is located on property belonging to the Jackson County.
  - f. All sandwich board signs will require an annual permit. Permits for the placement of sandwich board signage shall be issued by the Planning Director or his/her designee. There is a fee for the initial permit as well as permit renewal. Applications should be made to the Planning Department.
  - g. Sandwich boards shall be allowed on sidewalks to promote special events for municipal, school, civic, or non-profit organizations. The use of a sandwich board shall be by permit only and placed either on Jackson County property or by the written agreement of the adjacent business owner. There is no fee charged for non-profit sandwich board signs.
  - h. All sandwich boards must be removed daily at dark.

- c) *On-premise signs: multiple tenant development in the Commercial or Institutional Zone.* The following regulations shall apply to all signs for multiple tenant development located in the Commercial or Institutional Zones within the Cullowhee Planning Area. Any sign not specifically permitted is prohibited. Multiple tenant developments may erect either a development identification sign or joint identification sign. In addition, tenant identification signs for individual businesses within a development are allowed. Multiple



tenant developments are allowed one identification sign, maximum of 2 faces per sign, for each property boundary with street frontage with a maximum of 2 identification signs per development.

(1) Development and joint identification signs.

- a. Where a development or joint identification sign is selected, the sign may be of the following types

<i>Freestanding</i>	<i>Attached</i>
Pole Ground Changeable copy	Projecting Window Wall Awning/canopy Suspended or transom Changeable copy

- b. The sign(s) shall meet the following requirements based on the type of sign.

<i>Sign Type</i>	<i>Maximum Height</i>	<i>Maximum Size per Face</i>	
		<i>Single Tenant</i>	<i>Multiple Tenant</i>
Freestanding pole sign	15 feet	40 square feet	48 square feet
Ground sign	12 feet	32 square feet	40 square feet
Wall sign	N/A	32 square feet	40 square feet

- c. Setbacks for freestanding development or joint identification signs shall be 10 feet. Signs shall not be located within any public right-of-way and shall not be located within a sight visibility triangle.

(2) Tenant identification signs

- a. Tenants in a multi-tenant development may have their own attached identification sign provided it does not exceed 5 feet in height and does not exceed 12 square feet in area or the size set forth in (b) and (c) below. Tenants may have the following types of attached identification signs:
- i. Wall
  - ii. Awning/canopy
  - iii. Projecting
  - iv. Window

- v. Suspended or transom
  - vi. Changeable canopy
- b. One attached sign is allowed per exterior public business entrance. The total allowable sign area for the building frontage of each business shall not exceed one square foot for every linear foot of building frontage owned by the business. Where two tenants share a common entrance, each tenant shall be allowed 1 attached sign, not to exceed 20 square feet, on the portion of the building that the tenant occupies. Where more than two tenants share a common entrance, each tenant shall be allowed one attached or window sign, not to exceed 15 square feet.
  - c. Maximum projection for wall signs shall be 12 inches.
  - d. Projecting signs (excluding awning/canopy signs) shall not project more than 3 feet from the facade of the building. Clearance over sidewalks and pedestrian walkways shall be a minimum of 7 feet and clearance over streets, roads, and driveways shall be a minimum of 14 feet. Signs shall not project above the building soffit, eave line, or building parapet.
  - e. Suspended or transom signs shall have a minimum clearance of 7 feet over sidewalks and pedestrian walkways.
  - f. Stationary sandwich boards shall be permitted in multi-tenant development in the Commercial and Institutional Zones provided they meet the following conditions:
    - i. Each business in the multi-tenant development is permitted to have no more than one A-frame sign.
    - ii. The sign shall meet the conditions stated for stationary sandwich boards in single-tenant development in Commercial and Institutional Zones.
    - iii. The sign shall be placed adjacent to the place of business, provided it is located no more than six feet from the storefront and provided the sign does not impede the flow of pedestrian traffic, nor impede the sightlines of motor vehicles.

d) *On-premise signs: Residential and Parks/Open Space Zones.* Signs in Residential and Parks/Open Space Zones within the Cullowhee Planning Area shall be subject to the following standards.

- (1) Residential communities are permitted one (1) community identification sign per entrance from a public road. The sign shall meet the following requirements:
  - a. Type: the sign shall be a monument sign
  - b. Height: the maximum height of the sign shall be twelve (12) feet

- c. Size: the maximum size of the sign shall be thirty-two square feet per face, with a maximum of two faces.
  - d. Setback: signs shall be setback such that the closest edge of the sign is a minimum of 5' from any property line. Signs shall not be placed within a public right-of-way.
- (2) Recreational facilities are permitted one (1) freestanding sign per frontage on a public road and one attached sign. The sign shall meet the following requirements:
- a. Type:
    - i. Freestanding: monument or pole sign
    - ii. Attached: wall, awning/canopy, projecting, window, suspended or transom
  - b. Height: the maximum height of freestanding signs shall be twelve (12) feet
  - c. Size: the maximum size of freestanding signs shall be thirty-two square feet per face, with a maximum of two faces. The maximum size of all attached signs shall not exceed one square foot for every linear foot of building frontage.
  - d. Setback: freestanding signs shall be setback such that the closest edge of the sign is a minimum of 5' from any property line. Signs shall not be placed within a public right-of-way. Attached signs shall be located on the building frontage only.

**Sec. 7-5. Maintenance**

- a) *General.* To insure that signs are erected and maintained in a safe and aesthetic manner, all signs designed to be visible from any public street or road within the Cullowhee Planning Area shall be properly permitted and inspected for compliance with the applicable codes of the State of North Carolina and Jackson County and other applicable sections of this ordinance.
- b) *Maintenance requirements.* The following maintenance requirements shall be observed for all signs visible from any public street or road within the Cullowhee Planning Area.
  - (1) No sign shall have more than 20% of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.
  - (2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.

- (3) No sign shall be allowed to have weeds, vines, or other vegetation growing upon it and obstructing its view from the roadway from which it is to be viewed for a period of more than 30 successive days.
- (4) No internally lit sign shall be allowed to stand with only partial illumination for a period of more than 30 successive days.
- (5) If a sign or sign structure is damaged due to factors other than vandalism or other criminal acts such that more than 50% of the value is lost, with such determination made by the Jackson County Planning Department, any repair or replacement must be done in conformance with this ordinance. If a sign or sign structure is damaged due to vandalism or other criminal act, it may be repaired or replaced, regardless of cost, but it must be repaired or replaced to the same specifications to which and with the same materials of which the sign was constructed prior to the act that caused the damage.
- (6) All banners, flags, and similar items shall be maintained so as to be free of tears, rips, discoloration, and/or fading. Any banner, flag, or similar item not so maintained may be removed without notice by the Code Enforcement Officer.

c) *Inspection.* The staff of the Jackson County Planning Department may inspect all signs for compliance with these maintenance requirements.

#### **Sec. 7-6. Structural and construction requirements.**

All on-premise signs allowed by this article shall be constructed in accordance with the requirements of the North Carolina State Building Code.

#### **Sec. 7-7. Nonconforming signs**

- a) *General.* After the effective date of this ordinance, it shall be unlawful for any person to erect or maintain any sign that does not conform to the requirements set forth in this article. This requirement shall not be interpreted to prohibit the painting, repainting, or changing of the face of a sign, including changing the message, where the resulting sign is the same size, shape, and height as the preceding sign and no other alteration and no expansion is made to the sign or the sign structure.
- b) *Requirements for on-premise signs to come into compliance.* All signs and sign structures that existed prior to the adoption of this ordinance and were made nonconforming by the requirements of this article shall be allowed to remain subject to the non-conforming provisions set forth in Article XI of this ordinance.
- c) *Prohibited actions.* Signs made nonconforming by the requirements of this article may remain, subject to the standards set forth in Article XI of this ordinance, but may not be:
  - (1) Changed to or replaced by another nonconforming sign or sign structure;

- (2) Structurally altered (except to meet safety requirements)
- (3) Altered so as to increase the degree of nonconformity of the sign or sign structure;
- (4) Expanded;
- (5) Re-established after its discontinuance for 60 days;
- (6) Continued in use after cessation of the business it advertises; or
- (7) Re-established after damage or destruction due to factors other than vandalism or other criminal acts if the estimated cost of reconstruction exceeds 50% of its value, as determined by the Jackson County Planning Department.

### **Sec. 7-8. Variances**

- a) *Requirements for variances.* In accordance with the procedures and standards set forth in section 9-1 of this ordinance, the Cullowhee Planning Council shall have authority to hear and act upon applications for variances from the regulations set forth in this article. The standards and findings for the granting of a variance, as set forth in section 9-1, shall be adhered to.
- b) *Granting of variances.* In granting a variance, the Cullowhee Planning Council shall make written findings that all of the standards identified in section 9-1 for the granting of a variance have been met. If a variance is granted it shall be the least possible deviation from the requirements of this article. In granting any variance, the Cullowhee Planning Council may impose appropriate conditions and safeguards in conformity with this article. Violations of the provisions of the variance granted, including any conditions or safeguards that are a part of the granting of the variance, shall be deemed a violation of this ordinance.

## **ARTICLE VIII. DEVELOPMENT REVIEW PROCEDURES**

### **Sec. 8-1. Permits and approvals.**

- a) *Permits and approvals.* Any development or redevelopment within the Cullowhee Community Planning Area shall require approval and a permit in order to assure that the development or redevelopment is consistent with the goals and standards of this ordinance. Application for all permits required by this ordinance may be made at the Jackson County Permitting Office. All required permits may be applied for simultaneously. Any required fees may be paid at the time of permit application. The review procedures set forth in this section are those required by the Jackson County Planning Department. Other agencies, such as the Jackson County Health Department, have separate review and approval procedures. These agencies must be contacted to obtain information regarding the approval procedure for permits required by them.

*b) Simultaneous processing of applications.*

- (1) The simultaneous processing of applications for different permits and approvals that may be required for a development or redevelopment project will be accommodated where possible by the review procedures set forth in this section..
- (2) No application for the rezoning of property shall be accepted or processed while an application for any of the approvals or permits required by this section is pending for the same property or vice versa.

**Sec. 8-2. Zoning permits**

*a) Purpose.* A zoning permit shall be required for the construction or development of any new use located within the Cullowhee Community Planning Area. In addition to new uses, a zoning permit shall be required for:

- (1) The renovation and/or remodeling of existing structures when the cost of the renovation/remodeling exceeds 50% of the assessed value (as identified by the Jackson County Tax Office) of the building/structure being renovated/remodeled; or when the renovation/remodeling increases the footprint or any change to the exterior of the structure.
- (2) Expansions of existing uses;
- (3) Changes of use, including an increase in intensity of use or demolition.

*b) Pre-application conference.* Applicants are encouraged to call or visit the Jackson County Planning Department prior to applying for a zoning permit to determine what information is required for the application.

*c) Plan submittal*

- (1) *Filing of application.* An application for a zoning permit may be filed by the owner of the property or by a duly authorized agent of the property owner. The application for a zoning permit shall be filed with the Jackson County Planning Department on a form provided by the Department.
- (2) *Fees.* Any application fee, as designated by the Jackson County Board of Commissioners, shall be due and payable when the application is submitted.
- (3) *Information required.* Each application for a zoning permit shall contain the information required on the application form and a site plan meeting the requirements set forth in the site plan requirements checklist provided by the Planning Department.

- d) *Staff review.* The Jackson County Planning Department staff shall review the application and site plan for compliance with the requirements of this ordinance. Provided the application and site plan are complete, the Jackson County Planning Department shall take action on the request within 10 working days of receipt of the application. If the application and/or site plan are found to be incomplete, the Planning Department staff shall notify the applicant of the deficiencies. If the application and site plan are found to be in compliance with the requirements of this ordinance, the applicant shall be notified by the Planning Department that the application is approved and a zoning permit shall be issued for the proposed project. If the application and site plan are found not to be in compliance with the requirements of this ordinance, the applicant shall be notified in writing by the Planning Department of the denial. The notification shall list the reasons for denial. Upon notification of denial, the applicant may revise the application and/or site plan to address the reasons for denial and resubmit it for review or appeal the denial in accordance with the provisions of this chapter. Please note that all development and redevelopment projects exceeding 1,000 square feet in gross floor area for non-residential projects and 12 dwelling units or 20 bedrooms for multi-family residential projects and requiring a zoning permit are also subject to design review, as set forth in section 8-5 of this ordinance.
- e) *Variances.* Requests for variances from the standards for projects requiring zoning permits shall be heard by the Cullowhee Community Planning Council in accordance with the procedure set forth in section 9-1 of this ordinance.
- f) *Appeals.* Appeals of the decisions of the Jackson County Planning Department regarding applications for zoning permits shall be heard by the Cullowhee Community Planning Council in accordance with the procedures set forth in section 9-2 of this ordinance.
- g) *Permit validity.* Upon approval of a zoning permit, the applicant shall have 1 year to apply for the required building permit(s) for the project. Failure to apply for the building permit(s) within this time shall render the zoning permit void. The Jackson County Planning Department may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension. Upon issuance of the building permit(s), the zoning permit shall remain valid as long as a valid building permit exists for the project. Any unapproved change in the approved plans, or failure to construct the project in accordance with the approved plans, shall render the zoning permit invalid.
- h) *Violations.* Violations of the conditions of the zoning permit shall be considered a violation of this chapter and shall be subject to the enforcement and penalty provisions set forth in Article XII of this ordinance.

### **Sec. 8-3. Temporary Use Permit.**

- a) *Purpose.* In order to assure that temporary uses comply with the standards set forth in this ordinance, no use defined as a temporary use shall be placed on a property without first receiving a temporary use permit from the Jackson County Planning Department.
- b) *Temporary uses allowed.* The following uses may be established as temporary uses in the Cullowhee Community Planning Area, subject to the approval of the Jackson County Planning Department.
- (1) Civic events such as church bazaars, volunteer fire department fund raisers, holiday events, etc. Civic events sponsored, organized and/or held by a governmental agency or by an organization funded by Jackson County shall be exempt from the temporary permit fee.
  - (2) Circuses, carnivals, fairs, religious services, and similar types of events.
  - (3) Agricultural sales, limited to farmer's markets and the seasonal open lot sale of Christmas trees and wreaths.
  - (4) Seasonal greenhouses, tents, and other temporary structures for a period not to exceed sixty (60) days. Said structures must be removed on the date of expiration of the temporary use permit. Tent sales shall be conducted on the property of and conducted by an established business located within the Cullowhee Community Planning Area as a special event to promote said business.
  - (5) Temporary offices for construction and security personnel during the construction of a development for which a building permit has been issued.
  - (6) Temporary school facilities used as classrooms or offices for a school providing a curriculum recognized by the State of North Carolina. Temporary permits for such facilities shall be valid for the school year.
  - (7) Temporary sales offices/model homes for residential developments during the construction of a development for which a building permit has been issued.
  - (8) The Community Planning Council may authorize the Jackson County Planning Department to issue a permit for any other temporary use provided that the use is clearly of a temporary nature, the use is limited to a period not to exceed sixty (60) days, and the use is in keeping with the intent and requirements of these standards. The Planning Council and/or Planning Department may attach any conditions to the temporary use permit needed to protect the public health, safety, and welfare.



- (9) A temporary use permit may be renewed provided that it is determined that the use is clearly of a temporary nature, will cause no traffic congestion, and will not create a nuisance to surrounding uses.
- c) In making application for a temporary use permit, the applicant shall provide the following information:
- (1) The date(s) and times during which the use will be in operation;
  - (2) The estimated number of persons who will be in attendance at the time of maximum attendance;
  - (3) The points of access for attendees and for emergency vehicles; and
  - (4) Location and amount of parking provided.
- d) *Temporary use permits requirements.* A temporary use permit shall be issued only if the proposed temporary use meets the following requirements:
- (1) The property contains sufficient space to accommodate the temporary use.
  - (2) The temporary use will be located no closer than 100 feet to a dwelling.
  - (3) Parking is adequate to meet the needs of the temporary use.
  - (4) Restroom facilities, if needed, are provided.
  - (5) All inspections and permits required by applicable construction codes have been made and approved.
  - (6) The temporary school facilities, model sales homes, and temporary real estate sales offices shall provide landscaping as required by section 6-3 of this ordinance.
- e) *Plan submittal.*
- (1) *Filing of application.* An application for a temporary use permit may be filed by the owner of the property or by a duly authorized agent of the property owner. The application shall be filed with the Jackson County Planning Department.
  - (2) *Fees.* Any application fee, as approved by the Jackson County Board of Commissioners, shall be due and payable when the application is filed.
  - (3) *Information required.* The application for a temporary use permit shall contain the information required on the application form and a site plan meeting the

requirements for such as identified by the Jackson County Planning Office.

- f) *Staff review.* The Jackson County Planning Department shall review the application and determine if it is complete within 5 working days of its submittal. If the application is found to be incomplete, the applicant shall be notified of any deficiencies. The applicant may address the deficiencies and resubmit the application. If the application is complete, it will be reviewed for compliance with the requirements of this ordinance. A temporary use permit shall be issued only upon finding that the proposed temporary use meets all the requirements of this ordinance.
- g) *Variances.* Requests for variances from the requirements for temporary uses set forth in this ordinance shall be heard by the Cullowhee Community Planning Council under the procedures set forth in section 9-1 of this ordinance.
- h) *Appeals.* Appeals of the decision of the Jackson County Planning Department regarding the issuance of temporary use permits shall be heard by the Cullowhee Community Planning Council in accordance with procedures established in section 9-2 of this ordinance.
- i) *Permit Validity.* The temporary use permit shall be valid only for the period stated on the permit, which in no event shall exceed 45 days except for temporary school facilities, farmer's markets, model sales homes, and temporary real estate sales offices, as noted above.
- j) *Violations.* Violations of the conditions of the temporary use permit, or the failure to obtain a permit for a temporary use, shall be considered a violation of this ordinance and shall be subject to the enforcement and penalty provisions set forth in Article XII of this ordinance.
- k) *Public emergencies.* In the event of a natural disaster, catastrophic event, or public emergency, the County Manager or his/her designee may waive any temporary use permit requirements and authorize the placement of temporary use facilities that are deemed necessary or desirable in conjunction with the management of the emergency.

#### **Sec. 8-4. Conditional use permits.**

- a) *Purpose.* The conditional use permit review process is established to provide for the adequate review and consideration of those uses which, because of their unique characteristics and impacts upon the community, require individual consideration of their location, design, configuration, and/or operation in the community. The individual consideration may also call for the imposition of individualized conditions in order to ensure that the use is appropriate in the community. Any use identified as a conditional

use in Article V of this ordinance shall not be permitted without the approval of the Cullowhee Community Planning Council in accordance with the requirements and procedures set forth in this section 8-4.

- b) *Pre-application conference.* Every applicant for a conditional use permit is required to meet with the Jackson County Planning Department in a pre-application conference prior to the submittal of a conditional use application. The purposes of the conference are to provide additional information regarding the review process and assistance in the preparation of the application.
  
- c) *Plan Submittal*
  - (1) *Filing of application.* An application for a conditional use permit may be filed by the owner of the property or by an agent specifically authorized to submit the application. The application for a conditional use permit shall be filed with the Jackson County Planning Department on a form provided by the Planning Department.
  
  - (2) *Fees.* Any application fee, as designated by the Jackson County Board of Commissioners, shall be due and payable upon submission of the application.
  
- d) *Information required.* Each application for a conditional use permit shall contain the information required on the application form and a site plan meeting the requirements set forth on the site plan checklist.
  
- e) *Staff Review.*
  - (1) *Planning Department staff review.* Following submittal of the application and site plan for the conditional use permit, they shall be reviewed by the staff of the Jackson County Planning Department for compliance with the requirements of this chapter. The Planning Department staff may request input from other local, regional, and/or state agencies, such as the Jackson County Health Department and the North Carolina Department of Transportation, to assist in the thorough review of the conditional use permit application and site plan. The Planning Department shall review the conditional use permit application and site plan within 15 working days of its submittal.
  
  - (2) *Planning Department staff action.* Upon review of a complete application and site plan for a conditional use permit, the Jackson County Planning Department staff may make one of the following recommendations.
    - a. *Approval.* If the Planning Department staff finds the application and site

plan to be in compliance with the requirements of this ordinance, they shall forward the recommendation and the conditional use permit application and site plan to the Cullowhee Community Planning Council for review and final action.

- b. *Approval with conditions.* If the Planning Department staff recommends approval with conditions, the applicant may revise the plans to address the conditions of the approval and resubmit it. The revised plan shall be reviewed by the Planning Department staff and, if the identified conditions are adequately addressed, the conditional use permit application and site plan shall be forwarded to the Cullowhee Community Planning Council for review and final action. If the plan is not revised to meet the conditions within 60 days after the decision by the Planning Department, the request shall be deemed withdrawn and the applicant must resubmit the application with all required information and payment of fees.
- c. *Denial.* If the Planning Department recommends denial of the request, the reasons for denial shall be provided in writing to the applicant. The site plan and application may be revised to address the reasons for denial and resubmitted in accordance with the provisions of this ordinance. A recommendation for denial by the Planning Department shall be considered final action on the request unless, within 30 days of receiving the written recommendation, the applicant provides a written request for review by the Cullowhee Community Planning Council.
- d. *Design Review.* The Design Review Committee, as appointed by and composed of members of the Cullowhee Community Planning Council, shall review all conditional use permit applications and site plans for compliance with the design standards set forth in Article VI of this ordinance. This review shall be conducted as part of the consideration of the conditional use permit request by the Cullowhee Community Planning Council as set forth in section 8-4.f) below. The review shall be conducted in accordance with the provisions of section 8-5 of this ordinance. These recommendations and the decision of the Design Review Committee shall be used by the Cullowhee Community Planning Council in determining the compliance of the conditional use application and site plan with standard number iv as set forth in section 8-4.f)(2) c below.

f) *Formal Review.*

- (1) *Public hearing.* Upon receipt of a report from the Jackson County Planning Department requesting a public hearing on the application and site plan for a

conditional use permit, a public hearing shall be scheduled by the Cullowhee Community Planning Council. Notice of all public hearings shall be in accordance with the North Carolina General Statutes.

(2) *Action by the Cullowhee Community Planning Council.*

- a. *Designation of approval body.* The Cullowhee Community Planning Council is hereby designated as the approval body for conditional use permits required by this ordinance and is granted all necessary authority to carry out this responsibility.
- b. *Review of the conditional use permit request.* The Cullowhee Community Planning Council shall consider the conditional use permit request, at a public hearing, within 35 days of receiving the report regarding the conditional use permit application and site plan from the Jackson County Planning Department.
- c. *Conditional use standards.* The Cullowhee Community Planning Council shall not approve the conditional use permit application and site plan unless and until it makes the following findings, based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:
  - i. That the proposed use or development of the land will not materially endanger the public health or safety;
  - ii. That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant;
  - iii. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting properties;
  - iv. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the Cullowhee community;
  - v. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities; and
  - vi. That the proposed use will not cause undue traffic congestion or create a traffic hazard.
- d. *Decision by the Cullowhee Community Planning Council.* The Cullowhee Community Planning Council, after conducting the public

hearing, may: deny approval; table the request pending submittal of additional information; or approve the conditional use permit. The minutes of the Cullowhee Community Planning Council shall state whether the proposed conditional use does or does not meet each of the standards set forth in section 8-4.f)(2) c of this ordinance and all other requirements set forth in this ordinance for the proposed conditional use. The decision on the conditional use permit shall be by a simple majority vote of those members of the Cullowhee Community Planning Council present at the meeting at which the action is taken.

- g) *Transfer of approval.* A conditional use permit approval may be transferred to a subsequent owner of the property for which the permit was issued, but may not be transferred to another property.
  
- h) *Resubmission of denied applications.* No application for approval of a conditional use permit shall be filed with or accepted by the Jackson County Planning Department that is identical or substantially similar to an application that has been denied by the Cullowhee Planning Council within one year of the Planning Council's action denying the request. This waiting period may be waived in an individual case, for good cause shown, by the affirmative vote of three-fourths of the members of the Planning Council.
  
- i) *Project phasing.* If a project approved as a conditional use is to be developed in phases, a master plan for the entire development must be approved by the Cullowhee Community Planning Council at the same time and in the same manner the conditional use permit application is considered. Final plans for phases of the conditional use may be submitted in stages and approved by the Jackson County Planning Department provided that the following requirements are met:
  - (1) All phases must be shown with precise boundaries on the master plan and numbered in the expected order of development.
  - (2) Each phase must be able to exist independently of subsequent phases by meeting all applicable standards as if the phase were a separate project.
  - (3) All the data required for the project as a whole must be given for each phase shown on the plan.
  - (4) A proportionate share of the common facilities must be included in each phase of the development.
  - (5) The phasing must be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan, with the infrastructure provided for the phase submitted for approval.
  - (6) Each phase of the conditional use must comply with any and all conditions attached to the approval of the conditional use permit. No certificate of occupancy will issued for the project phase until a site inspection has confirmed that all conditions and requirements are met.

- j) *Variiances.* Variances from the standards established by this ordinance for conditional uses are considered use variances and shall not be permitted.
- k) *Appeals.* An appeal from the decision of the Cullowhee Community Planning Council regarding a conditional use permit application and site plan may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. Any petition to the Superior Court shall be filed with the Court no later than 30 days after a written copy of the decision of the Planning Council is received by the applicant.
- l) *Permit Validity.* Approval of a conditional use permit shall be valid for 1 year from the date of approval by the Cullowhee Community Planning Council. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the conditional use permit approval void. The Jackson County Planning Department may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension. Permits for the phased development of a conditional use project shall remain valid for the time approved by the Cullowhee Community Planning Council as part of the conditional use approval of the master plan for the conditional use.
- m) *Violations.* Violations of the conditional use permit or of any of the conditions attached to the approval shall be considered a violation of this ordinance and subject to the enforcement and penalty provisions set forth in Article XII of this ordinance.

**Sec. 8-5. Design review.**

- a) *Purpose.* Design review is required for new development, and for those projects that involve a substantial change in the appearance of a building or landscape, when the project meets the criteria for obtaining a zoning permit as set forth in this ordinance. The relocation of a building shall also require design review if that building meets the criteria for requiring a zoning permit as set forth in this ordinance. Design review shall be conducted by the Planning Department staff for those projects requiring only a zoning permit and by the Design Review Committee, with assistance and recommendations provided by the Jackson County Planning Department, for those projects requiring review by the Planning Council. Developments meeting the criteria for design review must prepare their plans in accordance with the design standards set forth in Article VI of this ordinance. The review procedure seeks to encourage rehabilitation and new construction that enhances and preserves the character of Cullowhee, promote visual harmony, and develop creative design solutions. Projects for which design review is required will be evaluated for their compliance with the design standards set forth in Article VI of this ordinance.

- b) *Pre-application conference.* A meeting with the Jackson County Planning Department staff is recommended prior to the submittal of an application for design review. Advice regarding the information required for submittal and the review process can be provided in the pre-application conference.
- c) *Application submittal.*
- (1) *Filing of application.* An application for design review shall be filed by the owner of the property or a duly authorized representative of the owner. The application shall be filed with the Jackson County Planning Department on a form provided by the Department.
  - (2) *Fees.* Any application fee, as designated by the Jackson County Board of Commissioners, shall be due and payable upon submission of the application.
  - (3) *Information required.* Each application for design review shall contain a site plan and shall include building elevations, and additional information regarding the design and materials of the proposed project.
- d) *Staff review.* The Jackson County Planning Department shall review the application and related information for compliance with the design standards set forth in Article VI of this ordinance within 10 working days of the submittal of the application. The Planning Department staff shall provide the applicant with the review findings upon completion of the review. For those projects requiring Planning Council review, the Jackson County Planning Department shall schedule the application for review by the Cullowhee Community Planning Council at their next available regular meeting.
- e) *Formal review.* For those projects requiring review by the Cullowhee Community Planning Council, the Cullowhee Design Review Committee will review the application and related information for compliance with the design standards set forth in Article VI of this ordinance and provide their recommendations to the Cullowhee Community Planning Council for review at their next available regularly scheduled meeting following review of the application by the Jackson County Planning Department. The Review Committee may find that the proposed project is in compliance with the design standards, may recommend design revisions to make the proposed project more compliant with the design standards, or may find that the proposed project is not in compliance with the design standards. The recommendations and findings of the Cullowhee Design Review Committee are mandatory and the applicant is required to revise the design in response to these recommendations. For those projects requiring a conditional use permit, the findings and recommendations of the Design Review Committee shall be used by the



Planning Council in determining whether the proposed development complies with the standards for the granting of a Conditional Use Permit.

**Sec. 8-6. Sign permits.**

- a) *Purpose.* In order to ensure that signs within the Cullowhee community meet the standards set forth in this ordinance, it shall be unlawful to erect or alter any sign or sign structure without first obtaining a sign permit.
- b) *Application submittal.* An application for a sign permit may be filed by the owner of the property or sign or by a duly authorized agent of the owner. The application for a sign permit shall be filed with the Jackson County Planning Department on a form provided by the Department.
- c) *Fees.* Any fee, as designated by the Jackson County Board of Commissioners, shall be due and payable upon submittal of the application for a sign permit.
- d) *Information required.* Each application for a sign permit shall be accompanied by information including, but not limited to, a site plan and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign, height, dimensions, and square footage of the proposed sign, and any other information helpful in the review of the application.
- e) *Staff review.* Provided the application is complete, the Jackson County Planning Department shall review the application to determine if the sign meets the standards set forth in this ordinance within 10 working days of its submittal. A sign permit shall be issued only upon finding that the proposed sign or sign structure complies with the requirements of this ordinance.
- f) *Variances.* Requests for variances from the requirements for signs set forth in this ordinance shall be heard by the Cullowhee Community Planning Council under the procedures set forth in section 9-1 of this ordinance.
- g) *Appeals.* Appeals of the decisions of the Jackson County Planning Department regarding sign permits shall be heard by the Cullowhee Community Planning Council under the procedures set forth in section 9-2 of this ordinance.
- h) *Permit validity.* A sign permit shall be valid for 60 days. If no work has been initiated within 60 days of the issuance of the sign permit, it shall become null and void. The

Jackson County Planning Department may grant a single 30-day extension of the sign permit.

- i) *Violations.* Violations of the conditions of a sign permit shall be considered a violation of this ordinance and shall be subject to the enforcement and penalty provisions set forth in Article XII.

**Sec 8-7. Notices**

All notices for public hearings required by this chapter shall identify the date, time, and place of the public hearing and the nature of the proposed action and any other information required by statute. Where the hearing involves the rezoning of property, the approval of a variance, the issuance of a conditional use permit, or an administrative appeal, the notice shall also identify the address location of the subject property and the name of the applicant. For any public hearing required by statute, notice shall be provided as required by statute.

**ARTICLE IX. VARIANCES AND ADMINISTRATIVE APPEALS**

**Sec. 9-1. Variances.**

- a) *Purpose.* The variance process is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create an unnecessary hardship, prohibiting the use of the land in a manner otherwise allowed under this ordinance. Variances are not intended to remove inconveniences or financial burdens that this ordinance may impose on property owners in general or to increase the profitability of a proposed project. Rather, variances are intended to provide relief where the requirements of this ordinance render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.
- b) *Provisions that may not be varied:*
  - (1) In no event shall a variance be granted that would allow the establishment of a use that is not permitted in a zoning district or that would change the zoning district classification or the district boundary of the lot in question.
  - (2) In no event shall a variance be granted that would permit the creation of a non-conforming lot.
  - (3) In no event shall a variance be granted that would conflict with the North Carolina State Building Code or any other state code unless otherwise authorized by laws and regulations.

*c) Applications*

- (1) An application for a variance shall be filed by the owner of the property affected by the variance or an agent specifically authorized in writing by the owner to file the application.
- (2) Before filing the application, the applicant is encouraged to meet with the Jackson County Planning Department to discuss the proposed variance and to become more familiar with the requirements and approval procedure.
- (3) An application for a variance shall be filed with the Jackson County Planning Department on a form provided by the Department.
- (4) Any fees, as designated by the Jackson County Board of Commissioners, shall be due and payable upon submittal of the application.
- (5) Upon a determination by the Jackson County Planning Department that the application for a variance is complete, the request shall be scheduled for a public hearing before the Cullowhee Community Planning Council. The Cullowhee Community Planning Council is hereby designated to hear requests for variances from the requirements for this ordinance and is authorized to act as a board of adjustment in deciding upon requests for variances.

*d) Action by the Cullowhee Community Planning Council*

- (1) Upon receiving the application materials, the Cullowhee Community Planning Council shall schedule and hold a public hearing on the requested variance. Notice of the public hearing shall be provided in accordance with statute requirements. The public hearing shall be held in accordance with the rules of procedure of the Community Planning Council.
- (2) In considering the variance request, the Cullowhee Community Planning Council shall review the application materials, the staff comments, the general purpose and standards set forth in this ordinance for the granting of variances and all evidence and testimony presented at the public hearing.
- (3) After considering the variance request, the Cullowhee Community Planning Council may deny the request, conduct an additional public hearing on the request, or grant the request. The concurring vote of a simple majority of the members of the Community Planning Council shall be necessary to grant a variance. Any approval or denial of the request shall be accompanied by written findings that the variance meets or does not meet the standards set forth in section 9-1.e).

- (4) In granting a variance, the Cullowhee Community Planning Council may attach any conditions to the approval it deems necessary to satisfy the standards in section 9-1.e), to reduce or minimize any injurious effect of the variance upon other property, and to ensure compliance with other requirements of this ordinance.
- e) *Review standards.* The Cullowhee Community Planning Council shall not grant a variance unless and until it makes the following findings:
- (1) There are unnecessary hardships in the way of carrying out the requirements of this ordinance;
  - (2) Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and that are not applicable to other lands, structures, or buildings located in the same district;
  - (3) The special conditions and circumstances do not result from the actions of the applicant or property owner;
  - (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit;
  - (5) The variance is the minimum necessary to afford relief; and
  - (6) The public safety and welfare have been assured and substantial justice done.
- f) *Effect of approval or denial.* Following the granting of a variance, the applicant shall follow all appropriate procedures for the receipt of permits and other approvals necessary in order to proceed with the development project. If the variance is denied, the applicant may file an appeal as provided for in section 9-2.g).
- g) *Appeals.* An appeal from the decision of the Cullowhee Community Planning Council regarding a variance request may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. An appeal to the superior court shall be filed no later than 30 days after a written decision of the Cullowhee Community Planning Council is received by the applicant.

**Sec. 9-2. Appeals of administrative decisions.**

- a) *Purpose.* Appeals to the Cullowhee Community Planning Council from the decisions of the administrative staff of Jackson County in the enforcement of this ordinance are permitted as provided in this section.

b) *Decisions that may be appealed.* Any order, decision, requirement, or determination made by an administrative officer of Jackson County charged with enforcing the provisions of this ordinance may be appealed to the Cullowhee Community Planning Council unless specifically set forth otherwise in this ordinance. The Cullowhee Community Council is hereby designated to hear these appeals and is authorized to serve as a board of adjustment in making decisions upon these appeals.

c) *Persons who may file an appeal.* An appeal may be filed by any person aggrieved by the order, decision, requirement, or determination that is the subject of the appeal.

d) *Filing of the appeal.*

- (1) An application for an appeal shall be filed with the Jackson County Planning Board on a form provided by the Department and shall contain the information requested on the application form.
- (2) Any fees designated by the Jackson County Board of Commissioners shall be due and payable upon submission of the application.
- (3) The appeal shall be filed no later than 30 days after the date of the contested action.
- (4) Once the Jackson County Planning Department has determined that the appeal application is complete, it shall be scheduled for consideration by the Cullowhee Community Planning Council at a public hearing.
- (5) The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Jackson County Planning Department certifies to the Cullowhee Community Planning Council that, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by restraining order granted by the Superior Court of Jackson County on notice to the administrative official from whom the appeal is taken, with due cause shown.

e) *Action by the Cullowhee Community Planning Council.*

- (1) The Cullowhee Community Planning Council shall hold a public hearing on the appeal upon receipt of the application materials. Notice of the public hearing shall be provided in accordance with statutes. The public hearing shall be conducted in accordance with the rules of procedure of the Cullowhee Community Planning Council.

- (2) The Cullowhee Community Planning Council shall adopt an order reversing, affirming, or modifying the contested action, either at the public hearing or at a subsequent meeting.
  - (3) The Cullowhee Community Planning Council shall not reverse or modify the contested action unless it finds the administrative officer erred in the application or interpretation of the requirements of this ordinance.
  - (4) The Cullowhee Community Planning Council shall not reverse or modify the contested action unless there is a concurring vote of four-fifths of the Council members.
- f) *Effect of reversal or modification.* In the event that the Cullowhee Community Planning Council reverses or modifies the contested action, all subsequent action taken by administrative officers with regard to the subject matter shall be in accordance with the reversal or modification granted by the Cullowhee Community Planning Council unless an appeal is taken on the Council's decision.
- g) *Appeal from Cullowhee Community Planning Council.* Any appeal from the decision of the Cullowhee Community Planning Council may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. Any such appeal to the Superior Court shall be filed no later than 30 days after a written copy of the Cullowhee Community Planning Council is received by the applicant.

## **ARTICLE X. TEXT AND MAP AMENDMENTS**

### **Sec. 10-1. General**

The Jackson County Board of Commissioners may amend, supplement, modify, or repeal the regulations set forth in this ordinance or amend the zoning map. Such amendment shall be in compliance with the procedures set forth in this article.

### **Sec. 10-2. Initiation of amendments.**

Proposed amendments to the text of this ordinance may be initiated by the Jackson County Board of Commissioners, the Jackson County Planning Board, the Cullowhee Community Planning Council, the Jackson County Planning Department, any owner of a legal or equitable interest in land located in the Cullowhee Community Planning Area, any owner of a business located within the Cullowhee Community Planning Area, or any resident of the Cullowhee Community Planning Area. Proposed zoning map amendments may be initiated by the Jackson County Board of Commissioners, the Jackson County Planning Board, the Cullowhee Community

Planning Council, the Jackson County Planning Department, or any owner of an equitable or legal interest in the property for which the map amendment is requested.

**Sec. 10-3. Petition Requirements.**

- a) *Pre-application meeting.* Before submitting an application for an amendment, the applicant shall meet with the Jackson County Planning Department to discuss the proposed amendment and to receive information regarding the approval requirements and procedures.
- b) *Filing.* An application for an amendment shall be filed with the Jackson County Planning Department on a form provided by the Department. Any fees, as designated by the Jackson County Board of Commissioners, shall be due and payable at the time the application is submitted.
- c) *Content of applications.* All information required on the application form shall be contained on or accompany the application. Every application for a change in the zoning district boundary (zoning map amendments) shall be accompanied by a metes and bounds description of the property, a survey of the property, or reference to existing lots sufficient to identify the property on the official zoning map of the Cullowhee Community Planning Area.

**Sec. 10-4. Review by the Cullowhee Community Planning Council**

- a) *General.* The Cullowhee Community Planning Council shall hold a public hearing to consider proposed amendments. Notice of the public hearing shall be provided as required by statutes. The Cullowhee Community Planning Council shall make recommendations to the Jackson County Planning Board regarding whether to approve or deny each proposed amendment.
- b) *Recommendation by the Cullowhee Community Planning Council.* Recommendations of the Cullowhee Community Planning Council shall be reported to the Jackson County Planning Board for a public hearing and recommendation according to the process set forth in section 10-5 of this ordinance. The Jackson County Planning Board shall schedule the public hearing at their next regularly scheduled meeting after receiving the report.
- c) *No action by the Cullowhee Community Planning Council.* If the Cullowhee Community Planning Council has made no recommendation on a proposed amendment within 90 days of first considering it, the proposed amendment shall be forwarded to the Jackson County Planning Board for consideration. A record of the Cullowhee Community Planning Council's comments regarding the proposed amendment shall accompany the

proposed amendment.

**Sec. 10-5. Review by the Jackson County Planning Board.**

- a) *General.* Following receipt of the report regarding the Cullowhee Community Planning Council's action on a proposed amendment, the Jackson County Planning Board shall hold a public hearing to consider the proposed amendment. The public hearing shall be scheduled as provided by the Planning Board's rules of procedures. Notice of the public hearing shall be provided as required by statute. The Planning Board shall make recommendations to the Jackson County Board of Commissioners regarding whether to approve or deny each proposed amendment.
- b) *Recommendation by the Jackson County Planning Board.* Recommendations of the Jackson County Planning Board shall be reported to the Jackson County Board of Commissioners for a public hearing and final action according to the process set forth in section 10-6 of this ordinance. The Jackson County Board of Commissioners shall schedule the public hearing at their next regularly scheduled meeting after receiving the report.
- c) *No action by the Jackson County Planning Board.* If the Jackson County Planning Board has made no recommendation on a proposed amendment within 90 days of first considering it, the proposed amendment shall be forwarded to the Jackson County Board of Commissioners for consideration. A record of the Planning Board's comments regarding the proposed amendment shall accompany the proposed amendment.

**Sec. 10-6. Review by the Jackson County Board of Commissioners.**

- a) *General.* Following the receipt of the report regarding the Jackson County Planning Board's action on a proposed amendment, the Jackson County Board of Commissioners shall hold a public hearing to consider the proposed amendment. The public hearing shall be scheduled as provided by the Board of Commissioner's rules of procedures. Notice of the public hearing shall be provided as required by statute.
- b) *Action.* Before acting on any proposed amendment, the Board of Commissioners shall consider any recommendations made by the Jackson County Planning Board, the Cullowhee Community Planning Council and/or the Jackson County Planning Department, the comments made at the public hearing, and other relevant information. Upon reviewing all pertinent information, the Board of Commissioners may adopt the proposed amendment, reject the proposed amendment, refer the proposed amendment back to the Jackson County Planning Board for further consideration or hearing, or modify the proposed amendment.



**Sec. 10-7. Waiting period for subsequent applications.**

- a) *General.* When an application for a zoning amendment has been approved or denied by the Jackson County Board of Commissioners, no rezoning application covering the same property shall be accepted or considered within 12 months after the date of the approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.
- b) *Waiver of waiting period.* The waiting period required by this section may be waived by a 3/4 vote of the Jackson County Board of Commissioners if it determines that there have been substantial changes in conditions or circumstances that relate to the request.

**ARTICLE XI. NONCONFORMING LOTS, SITES, STRUCTURES, AND USES**

**Section 11-1. General**

- a) *Continuation of Non-Conforming Situations.* Any nonconforming use, structure, or lot that lawfully existed as of the effective date of this Ordinance and that remains nonconforming and any use, structure, or lot that has become nonconforming as a result of the adoption of this ordinance or any subsequent rezoning or amendment to the text of this Ordinance or the regulating map may be continued and maintained only in accordance with the terms of this Article.
- b) *Variances.* This Article shall not apply to any feature that is the subject of a variance from particular standards that has been granted by the Cullowhee Community Planning Council subsequent to the adoption of this Ordinance. When a variance has been granted for a feature that does not otherwise conform to the requirements of this ordinance, that feature shall be deemed conforming.

**Section 11-2. Non-Conforming Lots**

A nonconforming lot is a lot that existed, recorded by plat or description in the Office of the Register of Deeds for Jackson County, at the time of adoption of this Ordinance which does not meet the dimensional requirements for the district in which it is located. A nonconforming lot may be used for any of the uses permitted by this Ordinance provided that all other minimum requirements of this Ordinance are met. Existing structures on nonconforming lots may be expanded provided all other minimum requirements of this Ordinance are met.

**Section 11-3. Non-Conforming Structures**

A nonconforming structure is a structure that was in existence prior to the adoption of this Ordinance that does not meet the minimum requirements for the district in which it is located. Any nonconforming structure may be occupied, without expansion, by a conforming use or may

be improved or expanded provided any improvement or expansion meets the minimum standards of this Ordinance.

#### **Section 11-4. Non-Conforming Uses**

A nonconforming use of a structure is a use, located in a structure, which was in existence prior to the adoption of this Ordinance that is not permitted by this Ordinance in the character area in which it is located. A legally established nonconforming use may be continued subject to the following limitations:

- a) When a nonconforming use of a structure has been changed to a conforming use, it may not later be used for any nonconforming use.
- b) A nonconforming use may be enlarged or extended only into portions of the structure in which it is located that existed at the time the use became nonconforming. No structural alterations are allowed to any structure containing a nonconforming use except where such alteration does not enlarge the structure, or where the alteration is required by law or an order from Jackson County to ensure the safety of the structure.
- c) A nonconforming use of a structure that is abandoned for a continuous period of more than 180 days may not be re-established and all subsequent uses of the structure must be in conformance with the standards of the district in which it is located.
- d) A nonconforming use of a structure may not be converted to another nonconforming use.

#### **Section 11-5. Replacement of Manufactured Homes**

Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.

- a) *Replacement of one single wide manufactured home with another manufactured home in a lawfully established manufactured housing park.* Such replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home meets the definition and standards for a Class B manufactured home as set forth in this ordinance, the replacement manufactured home is no older and no smaller than the existing manufactured home, the replacement home is placed in the same location as the original home, and such replacement occurs within 180 days of the removal of the original manufactured home. In all other situations, replacement shall be prohibited
- b) *Replacement of one single wide manufactured home with another manufactured home in areas other than a lawfully established manufactured housing park.* Such replacement

shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home meets the definition and standards for a Class B manufactured home on an individual lot as set forth in this ordinance, the replacement manufactured home is no older and no smaller than the existing manufactured home, the replacement home is placed in the same location as the original home, and such replacement occurs within 180 days of the last day of occupancy of the original manufactured home. In all other situations, replacement shall be prohibited.

#### **Section 11-5. Maintenance and Repair of Non-Conforming Structures**

- a) *Maintenance or Required Alterations or Remodeling.* Structural alterations or remodeling of nonconforming structures that are required by any public law, and so ordered by a public officer in authority, shall be permitted. Routine maintenance shall also be permitted for nonconforming situations so long as no expansion of the nonconformity occurs as a result of the maintenance.
  
- b) *Repair of Damaged Structures.* When a nonconforming structure is damaged by fire, flood, wind, or other act of God, and such damage does not exceed 50 percent of the current assessed taxable value of the structure, it may be repaired, provided such repair is accomplished:
  - (1) Without any increase in the cubical content or floor area;
  - (2) Without any change in location except to provide greater conformance with the requirements of this Ordinance;
  - (3) Within 365 successive days of the fire or other casualty; and
  - (4) That the use of the structure after repair does not result in a change from one nonconforming use to another nonconforming use.

#### **Section 11-7. Non-Conforming Signs**

All signs or sign structures that existed prior to the adoption of this Ordinance and made non-conforming by the requirements of Article VII shall be allowed to remain, but may not be:

- a) Changed to or replaced by another non-conforming sign or sign structure;
  
- b) Structurally altered, except to meet safety requirements;
  
- c) Altered so as to increase the degree of nonconformity of the sign or sign structure;
  
- d) Expanded in sign area or structure;
  
- e) Re-established after its discontinuance for sixty (60) days;

- f) Continued in use after cessation of the business it advertises; or
- g) Re-established after damage or destruction due to factors other than vandalism or other criminal acts if the estimated cost of reconstruction exceeds fifty percent (50%) of its present value, as determined by the Jackson County Planning Department.

## **ARTICLE XII. ENFORCEMENT**

### **Sec. 12-1. Duties regarding enforcement**

Unless specifically set forth otherwise in this ordinance, the Jackson County Planning Department is hereby authorized to enforce the provisions of this chapter. The Planning Department staff may enter any structure, building, or premises, as provided by law, to perform any duty imposed upon them by this ordinance.

### **Sec. 12-2. Penalties for violations.**

- a) *Liabilities for violations.* Pursuant to N.C.G.S. section 153A, any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign, or sign structure or develops property in violation of this chapter, and any person who uses any building, structure, sign or sign structure, or land in violation of this ordinance shall be subject to civil and criminal penalties in accordance with this article.
- b) *Civil penalties.* Violations of this ordinance shall subject the offender to a penalty in the amount of \$500 per day for each day the violation continues, to be recovered by Jackson County in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been cited for the violation.
- c) *Each day a separate violation.* Each day that a violation continues shall constitute a separate and distinct violation or offense.

### **Sec. 12-3. Notice of violation and citation procedure**

- a) *Notice required before penalty.* No penalty shall be assessed pursuant to section 12-2 above unless and until the person alleged to be in violation has been notified of the violation in accordance with this section.
- b) *Notice of violation; opportunity to cure.* When any official charged with the duty of enforcing regulations established by this ordinance has reasonable cause to believe that a person is violating any of the provisions of this ordinance, that official shall notify that person of the violation. The notice of violation shall be in writing and shall be served by

personal delivery or by certified or registered mail, return receipt requested. If the violator cannot be ascertained, the notice of violation shall be sent to the record owner of land on which the violation occurs. The notice of violation may include, but not be limited to, an order to discontinue the illegal use; require removal of illegal buildings or structures or removal of illegal additions, alterations, or structural changes; discontinue the illegal work being done; or require any other action to ensure compliance with or prevent violation of this ordinance. This notice of violation shall include an opportunity to cure the violation within a prescribed period of time, not to exceed 30 days. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to cure or correct the violation, the Jackson County Planning Department may grant a single extension of time, not to exceed 30 days, in which the violator may correct or cure the violation before a citation is issued pursuant to section 12-3(c) below.

- c) *Citation for violation.* Any person who, after being given a notice of violation pursuant to this section, does not comply with the time period set forth in the notice of violation, and who continues the violation, shall be subject to the enforcement remedies set forth in this section. Jackson County shall serve a written citation on the alleged violator by personal delivery or by registered or certified mail, return receipt requested. If the violator cannot be ascertained, then the citation shall be served upon the record owner of land on which the violation occurs. The citation shall specify the amount of any civil penalty that shall be levied against the alleged violator or the type of criminal penalty applicable. The civil penalty shall be paid, or the violation shall be cured or corrected, within 72 hours of receipt of the citation by the alleged violator or property owner, except for temporary uses, which shall be removed within 24 hours.

#### **Sec. 12-4. Action for recovery of civil penalty; action for institution of criminal process**

If payment of a civil penalty is not made, or violations are not cured or corrected, within the time specified in the citation, then the matter may be referred to the Attorney for Jackson County for institution of a civil action in the name of Jackson County in a court of competent jurisdiction.

#### **Sec. 12-5. Summary removal of temporary uses/structures; remove orders for temporary uses/structures**

- a) Pursuant to N.C.G.S.153A, Jackson County shall have the authority to summarily remove, abate, or remedy a temporary use or structure that the County determines to be dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by the owner of the use or structure, or if the owner of the use or structure cannot be ascertained, by the owner of the property. If the cost is not paid,

a lien shall be placed upon the land or premises where the use or structure is located, and it shall be collected as unpaid taxes.

b) Pursuant to N.C.G.S.153A, any temporary uses or structures prohibited by this ordinance, or those for which no permit was obtained, are hereby declared to be a public health nuisance in that they are dangerous or prejudicial to the public health or safety and the Jackson County Planning Department shall have the authority to remove summarily the use or structure.

**Sec. 12-6. Injunctive relief and other remedies.**

a) *Injunctive or other relief.* In addition to, or in lieu of, the other remedies set forth in this article, the Jackson County Planning Department may request that the Attorney for Jackson County institute in a court of competent jurisdiction an injunctive action, mandamus action, or other appropriate proceeding to prevent the completion or occupation of such building or structure, or use of land. Upon hearing that an alleged violation is occurring or threatened, a court hearing an appeal for relief shall enter such orders and/or judgments as are necessary to abate or prevent the violation. The institution of an action for injunctive or other relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed by this article for violations of this ordinance.

b) *Revocation of permits.* In the event of a violation of any regulation of this ordinance, the Jackson County Planning Department may stop any development of, use of, or activity on property or within a structure by the revocation of applicable permits.

## **Appendix A. Recommended Landscape Species List For Jackson County, NC**

### **Intent:**

This document does not regulate planting on private property that is not undergoing site plan or development review by Jackson County. The species listed here are not intended to be all-inclusive and other species may be approved if selected for climate appropriateness and functional suitability. Developers are highly encouraged to consult local landscape architects, nurseries and/or landscape contractors. Contact information for other governmental agencies that can offer valuable assistance in plant selection is listed below. The term “Native” in these lists refers to plants native or indigenous to Eastern North America and not just Western North Carolina. Some plants in this greater area may or may not perform in your particular landscape due to the specific ecosystem or microclimates that you may encounter.

### **TREES Large, Medium and Small Maturing, and SHRUBS for screening**

This list of plants includes large, medium and small trees along with shrubs that may be used to meet the landscaping requirements of the Cullowhee Community Development Standards.

### **UNSUITABLE PLANTS**

This list of plants have either been deemed as invasive exotic plants by various governmental agencies or institutions, or have been found to be structurally unsound in icy or windy conditions. Use of these plants for new planting is not an option for plans undergoing review by the Planning Staff for the Town of Sylva.

### **PLANTING UNDER UTILITY LINES**

Many times trees are planted without considering their height at maturity. Mature trees conflicting with overhead utility lines cause power outages and present public safety hazards. In order to avoid this problem, utility companies prune tree limbs to maintain a safe distance between the tree canopy and utility lines. This pruning often results in an unbalance appearance and can impact the overall health of a tree. A better solution is to plant trees below utility lines that will not interfere with those lines as the tree matures. Please refer to the list for small-maturing trees for ideas on appropriate trees; the particular tree(s) will be reviewed and approved by the Planning Staff on a case-by-case basis, depending on specific site conditions present at the time of project review.

## DROUGHT TOLERANT / XERISCAPE PLANTS

This list of plants have been researched and proven to tolerate prolong periods of drought without substantial supplemental irrigation. As with any planting design, the location, soil type, and local climate will play a role in their performance. As with any new planting, any plant in this list will require some supplemental irrigation for the first 3-6 months after they are planted to become established.

## PLANTS THAT PREFER DAMP SOIL

These plants are appropriate for areas that will remain damp for prolonged periods of time, such as along creek/riverbanks, and in rain gardens.

## LARGE MATURING TREES >50' tall

Botanical Name	Common Name	Native
<i>Acer rubrum</i> "Armstrong"	Armstrong maple	Yes
<i>Acer rubrum</i> "October Glory", Red Sunset, etc.	Red maple	Yes
<i>Acer saccharum</i>	Sugar maple	Yes
<i>Betula nigra</i>	River birch	Yes
<i>Fagus grandifolia</i>	American beech	Yes
<i>Fraxinus Americana</i>	White ash	Yes
<i>Ginkgo biloba</i>	Maidenhair (male)	Yes
<i>Liquidambar s. "Rotundiloba"</i>	Sweet gum, fruitless	Yes
<i>Liquidambar styraciflua</i>	Sweet gum	Yes
<i>Liriodendron tulipefera</i>	Tulip tree	Yes
<i>Magnolia grandiflora</i>	Southern magnolia	Yes
<i>Pinus strobus</i>	Eastern white pine	Yes
<i>Platanus occidentalis</i>	Sycamore	Yes
<i>Quercus alba</i>	White oak	Yes
<i>Quercus rubra</i>	Northern red oak	Yes
<i>Quercus coccinea</i>	Scarlet oak	Yes
<i>Taxodium distichum</i>	Bald cypress	Yes
<i>Tsuga canadensis</i>	Canadian hemlock	Yes
<i>Tsuga caroliniana</i>	Carolina hemlock	Yes



**MEDIUM MATURING TREES 25' - 50' tall**

Botanical Name	Common Name	Native
<i>Carpinus caroliniana</i>	American hornbeam	Yes
<i>Cladrastis lutea</i>	American yellowwood	Yes
<i>Crataegus phaenopyrum</i>	Washington hawthorn	Yes
<i>Franklinia alatamaha</i>	Franklinia	Yes
<i>Halesia caroliniana</i>	Carolina silverbell	Yes
<i>Ilex attenuata</i> "Savannah"	Savannah holly	Yes
<i>Ilex opaca</i>	American holly	Yes
<i>Nyssa sylvatica</i>	Black gum	Yes
<i>Oxydendrum arboreum</i>	Sourwood	Yes
<i>Thuja occidentalis nigra</i>	Arboritae	Yes

**SMALL MATURING TREES < 25' tall**

Botanical Name	Common Name	Native
<i>Amelanchier canadensis</i>	Serviceberry	Yes
<i>Cercis canadensis</i>	Eastern redbud	Yes
<i>Chionanthus virginicus</i>	Fringe tree	Yes
<i>Cornus florida</i>	Flowering dogwood	Yes
<i>Crataegus viridis</i>	Winter king hawthorn	Yes
<i>Ilex attenuata</i> "Fosteri"	Foster holly #2	Yes

**SHRUBS FOR SCREENING**

Botanical Name	Common Name	Native
<i>Aronia arbutifolia</i>	Chokeberry	Yes
<i>Clethra alnifolia</i>	Sweet pepperbush	Yes
<i>Ilex verticillata</i>	Winterberry holly/Black alder	Yes
<i>Kalmia latifolia</i>	Mountain laurel	Yes
<i>Myrica cerifera</i>	Southern waxmyrtle	Yes
<i>Pieris floribunda</i>	Mountain andromeda; fetter-bush	Yes
<i>Rhododendron calendulaceum</i>	Flame azalea	Yes
<i>Rhododerdron carolinianum</i>	Carolina rhododendron	Yes
<i>Rhododendron hybrida</i>	Hybrid rhododendron	Some spp.
<i>Rhus typhina</i>	Staghorn sumac	Yes

## UNSUITABLE PLANTS

Botanical Name	Common Name
<i>Acer platanoides</i>	Norway maple
<i>Acer saccharinum</i>	Silver maple
<i>Albizia julibrissin</i>	Mimosa
<i>Ampelopsis brevipedunculata</i>	Porcelain-berry
<i>Celastrus orbiculatus</i>	Oriental bittersweet
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Elaeagnus pungens</i>	Autumn olive
<i>Elaeagnus umbellata</i>	Thorny olive
<i>Euonymus alatus</i>	Burning bush euonymus
<i>Euonymus fortunei</i>	Wintercreeper
<i>Hedera helix</i>	English ivy
<i>Ligustrum japonicum</i>	Japanese privet
<i>Ligustrum sinense</i>	Chinese privet
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Mahonia bealei</i>	Oregon grape
<i>Microstegium vimineum</i>	Japanese stilt grass
<i>Miscanthus sinensis</i>	Chinese silvergrass
<i>Paulownia tomentosa</i>	Princess tree
<i>Prunus calleryana</i> "Bradford"	Bradford pear
<i>Rosa multiflora</i>	Multiflora rose
<i>Vinca minor</i>	Common periwinkle
<i>Vinca major</i>	Large leaf periwinkle
<i>Wisteria floribunda</i>	Japanese wisteria
<i>Wisteria sinensis</i>	Chinese wisteria

## DROUGHT TOLERANT PLANTS (WOODY)

Shrubs		
Botanical Name	Common Name	Native
<i>Aronia arbutifolia</i>	Red chokeberry	Yes
<i>Callicarpa americana</i>	American beautyberry	Yes
<i>Diervilla sessilifolia</i>	Southern bush-honeysuckle	Yes
<i>Fothergilla gardenia</i>	Dwarf fothergilla	Yes
<i>Ilex verticillata</i>	Winterberry holly	Yes
<i>Ilex vomitoria</i>	Yaupon holly	Yes
<i>Itea virginica</i>	Itea	Yes

<i>Myrica cerifera</i>	Wax myrtle	Yes
<i>Physocarpus opulifolius</i> Summer Wine	Summer Wine ninebark	Yes
<i>Rhododendron canescens</i>	Piedmont azalea	Yes
<i>Rhododendron spp.</i>	Rhododendrons (Catawba or PJM)	Some spp.
<i>Rhus typhina</i> 'Lacianata'	Cutleaf staghorn sumac	Yes
<i>Viburnum dentatum</i>	Arrowwood viburnum	Yes
<b>Large Trees (greater than 50' in height)</b>		
Botanical Name	Common Name	Native
<i>Carya glabra</i>	Pignut hickory	Yes
<i>Carya tomentosa</i>	Mockernut hickory	Yes
<i>Quercus alba</i>	White oak	Yes
<i>Taxodium distichum</i>	Baldcypress	Yes
<i>Ulmus americana</i> 'Urban'	Urban American elm	Yes
<b>Medium to Small Trees (less than 50' in height)</b>		
Botanical Name	Common Name	Native
<i>Aesculus pavia</i>	Red buckeye	Yes
<i>Cercis canadensis</i>	Eastern redbud	Yes
<i>Chionanthus virginicus</i>	White fringetree	Yes
<i>Cladrastis kentukea</i>	American yellowwood	Yes
<i>Cotinus obovatus</i>	American smoketree or C. x 'Grace'	Yes
<i>Crataegus viridis</i> 'Winter King'	Winter King green hawthorn	Yes
<i>Pinus taeda</i> 'Nana' dwarf	Loblolly pine	Yes

### PLANTS THAT PREFER DAMP SOIL

Trees and Shrubs		
Botanical Name	Common Name	Shade Tolerance
<i>Acer rubrum</i>	Red maple	Sun to partial sun
<i>Celtis occidentalis</i>	Hackberry	Sun to partial shade
<i>Cephalanthus occidentalis</i>	Buttonbush- white	Full sun
<i>Clethra alnifolia</i>	Summersweet/Sweet pepperbush	Sun to part shade
<i>Cornus amomum</i>	Silky dogwood	Part sun to part shade
<i>Hydrangea arborescens</i>	Wild hydrangea	Full sun to part shade
<i>Lindera benzoin</i>	Spicebush	Sun to shade
<i>Nyssa salvatica</i>	Tupelo	Sun to partial
<i>Physocarpus opulifolius</i>	Ninebark	Full to part sun
<i>Rhododendron maximum</i>	Rosebay	Full sun to part shade

<i>Sambucus canadensis</i>	Common elderberry	Sun to partial sun
<i>Spiraea alba</i>	Meadowsweet	Sun to partial shade
<i>Viburnum dentatum</i>	Arrowood-white	Sun to partial shade
<b>Ferns, Sedges, and Grasses</b>		
<b>Botanical Name</b>	<b>Common Name</b>	<b>Shade Tolerance</b>
<i>Adiantum capillus-veneris</i>	Southern maidenhair fern	Shade to part shade
<i>Andropogon gerardii</i>	Big bluestem	Full sun
<i>Arundinaria Gigantea</i>	Canebreak bamboo or river cane	Shade to full sun
<i>Athyrium filix-femina</i>	Lady fern	Part sun to shade
<i>Carex pendula</i>	Drooping sedge	Part shade
<i>Carex stipata</i>	Tussock sedge	Sun to part shade
<i>Chasmanthus latifolium</i>	Inland sea oats	Shade to part shade
<i>Dryopteris marginalis</i>	Marginal wood fern	Shade to part shade
<i>Elymus hystrix</i>	Bottlebrush grass	Partial sun to partial shade
<i>Elymus virginicus</i>	Virginia wildrye	Part shade
<i>Luzula acuminata</i>	Hairy woodrush	Shade to part shade
<i>Onoclea sensibilis</i>	Sensitive fern	Shade to partial shade
<i>Osmunda cinnamomea</i>	Cinnamon fern	Part sun to shade
<i>Panicum virgatum</i>	Switchgrass	Full sun
<i>Tripsacum dactyloides</i>	Eastern gamagrass	Full sun
<b>Herbs and Vines</b>		
<b>Botanical Name</b>	<b>Common Name</b>	<b>Shade Tolerance</b>
<i>Asclepias incarnata</i>	Pink or Swamp milkweed	Sun to part shade
<i>Aster novae-angliae</i>	New England aster	Full to partial sun
<i>Aster puniceus</i>	Purple-stemmed aster	Full sun
<i>Aster shortii</i>	Short's aster	Partial sun
<i>Bignonia capreolata</i>	Crossvine	Sun to partial shade
<i>Caltha palustris</i>	Marsh marigold	Full to partial sun
<i>Chelone glabra</i>	White Turtlehead	Full sun to part shade
<i>Coreopsis tripteris</i>	Tall tickseed	Full to partial sun
<i>Doellingeria umbellata</i>	Flat-topped aster	Full sun
<i>Eupatorium fistulosum</i>	Joe-Pye Weed	Sun to partial shade
<i>Eupatorium perfoliatum</i>	Boneset	Sun to partial shade
<i>Gentiana clausa</i>	Bottle gentian	Partial shade to shade
<i>Geranium maculatum</i>	Wild geranium	Part sun to part shade
<i>Helenium autumnale</i>	Common sneezeweed	Full sun
<i>Helianthus decapetalus</i>	Thin-leaved sunflower	Part sun to part shade
<i>Helianthus divaricatus</i>	Woodland sunflower	Full sun to part shade
<i>Helianthus giganteus</i>	Tall sunflower	Full sun
<i>Hibiscus moscheutos</i>	Swamp rose mallow	Full sun to partial shade
<i>Hydrophyllum canadense</i>	Maple-leaved waterleaf	Shade to part shade

<i>Liatriis spicata</i>	Blazing Star	Full sun
<i>Lobelia cardinalis</i>	Cardinal flower	Full sun to part shade
<i>Lobelia siphilitica</i>	Great blue lobelia	Full sun to part shade
<i>Mertensia virginica</i>	Virginia bluebells	Sun to part sun
<i>Mimulus ringens</i>	Monkey flower	Sun to shade
<i>Monarda clinopodia</i>	Basil balm	Part sun to part shade
<i>Monarda didyma</i>	Bee-balm	Full sun to light shade
<i>Monarda media</i>	Purple bergamot	Full to partial sun
<i>Passiflora incarnata</i>	Passionflower	Full to partial sun
<i>Phlox maculata</i>	Meadow phlox	Full sun to part shade
<i>Phlox paniculata</i>	Summer phlox	Full sun to part shade
<i>Rudbeckia laciniata</i>	Green-headed coneflower	Full sun to partial shade
<i>Rudbeckia triloba</i>	Three-lobed coneflower	Full sun
<i>Senecio aureus</i>	Golden ragwort	Full sun to part shade
<i>Sisyrinchium angustifolium</i>	Blue-eyed grass	Full sun
<i>Solidago rugosa</i>	Rough-stemmed goldenrod	Full sun to part shade
<i>Thalictrum pubescens</i>	Tall meadow rue	Part shade
<i>Tradescantia virginiana</i>	Spiderwort	Sun to part sun
<i>Verbena hastate</i>	Blue vervain	Full sun to shade
<i>Vernonia noveboracensis</i>	New York ironweed	Full sun
<i>Veronicastrum virginicum</i>	Culver's root	Full to part sun
<i>Viola striata</i>	Striped cream violet	Full sun to part shade

# Planting Trees Near Distribution Lines

