



ZONING ORDINANCE

Town of Mars Hill

Adopted
June 7, 2021

Town of Mars Hill
Mars Hill, North Carolina

**ZONING ORDINANCE
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ZONING ORDINANCE

Town of Mars Hill
Mars Hill, North Carolina

TITLE

An Ordinance of the Town of Mars Hill, North Carolina regulating the location and use of buildings and other structures, the size of yards, and the density and distribution of population; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the imposition of penalties for the violation of the provisions of this Ordinance; and repealing all ordinances in conflict therewith.

ARTICLE I

AUTHORITY, TITLE PURPOSE

- 100 **Authority:** The Mayor and Board of Aldermen of the Town of Mars Hill, in pursuance of the authority granted by N.C.G.S. 160D-101 and 160D-401 and the authority vested in the Town of Mars Hill by its charter, does hereby ordain and enact into this Ordinance.
- 101 **Short Title:** This Ordinance shall be known and may be cited as "The Official Zoning Ordinance of the Town of Mars Hill, North Carolina.
- 102 **Purpose:** This Ordinance shall be enacted for the purpose of promoting the health, safety, morals, and general welfare of the community; lessening congestion in the streets; securing safety from fire; providing adequate provision for transportation, water, sewerage, schools, parks, and other public improvements; protecting scenic areas; and protecting the character of neighborhoods in accordance with a comprehensive plan.

ARTICLE II

JURISDICTION

- 200 Territorial Limits – The regulations presented in this Ordinance shall apply to all property and use of land and buildings within the corporate limits of the Town of Mars Hill, North Carolina, as established on the map entitled "Official Zoning Map of the Town of Mars Hill, North Carolina. Any changes in the district boundaries or other matters portrayed on the Official Zoning Map shall be entered on the Map in conformance with N.C.G.S. 160D-105.

- 201 Bona Fide Farms – This Ordinance shall in no way regulate any bona fide farm and its related uses except that any use of such property for non-farm purposes shall be subject to such regulations.
- 202 Interpretation of District Boundaries – Unless otherwise indicated, district boundary lines are intended to follow lot lines or the center lines of streets, blocks, railroad tracks, stream beds, riverbeds, or corporate limits. Where a district boundary appears to divide a lot, the location of such boundary, unless indicated by dimensions, shall be determined by the use of the scale appearing on the map. In the event that a district boundary line on the Zoning Map divides a platted lot of less than one (1) acre, the lot so divided shall be used in conformity with the regulations established by this Ordinance for the district in which the largest portion of the lot is located. If the boundary location cannot be resolved according to any of the above criteria, the Planning Board shall interpret the intent of the map as to the location of district boundaries.
- 203 Adult Establishments and sexually oriented businesses are regulated pursuant to Town of Mars Hill Ordinance 199 in addition to other applicable provisions of this ordinance.

ARTICLE III

ZONING DISTRICT REGULATIONS

300 The purpose of these district regulations is to provide a comprehensive plan for the use of land and buildings in conditions of public safety and orderly community growth. Within the districts indicated on the Zoning Map, no building shall be used in whole or in part of any purpose other than those listed as permitted uses for that district. The Zoning Districts are:

- R-1 Rural Residential and Agricultural District (low density)
- R-2 Low Density Residential District
- R-2A Low Density Residential/Office District
- R-3 Medium Density Residential District
- R-3A Medium Density Residential/Office District
- R-4 High Density Residential
- MHP Manufactured Home Park District
- C-1 Central Business District
- C-2 Highway Business District
- I Industrial District
- IS Institutional District

In addition to the general zoning districts delineated above, a Conditional Zoning District (bearing the designation CZ) corresponding to the general use zoning districts may be established as authorized in this ordinance and N.C.G.S. 160D-703(b).

Conditional zoning districts are districts that correspond to the general use zoning districts which are otherwise applicable. In addition to imposing the standards, restrictions and regulations provided for in the corresponding general use zoning district applicable to a parcel of property, a conditional zoning district imposes additional standards, restrictions, and regulations as a condition to and as part of the legislative decision creating the district in exchange for reductions in otherwise applicable setback and other site-specific development standards and requirements of the applicable general use district.

Accordingly, the following conditional zoning districts may be designated upon approval by the Board of Aldermen of a petition to establish a conditional zoning district:

- R-1 (CZ) Rural Residential and Agricultural District (low density)
- R-2 (CZ) Low Density Residential District
- R-2A (CZ) Low Density Residential/Office District
- R-3 (CZ) Medium Density Residential District
- R-3A (CZ) Medium Density Residential/Office District
- R-4 (CZ) High Density Residential
- MHP (CZ) Manufactured Home Park District
- C-1 (CZ) Central Business District

C-2 (CZ)	Highway Business District
I (CZ)	Industrial District
IS (CZ)	Institutional District

301 Rural Residential and Agricultural District (R-1)

301.1 Intent – This district is established to protect areas in which the primary use of the land is low-density, single-family dwellings and agricultural uses. Municipal water and wastewater systems may not be available to properties in this district. Any use which would interfere with the low-density and agricultural nature of the area is excluded.

301.2 Permitted Uses

- Single family dwellings
- Farms and agricultural enterprises
- Family care facilities
- Public facilities (substations, pump stations, transmission lines, etc.)
- Basement or garage apartments (limited to 1 accessory apartment per lot)
- Home occupations (see Section 415)
- Customary accessory uses (private garages or workshops, swimming pools, etc.)
- Signs (See Article X)

301.3 Special Uses

- Cultural and community facilities (churches, schools, civic, and fraternal meeting halls)
- Open recreational uses (golf courses, summer camps, etc.)

301.4 Dimensional Requirements (Minimum)

Minimum Lot Size	15,000 square feet
Front Yard Setback	30 feet from edge of pavement (or traveled roadway of unpaved roads)
Side Yard	15 feet
Rear Yard	25 feet
Minimum Lot Width	100 feet
Minimum Lot Depth	100 feet

302 Low Density Residential (R-2)

302.1 Intent – This district is established to protect areas in which the primary use of land is for low-density single-family and unconcentrated two-family dwellings and related accessory uses. Any use which would be detrimental to or interfere with the development of the residential

character of the district is excluded.

302.2 Permitted Uses

Single-family dwellings
Two-family dwellings (duplex) (See Amendment/Page 7)
Family care facilities
Public facilities and uses
Basement or garage apartments (limited to 1 accessory apt. per lot)
Home occupations (See Section 415)
Customary accessory uses
Signs (See Article X)

302.3 Special Uses

Cultural and community facilities

302.4 Dimensional Requirements (Minimum)

Lot Size	10,000 square feet
Front Yard	25 feet from edge of pavement
Side Yard	10 feet
Rear Yard	20 feet
Minimum Lot Width	60 feet
Minimum Lot Depth	80 feet

302-A Low Density Residential/Office District (R-2A)

302A.1 Intent – This district is established to protect areas in which the primary use of land is for low-density single-family and unconcentrated two-family dwellings, but which is also suitable for business and professional

offices, including the offices of doctors and dentists. Any use which would be detrimental to or interfere with the development of character of the district is excluded.

302A.2 Permitted Uses

- Single-family dwellings
- Two-family dwellings (duplex) (See Amendment/Page 7)
- Public facilities and uses
- Basement and garage apartments (limited 1 accessory apt. per lot)
- Home occupations (See Sections 415)
- Customary accessory uses
- Signs (See Article X)
- Professional and business offices (including offices of doctors and dentists)

302A.3 Special Use

- Cultural and community facilities

302A.4 Dimensional Requirements (Minimum)

Lot Size	10,000 square feet
Front Yard	25 feet from edge of pavement
Side Yard	10 feet
Rear Yard	20 feet
Minimum Lot Width	60 feet
Minimum Lot Depth	80 feet

303 Medium Density Residential (R-3)

303.1 Intent – This district is established to provide for the development of land at higher densities. This district will include multiple-unit dwellings consisting of up to eight (8) units.

303.2 Permitted Uses

- Single-family dwellings
- Two-family dwellings (See Amendment/Page 7)
- Multi-family dwellings up to 8 units
- Family care facilities
- Public facilities and uses
- Home Occupations (see Section 415)
- Customary accessory uses
- Parking and loading areas (off-street)
- Signs (See Article X)

303.3 Special Uses

Boarding houses, tourist homes, bed and breakfast facilities
Kindergartens and day care centers

303.4 Dimensional Requirements

Lot Size	8,000 square feet*
Front Yard	20 feet; Multi-family 30 feet
Side Yard	8 feet; Multi-family 25 feet
Rear Yard	15 feet; Multi-family 25 feet
Minimum Lot Width	70 feet
Minimum Lot Depth	80 feet

*8,000 square feet for first unit, 2,000 square feet for second unit, 5,000 square feet for each additional unit up to eight (8) units per acre. In areas where public wastewater service is not available, additional lot area may be required by the County Health Department in order to meet on-site sewage disposal requirements.

303A Medium Density Residential/Office District (R-3A)

303A.1 Intent – This district is established to provide for the development of land at higher densities. This district will include multiple-unit dwellings consisting of up to eight (8) units and professional and business offices, including offices of doctors and dentists.

303A.2 Permitted Uses

Single-family dwellings
Two-family dwellings (See Amendment/Page 7)
Multi-family dwellings up to 8 units
Family care facilities
Public facilities and uses
Home occupations (See Section 415)
Customary accessory uses
Parking and loading areas (off-street)
Signs (Article X)
Professional and business offices, including offices of doctors & dentists

303A.3 Special Uses

Boarding houses, tourist home, bed and breakfast facilities
Kindergartens and day care centers

303A.4 Dimensional requirements (Minimum)

Lot Size	8,000 square feet*
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Front Yard	20 feet; Multi-family 30 feet
Side Yard	8 feet; Multi-family 25 feet
Rear Yard	15 feet; Multi-family 25 feet
Minimum Lot Width	70 feet
Minimum Lot Depth	80 feet

*8,000 square feet for first unit, 2,000 square feet for second unit, 5,000 square feet for each additional unit up to eight (8) units per acre. In areas where public wastewater service is not available, additional lot area may be required by the County Health Department in order to meet on-site sewage disposal requirements.

304 High Density Residential (R-4)

304.1 Intent - This district is established to provide for the development of land for residential purposes at a high density. The intent is similar to that of the R-3 district with the main focus on workforce housing and residential subdivisions.

304.2 Permitted Uses

- Single-family dwellings
- Two-family dwellings
- Multi-family dwellings
- Family care facilities
- Public facilities and uses
- Home Occupations
- Customary accessory uses
- Parking and loading areas (off-street)
- Signs (See Article X)

304.3 Special Uses

- Boarding houses, tourist homes, bed and breakfast facilities
- Kindergartens and day care centers

304.4 Dimensional Requirements

Lot Size	7,000 square feet
Front Yard	20 feet
Side Yard	10 feet
Rear Yard	15 feet
Minimum Lot Width	50 feet
Minimum Lot Depth	100 feet

Two Family Dwelling (Duplex)

Definition of "Duplex" (Two-Family Dwelling): A single dwelling consisting of two dwelling units (other than a two-family dwelling-including accessory apartment), providing the two dwelling units are not simply attached by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling unit contains no more than three bedrooms per unit. A duplex structure with more than three bedrooms within either dwelling unit shall be classed as a "Rooming House."

Duplexes are allowed as a *conditional use* in *R-2, R-2A, R-3, R-3A, and R-4*, using the performance standards that are listed below as well as the conditions listed in Article VI. These performance standards shall apply to new construction as well as to existing single-family residences that are being converted to duplexes. Performance standards as follows:

- A. The minimum lot area for a duplex in the designated districts shall be 125 percent larger than that required for a single residential unit in the respective district, which will allow more room for on-site parking and increased setbacks. This would increase the minimum lot size from 10,000 square feet to 12,500.
- B. Increase side and rear setbacks by five additional feet (i.e., in R-2, the side setback will be 15 feet and the rear 25 feet; the front setback will stay the same at 25 feet.)
- C. Off-street parking shall be provided at one space per bedroom plus one additional space for each structure.
- D. Parking shall be located in the rear and/or side of the lot; no parking shall be allowed in the front yard.
- E. Duplexes that have more than four parking spaces, when all the spaces are located adjacent to each other, shall be screened with vegetation. The recommendation for buffering is a hedge of evergreen trees or shrubs planted in a buffer strip 10 feet wide along the side or rear property lines where parking is to be located.
- F. There shall be a 200-foot separation between one duplex and another.
- G. Composition of Buffer Plantings shall be as follows: A buffer yard consisting of two staggered rows of evergreen shrubs or sheared trees, planted four feet apart (as measured from the central stem) in a 10 feet wide strip shall be installed to screen the parking area from neighboring properties. The shrubs shall be installed at a three-gallon minimum size, between 24" and 30" in height.

305 Manufactured Home Park District (MHP)

305.1 Intent – This district is established to provide for the concentration of

mobile homes in an efficiently designed and operated mobile home park and to ensure that such parks will provide pleasant living conditions for residents while protecting adjacent property values.

305.2 Permitted Uses

Exclusively for manufactured homes and accessory uses related to mobile home parks

Manufactured Home Park identification sign. Maximum size – 32 square feet (See Article X)

305.3 Dimensional Requirements (Minimum)

Lot Size 1 acre

Maximum number of mobile homes per acre 6*

(*Provided State Board of Health soil percolation tests are met.)

305.4 Area Regulations – No building shall be erected, or mobile home parked at a distance of less than forty feet (40') from the centerline of any minor street or sixty feet (60') from the center line of any major street on which the lot abuts nor less than fifteen feet (15') from any other mobile home.

305.5 Application for a Special Use Permit – Application for a Special Use Permit to create a Manufactured Home Park District (MHP) – shall be accompanied by a plan or plans for the overall development of the tract of land to be rezoned, which plan or plans shall be in the form and contain the information required below. The plan must be approved by the Planning Board.

- A. The scale of the map shall be not less than one inch (1") to fifty feet (50') with contours at five-foot intervals showing pertinent topographical features.
- B. The location, use, plan, and dimension of each building or structure to be constructed and the location of each mobile home space.
- C. The location, dimension and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking facilities, pedestrian ways, location and width of roads, streets, and sidewalks.
- D. Parking provided for each unit (two spaces per unit).
- E. Location and description of all facilities to be used for sewage disposal, water supply, and storm water drainage.
- F. Provision for a buffer strip where the park is adjacent to a residential district. (See definition of Landscaped Buffer.)

305.6 Issuance of Permit – No permit shall be issued until both the Zoning Enforcement Officer and planning Board have reviewed the application and find it to conform to the above requirements.

306 Central Business District (C-1)

306.1 Intent- Mars Hill can be best served by the development and maintenance of a compact downtown commercial area which retains the pedestrian-oriented village atmosphere of the downtown. Retail businesses and services are encouraged to locate in the C-1 district. Expansion of this district should be limited to lands adjacent to the existing C-1 district.

306.2 Permitted Uses

Retail businesses and services, except automobile repair garages and self-service laundries
Banks and other financial institutions
Professional offices
Any retail business making products for retail sale on the premises, provide such manufacturing is incidental to the retail business or service, occupies less than forty percent (40%) of the gross floor area, and employs not more than five (5) operators
Public buildings and uses
Off-street parking areas
Dwelling units located only in the upper floors of commercial buildings
Signs (See Article X)

306.3 Dimensional Requirements (Minimum) (See Section 604)

Lot Size	None
Minimum Lot Width	25 feet

Rear Yard Fire Lane	15 feet plus loading and maneuvering space for each loading door (See Article IX, Section 501). The rear yard shall be kept free of obstructions which would hinder access by firefighting vehicles and apparatus.
Side Yard	None if adjacent to commercially zoned property*. Ten feet (10') if adjacent to residentially zoned property.

*Any building which is a place of public assembly must have a side yard of at least ten feet (10').

307 Highway Business District (C-2)

307.1 Intent – Some businesses are largely dependent on automotive traffic and do not need to take up large land area in the downtown. Because of the limited buildable area left in the downtown, the following uses can serve the community from a location outside the downtown, and are encouraged to do so within this district. The C-2 district should have frontage on major highways.

307.2 Permitted Uses

Automobile sales and services
Automobile service stations
Mobile home sales and services
Farm equipment sales
Retail sales and service businesses
Motels, hotels
Restaurants
Banks, financial services
Professional offices
Funeral homes
Animal hospitals
Taxi and bus stations
Car washing establishments
Laundries
Construction contractors
Electrical and automotive repair
Tire recapping and retreading
Public facilities and uses
Signs (See Article X)
Indoor Amusement & Entertainment Establishments
Tattoo Parlors

307.3 Special Uses (See Article VI)
Shopping centers

307.4 Dimensional Requirements (Minimum) (See Section 604)

Lot Size	20,000 square feet
Minimum Lot Width	150 feet
Minimum Lot Depth	100 feet
Front Yard	20 feet or right-of-way line, whichever is greater
Rear Yard	15 feet (if adjacent to residential, 35 feet buffer)
Side Yard	10 feet (if adjacent to residential, 25 feet buffer)

308 Industrial District (I)

308.1 Intent – This district is provided to encourage the location of non-polluting light industry within the community. This district is designed to protect existing and potential industrial sites by excluding incompatible uses.

308.2 Permitted Uses – The following uses shall be permitted in the Industrial District subject to approval of site plans by the Planning Board as provided in Article VI.

Light, clean industry
Electrical and automotive repair
Storage yards, except junkyards
Commercial uses such as tire retreading and recapping, oil and gas distributors
Public works and public utility substations
Monument works and sales
Construction headquarters and storage yards

308.3 Dimensional Requirements (Minimum)

Lot Size	2 acres
Minimum Lot Width	200 feet
Minimum Lot Depth	200 feet
Front Yard	75 feet from right-of-way
Side Yard	20 feet; 50 feet when contiguous to residential district
Rear Yard	20 feet; 50 feet when contiguous to residential district

309 Institutional District (IS)

309.1 Intent – This district is established primarily for uses associated with Mars Hill University and other non-profit and public facilities.

309.2 Permitted Uses

- Single-family dwellings
- Two-family dwellings (duplex)
- Multi-family dwellings (See Section 419)
- Educational facilities, including classrooms, dormitories, administrative offices, cultural and athletic facilities and related educational uses
- Churches and community facilities
- Public facilities and uses

309.3 Dimensional Requirements (Minimum)

Lot Size	10,000 square feet*
Front Yard	20 feet
Side Yard	
Abutting residential district	15 feet
Abutting all other districts	10 feet
Rear Yard	
Abutting residential district	20 feet
Abutting all other districts	15 feet
Minimum Lot Width	60 feet*
Minimum Lot Depth	80 feet*

*Contiguous land owned by Mars Hill University which constitutes the central campus shall not be subject to the lot size width or depth requirements; however, structures shall be located no closer than twenty-five feet (25') apart.

ARTICLE IV

GENERAL PROVISIONS

- 400 General – The following general regulations shall be applicable to all districts, shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as may be provided for elsewhere in this Ordinance.
- 401 Exception – This Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any farm operation existing within the jurisdiction as defined; however, any use of such property for non-farm purposes shall be subject to such regulations.
- 402 Lot Reduction Prohibited – No yard or lot existing at the time of the passage of this Ordinance shall be reduced in dimension or area below the minimum requirement set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements set by this Ordinance.
- 403 Minimum Lot Area – In areas not served by a public or community sewer system, the minimum lot area shall be determined by the Madison County Health Department. This minimum lot area shall be that necessary for safe onsite waste disposal system, but in no case shall the lot be smaller than the required area for the zoning district in which it is located.
- 404 One Principal Building Per Lot – Not more than one (1) principal building shall be constructed on any lot, except as may be provided for elsewhere in this Ordinance. This provision shall not prohibit the construction of more than one principal building on a lot in C-1 Central Business District, C-2 Highway Business District, I Industrial District, and IS Institutional District; provided, however, each principal building shall be constructed and located in strict compliance of all the provisions contained in this Zoning Ordinance as Amended at the time any principal building is constructed on such business, industrial, and/or institutional district lot.
- 405 Use of Land and Structures
- 405.1 No land or structure shall be used or occupied, and no structure or parts shall be constructed, erected, altered, or moved, unless in conformity with all of the regulations herein specified for the district in which it is located.
- 405.2 No part of a yard, or other open space, off-street parking or loading space required in connection with any building for the purpose of complying with this Ordinance shall be used and included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

405.3 The front of the yard shall be defined by the transportation system serving the property. The front portion of the yard shall be that portion which fronts the dominant road. It is immaterial for the purpose of considering where the front yard is located how the structure faces, but

rather the front shall always be considered to be that portion of the yard, or other open space, which is adjacent to the dominant road.

- 406 Corner Lots – In any residential district the side yard requirements for corner lots along the side street line shall have an extra width of ten feet (10'). Accessory buildings shall observe all setback requirements as required in each district.
- 407 Double Frontage Lots – On lots having frontage on two (2) streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the provisions of this Ordinance.
- 408 Special Front Yard Requirements in Developed Areas – The setback requirements of this Ordinance shall not apply to any lot where the average setback on already built upon lots located wholly or in part within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the setback on such a lot may be less than the required setback, but not less than the average of the required setback, but not less than the average of the existing setbacks on the developed lots. However, in no case shall setbacks be less than fifteen feet (15').
- 409 Location of Building Lines on Irregularly Shaped Lots – Locations of front, side, and rear building lines on irregularly shaped lots shall be determined by the Zoning Officer. Such determinations shall be based on the spirit and intent of the district regulations to achieve appropriate spacing and location of building or groups of buildings on individual lots.
- 410 Accessory Buildings
- 410.1 Number of Accessory Buildings – In residential districts, no more than two (2) accessory buildings or uses shall be permitted per lot, except for farm enterprises.
- 410.2 Location of Accessory Buildings – Accessory buildings shall be located only in side or rear yards for non-corner residential lots. On corner lots accessory buildings shall be located a minimum of twenty-five feet (25') from any street right-of-way.
- 410.3 Lot Coverage – Accessory buildings shall not cover more than thirty percent (30%) of the required side or rear yard.

411 Nonconforming Uses – The lawful use of any building or land at the time of the enactment of this Ordinance may be continued even though such use does not conform with the provisions of this Ordinance except that the nonconforming building or premises shall not be:

- (1) Changed to another nonconforming use.
- (2) Re-established after discontinuance for six (6) months.
- (3) Extended except in conformity with this Ordinance.
- (4) Reconstruction of any damage to property, if that damage, exceeds 40% of its assessed value at the time of destruction, including a total loss, must occur within six months after the damage is incurred, and after the repair work has occurred, the reconstruction must be substantially identical and have at least 90% of the value of the building at the time of destruction.

412 Non-conforming Lots

412.1 When a nonconforming lot can be used in conformity with all of the regulations (other than the area, width, or depth requirements) applicable to the district in which the lot is located, such a use may be made as of right.

412.2 Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of Section 412.1.

413 Visual Clearance – In all use districts except the C-1 Central Business District, no fence, wall, shrubbery, or other obstruction to vision greater than three feet (3') shall be permitted within fifteen feet (15') of the intersection of rights-of-way lines of streets or within ten feet (10') of the intersecting of private driveways and street right-of-way lines. In addition, no vegetation or structure shall be permitted to overhang any sidewalk below a height of seven feet, six inches (7' 6") above the grade of the sidewalk.

414 Height Limitations – Any structure regulated by this Ordinance shall not exceed thirty-five feet (35') in height. However, in the institutional, highway business and industrial districts, structures may have a maximum height not to exceed four stories or 48 feet, plus an additional height for a roof, not to exceed 22 feet, or a total height of 70 feet. The height limitations shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, masts and antennae.

415 Home Occupation – A home occupation shall be permitted in any residential

district provided that such operation:

- (1) is conducted by no persons other than members of the family residing on the premises;
 - (2) is conducted within the principal building (no accessory building or outside storage may be used);
 - (3) utilizes no more than twenty-five percent (25%) of the total floor area of the principal building;
 - (4) produces no alteration or change in the character or exterior appearance of the principal building from that of a dwelling;
 - (5) shall make no display of products visible from the street and only articles made on the premises may be sold; except that non-durable articles (consumable products) that are incidental to a service, which is the principal use in the home occupation, may be sold on the premises;
 - (6) creates no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, traffic hazard, unhealthy or unsightly condition;
 - (7) is not visibly evident from outside the dwelling except for a sign, not exceeding two (2) square feet in area, mounted against a wall of the principal building, and non-illuminated;
 - (8) shall not include automobile and/or body and fender repair; food handling, processing or packing or restaurants; or manufacturing and processing uses. (This shall not exclude the home occupation of a dressmaker where goods are not manufactured for stock, sale, or distribution.)
- 416 Nuisances and Hazard – In no case shall any non-residential use or home occupation consist of operations or conditions resulting in noise, odors, smoke, glare, dust, gases, electrical or other radiation, or other characteristics of a type or to an extent which the Building Inspector shall determine to be a nuisance or a hazard to adjacent or neighboring properties.
- 417 Travel Trailers or Temporary Uses – Travel trailers shall be allowed as a temporary use in any zoning district, provided that such vehicles or trailers are not occupied or set up for occupancy for a period of more than thirty (30) days. Such use of a travel trailer shall be limited to one (1) vehicle/trailer per lot.
- 418 Compliance with Erosion Control Regulations – Permits for all development or construction which involves the grading of one (1) or more contiguous acres of land shall not be issued until the owner or developer submits proof that an Erosion and Sedimentation Control Plan has been approved by the N.C. Department of Environmental Quality, Division of Energy, Mineral, and Land Resources (DEMLR), Land Quality Section (LQS).
- 419 Multi-family Residential Buildings – Notwithstanding any other provisions of this

Ordinance where two (2) or more multi-family residential buildings are constructed under single ownership, whether simultaneously or at different times, the entire parcel of land occupied by such multi-family residential buildings shall be considered one (1) lot and parking space and usable open space will continue to be available in the same portions to all occupants of the buildings on the lot.

419.1 Dimensional Regulations – The following dimensional regulations shall apply to the construction of all multi-family residential buildings.

Minimum horizontal distance between facing walls:

- Between two (2) walls, both of which contain a window or windows – fifty feet (50');
- When only one (1) facing wall contains a window – thirty feet (30');
- When neither of the facing walls have a window or windows – twenty-five feet (25').

Minimum horizontal distance between any building and any lot line (other than a street right-of-way) – twenty-five feet (25').

419.2 Other Requirements – No parking of motor vehicles shall be permitted within the required yards. The space within the required yard may not be used as maneuvering space for vehicles, except that driveways providing ingress and egress to the parking area may be installed across the yard area.

420 Dwelling, Single-Family – A detached dwelling, other than a mobile home, designed for or occupied exclusively by one family. Once a dwelling has been permitted as a single-family dwelling, it may not be converted to any type of multi-unit dwelling.

421 Dwelling, Two-Family – A detached building, including two individual dwelling units, also known as a duplex. Once permitted as a two-family dwelling, the structure may not be converted to a multi-family dwelling.

ARTICLE V

OFF-STREET PARKING AND LOADING REGULATIONS

500 Off-Street Parking Regulations

- 500.1 General – Areas suitable for parking or storing automobiles in off-street locations shall hereafter be required in all zoning districts, except in the Central Business District (C-1), at the time of initial construction of any principal building producing an increase in dwelling units, guest rooms, floor area, seating or bed capacity, or when a conversion in use occurs. Such off-street parking areas shall have direct vehicular access to a street and shall be provided and maintained in accordance with the requirements set forth herein. Parking in the Highway Business District (C-2) shall be in the rear or side of the property.
- 500.2 Parking Space Area Requirements – For the purpose of this Ordinance, a standard off-street parking space required for multi-family residential, commercial, industrial, or institutional uses shall be no less than nine feet (9') wide and eighteen feet (18') long. No two-way entrance or aisle shall be less than twenty-four feet (24') wide. In no event shall an entrance be less than twelve feet (12') for one-way traffic. No parking space shall be closer than eight feet (8') to the paved portion of any street or located on any street right-of-way. Parking areas shall be constructed with proper drainage and a well maintained traffic directional system.
- 500.3 Location on Other Property – If the required automobile parking space cannot reasonably be provided on the same lot with the principal use, such spaces may be provided on other off-street property under the same ownership or on other property rented or leased, provided such property lies within three hundred feet (300') walking distance of the main entrance to such principal use. Such automobile parking spaces shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner that would reduce the number of parking spaces below the required minimum.
- 500.4 Common Off-Street Parking Areas – Two (2) or more principal uses may utilize a common area in order to comply with off-street parking requirements, provided that the total number of individual spaces available in such common areas is not less than the total of the spaces required for the individual uses as separately computed in accordance with the provisions of this Ordinance, and provided that the owner of said lot relinquishes his development rights over the property until such time as minimum required parking space is provided elsewhere.
- 500.5 Use of Public Rights-of-Way for Maneuvering – When determining parking area requirements for individual uses, portions of public rights-of-way for streets may not be considered as permissible for maneuvering incidental to parking.
- 500.6 Curb Cuts and Access Points – Ingress-egress openings in concrete, asphalt,

rock, or other curbing provisions, commonly referred to as "curb cuts," as well as other vehicular means of access to and from private property, shall be regulated in the several zoning districts established by this Ordinance in accordance with the following requirements and the approval of the NC Department of Transportation, or applicable provisions of the Town Code.

500.6.1 Number, Size, and Spacing of Curb Cuts and Other Access Points – In no case shall a curb cut or other access point be less than ten feet (10') nor more than fifty feet (50') in width. No more than two (2) curb cuts per lot shall be permitted except in commercial or industrial districts where two (2) shall be permitted on each street upon which the lot fronts. All curb cuts shall be performed under the direction of the Public Works Director.

500.6.2 Location of Curb Cuts and Other Access Points – At street intersections, no curb or other access point shall be located closer than:

- (1) twenty feet (20') from the intersection point of the two (2) street rights-of-way or property lines involved;
- (2) twenty-five feet (25') from the intersection of the two (2) curb lines involved (or such lines extended in case of a rounded corner) whichever is least restrictive.

500.7 Off Street Parking Space Requirements – Off-street parking space shall be provided for uses listed below as specified. Any use not specifically listed below shall be categorized into the most appropriate area by the determination of the Zoning Administrator and those regulations shall apply.

Automobile Service Stations – Two (2) parking spaces for each grease rack or wash rack and one (1) space for each two gas pumps.

Banks and Savings and Loans – One parking space for each two hundred (200) square feet gross floor space plus one (1) parking space for each two (2) employees and loading space in accordance with Section 501.

Business and Professional Offices – One (1) parking space for each three hundred (300) square feet floor space plus one (1) parking space for each two (2) employees and loading spaces in accordance with Section 501.

Convenience and Retail Stores – One (1) parking space for each two hundred (200) square feet of floor area in the sales area, plus one (1) space for each six hundred (600) square feet of floor area used for warehouse or storage space, plus one (1) space for each two (2) employees and loading spaces in accordance with Section 501.

Cultural and Community Facility – One (1) parking space per one hundred (100) square feet gross floor space.

Doctors and Dentist Offices - Six (6) parking spaces per doctor or dentist plus one (1) parking space for each employee.

Educational Facilities

Elementary or Junior High School – One (1) parking space for each employee and one (1) parking space for each four hundred (400) square feet of area for public assembly.

Senior High School or College – Two (2) parking spaces for each classroom and administrative office plus one (1) parking space for each employee and sufficient space for parking school vehicles.

Group Care Facility – One (1) parking space for each four (4) patient beds, plus one (1) parking space for each staff or visiting doctor, plus one (1) parking space for each three (3) employees.

Hospital – One (1) parking space for each four (4) patient beds, plus one (1) parking space for each staff or visiting doctor, plus one (1) parking space for each employee.

Industrial District – (For uses not otherwise specified) – One (1) parking space for each one (1) employee at maximum employment on a single shift, plus one (1) parking space for each company vehicle operating from the premises, plus one (1) parking space for each two hundred (200) square feet of sales and office area; and loading space in accordance with Section 501. No parking or loading is allowed in the required front yard.

Mobile Home Park – Two (2) parking spaces per mobile home space.

Mortuary or Funeral Home – One (1) space for each two (2) seats in the assembly room or chapel.

Nursery School – One (1) parking space for each employee and each school vehicle, plus one (1) space for every five (5) children.

Places of Public Assembly – (Including private clubs and lodges, auditoriums, dance halls, theatres, stadiums, amusement parks, and similar places of public assembly) – One (1) parking space for each four (4) seats provided for patron use plus one (1) parking space for each one hundred (100) square feet of floor or ground area used for amusement or assembly but not containing fixed seats.

Rooming and Boarding House – One (1) space for each guest room.

Recreation Areas

Ball Fields – One (1) parking space per four (4) seats in the stands.

Tennis Courts – Two (2) parking spaces per court.

Religious Complex – One (1) parking space per each three (3) seats in principal assembly room [one-half (1/2) of such parking may be available for another use which is closed on Sunday morning].

Residential – Two (2) parking spaces per dwelling unit in all single and two family structures. Multi-family dwellings shall have two (2) parking spaces per dwelling unit.

Service and Repair Establishment – One (1) parking space for each three hundred (300) square feet of floor space plus one (1) parking space for each two (2) employees and loading space in accordance with Section 501.

Shopping Center Developments – The development as a whole shall have sufficient parking spaces, the sum total of which shall satisfy the requirements of this Article for each and every establishment located within the development.

500.8 Handicapped Parking Required – All parking requirements set forth by this Article shall include provision for parking for handicapped individuals as stated by any state or federal regulations.

501 Off-Street Loading Regulations

501.1 Loading Spaces – Every lot on which a retail or wholesale business, trade, industry, or multi-family housing is hereafter established, shall provide space for the loading and unloading of vehicles off the street. Such space shall have access to an alley or a street. For the purposes of this Section, an off-street loading space shall have the minimum dimensions of twelve feet (12') by forty feet (40') and be free and clear of obstruction at all times. However, the minimum loading requirement shall meet the needs of each individual use.

501.2 Loading Spaces Adjacent to Sidewalks – Where a loading space is adjacent to a public sidewalk or other public pedestrian way, it shall be so located, arranged and improved with curbs or other barriers, as to provide adequate protection for pedestrians.

501.3 Maneuvering Areas – All off-street loading spaces shall be provided with adequate off-street maneuvering areas so that vehicles do not obstruct traffic during maneuvering.

ARTICLE VI

SPECIAL USES AND SITE PLAN REVIEW PROVISIONS

600 Purpose – The purpose of this Article is to insure adequate review and control of various specific uses or developmental proposals that may have a direct influence or impact upon neighboring or contiguous land uses. This review is intended to aid in protecting the private and public values and interests in such land uses whether residential, institutional, commercial, or industrial in nature. To this end, these projects shall be evaluated according to the following criteria; that they:

600.1 are not detrimental to the public health or general welfare;

600.2 are appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar services; and

600.3 will not violate neighborhood character nor adversely affect surrounding land uses.

601 General – Most of the uses identified as Conditional Uses in Article III do not require compliance with specific design or other criteria in order to be approved, and the general criteria provided in Section 600 shall guide the review of these proposed uses. Other sections of this Article provide special review criteria for certain Special Uses and provide for site plan approval by the Planning Board of other uses by right which are likely to have direct influence or impact upon neighboring or contiguous land uses.

602 Application Procedure

602.1 Applicant – The applicant must be the owner, owners, lessee, or lessees, or their legal representative of all land and structures included within the tract, or a governmental agency. The holder of a conditional sale or lease contract for land and/or structures shall, for the purposes of application, be deemed to be the owner or lessee of the land and/or structures covered by such contract.

602.2 Application for Special Use Permit – Application forms for a Special Use Permit shall be obtained from the Zoning Administrator. Completed forms, in addition to information showing the location and intended use of the site, the names of all property owners and existing land uses within two hundred feet (200'), shall be filed with the Zoning Administrator who shall forward all information to the Board of Adjustment. Completed application and supporting information must be submitted in proper form, at least three (3) weeks prior to a regularly scheduled Board of Adjustment meeting in order to be heard at that meeting.

602.3 Public Hearing – Before passing judgment on a Special Use Permit, the Board of Adjustment shall hold a public hearing in accordance with the provisions of NC General Statutes 160D-601 and 160D-705.

602.4 Special Use Permit – Following the public hearing, the Board of Adjustment may issue a Special Use Permit. In granting such a permit, the Board shall designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the requirements of the Ordinance. If at any time after a Permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the owner of a permit, the permit shall be immediately terminated, and the use discontinued. If a Special Use Permit is terminated for any reason, it shall not be reinstated until a public hearing regarding the Special Use has been held.

603 Shopping Center Developments

603.1 Purpose – To establish additional criteria for Shopping Center Developments of one (1) or more principal structures or buildings and accessory structures or buildings to be constructed on a lot or plot whether or not subdivided into the customary streets and lots.

603.2 Requirements

603.2.1 No Shopping Center Development will contain less than one (1) acre.

603.2.2 Such development shall abut a major existing thoroughfare or collector street and shall have direct access thereto.

603.2.3 Points of ingress and egress shall be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion. Furthermore, each development shall have a minimum of two (2) such points to ensure the safety of the inhabitants.

603.2.4 Streets shall meet the standards set forth in the Town Code.

603.2.5 The number, width, and location of curb cuts shall be such as to minimize traffic hazards, inconvenience, and congestion.

603.2.6 Parking and loading areas shall be paved and provided as required in Article V of this Ordinance and all parking areas and traffic lanes shall be clearly marked.

603.2.7 Public improvements shall be provided as required by the State of North Carolina and the Town Code.

603.3 General Plan – Each application shall be accompanied by a general plan, drawn neatly and to scale, showing:

- 603.3.1 Property lines, street or other public rights-of-way lines, public utility easements and rights-of-ways.
 - 603.3.2 Topography of the site showing five foot (5') contours and true elevations;
 - 603.3.3 Location and approximate size of all existing and proposed buildings and structures within the site and ownership of abutting properties within five hundred feet (500');
 - 603.3.4 Proposed points of ingress and egress together with the proposed pattern of internal circulation and parking areas.
 - 603.3.5 Proposed provision of storm water collection and disposal, including both natural and man-made features, and the proposed treatment of ground cover, slopes, banks and ditches;
 - 603.3.6 Proposed connections with the Town water and sewer systems and proposed location of trash and garbage bulk containers;
 - 603.3.7 Landscaping, consisting of grass, trees, and ornamental shrubs, to occupy five percent (5%) of the total lot area; such landscaping shall be done in addition to any required screening or buffer; and location and type of landscaping shall be shown on the site plan;
 - 603.3.8 Each plan shall be accompanied by an Erosion Control Plan, a copy of which has been approved by the NC Department of Environmental Quality, Division of Energy, Mineral, and Land Resources (DEMLR), Land Quality Section (LQS).
 - 603.3.9 Other requirements as may be considered essential by the Planning Board for the protection of the public health, safety, welfare, and convenience.
- 603.4 Area Requirements – Area and building requirements shall be the same as for the district in which the development is located.
- 603.5 Screening Requirements – If the property adjoins a residential district, then the owner or developer shall provide a fence, hedge, or other natural planting of comparable opacity shall be provided along the side or rear lines where the property adjoins said residential district. Such fence, wall or hedge shall be at least six feet (6') in height measured from the ground along common lot line of the adjoining lot in the residential district. Hedges or comparable natural evergreen plantings shall be planted at an initial height of at least three feet (3').
- 603.6 Subsequent Performance – After the approval by the Planning Board of the application and general plans, the applicant shall file detailed plans for review by the Zoning Administrator showing the details of the proposed development as fully as possible and including elevations and perspectives of proposed construction. If the applicant later wishes to change the details of the proposed

development, further detailed plans shall be filed for review by the Zoning Administrator. No zoning permit for the proposed development or any part thereof shall be issued until the Zoning Administrator has determined that the pertinent detailed plans are in accordance with the application and general plans as approved and with the objectives of this Section.

If construction or improvements have not begun within a twelve (12) month period beginning from the date of approval of the detailed plans, then the approval of the development shall become null and void. One (1) six month (6) extension may be granted by the Planning Board when reasonable cause is shown. No Certificate of Occupancy shall be issued until a detailed report is submitted by the applicant to the Zoning Administrator showing the outcome of construction and he has certified that all of the requirements of this Ordinance have been met.

604 Site Plan Review – Site Plan review procedures shall be established to promote development of land in accordance with standards which protect the health, safety, and welfare of the community. It shall be unlawful for any person to construct, erect, or alter a building or structure, or to develop, change or improve land for which a site plan is required, except in accordance with the approved site plan. No zoning permit shall be issued to construct, erect, or alter any building or structure or to develop or improve any land and no work on site improvements shall be performed in any district subject to the provisions of this section until a site plan has been submitted to and approved by the Planning Board.

604.1 Plans Required – A site plan is required and shall be submitted for approval for the following types of development in the following districts:

- All multi-family uses of more than four (4) units in the R-3 or R-4 Districts.
- All new development or substantial alteration of existing structures in the C-1 District and C-2 District.
- All new development or substantial alteration/redevelopment of existing structures or uses in the I District.

604.2 Preparation of Plans – Site plans, or any portion thereof, involving engineering, architecture, or land surveying shall be prepared and certified by the professional engineer, architect, or land surveyor who is duly registered by the state to practice as such and who prepared the site plan or portion thereof within his particular professional expertise.

604.2.1 Site Plans – Site Plans submitted in accordance with this section shall show:

- The boundary of the property by courses and distances, area, present zoning of the tract, and the location of any and all rights-of-way, easements and required yards.
- The ownership, and present use of all abutting property.

- Widths and names of abutting streets and alleys.
- Date, north point, and scale.
- Name and address of the owner or owners of record of the tract and name of the applicant.
- Existing and proposed topography of the site.
- The location of existing and proposed improvements on the site, such as streams, buildings, driveways, and parking areas, utility lines, storm drainage systems, and landscaping.
- The location of any areas to be dedicated to public use.
- Name, address, signature, and registration number of any professionals preparing the plan.

604.3 Review and Approval – A sufficient number of copies as determined by the Zoning Administrator of the site plan shall be submitted to the Zoning Administrator, who shall review the plan for general completeness and compliance with adopted plans. After completion of this review, the Zoning Administrator shall forward the site plan and any comments to the Planning Board. The Planning Board shall recommend any needed changes in the site plan or approve the plan as presented. A copy of each site plan shall be returned to the applicant by the Planning Board with notations thereon outlining any changes that will be required. The Zoning Administrator shall monitor the project as needed to assure conformity with the approved site plan.

604.4 Period of Validity – An approved site plan shall become null and void if no significant work is done or no significant development is made on the site within twelve (12) months after site plan approval. Construction or development may begin upon approval of the plan by the Planning Board and acquisition of permits. The planning Board may grant a single one (1) year extension upon written request of the applicant made at least thirty (30) days before the expiration of the approved site plan.

604.5 Adjustments of Approved Site Plan – After a site plan has been approved, minor changes in the site plan which comply with the spirit of this section, may be approved by the Zoning Administrator, in accordance with 160D-403(d).

ARTICLE VII
ADMINISTRATION

- 700 The Town Council shall designate a zoning administrator to be responsible for the enforcement of the provisions of this Ordinance.
- 700.1 If the Zoning Administrator shall find that any provisions of this Ordinance are being violated, the person or persons responsible for such violations shall be notified in writing indicating the nature of the violation and ordering that the person or persons desist from such violation and stating the action necessary to eliminate it. The Zoning Administrator shall order the discontinuance of uses of land or buildings in violation of this Ordinance, removal of illegal buildings or the structures or discontinuance of illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with and to prevent violation of its provisions.
- 701 Building and Sign Permit Required – No building, sign or other structure regulated by this Ordinance shall be erected, moved, added to or structurally altered without a permit issued by the Zoning Administrator. No zoning or sign permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance, unless a variance is received from the Board of Adjustment as provided by this Ordinance.
- 702 Application for Zoning Permit – All applications for zoning permits shall be accompanied by site plan or plot plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including location of existing or proposed buildings or alterations; existing or proposed uses of buildings and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. The site plan or plot plan shall be retained by the Zoning Administrator.
- 703 Permits Issued for Approved Lots Only – The zoning permit shall not be issued for construction on new lots which are created by the subdivision of land unless the subdivision has been approved by the Planning Board. The subdivision plat must be recorded in the Madison County Courthouse and copies of the recorded plat sent to the Zoning Administrator before any zoning permit is issued.

- 704 Temporary Uses – The zoning Administrator is authorized to issue a permit for temporary uses, as follows:
- 704.1 Carnivals, or circus, for a period not to exceed twenty-one (21) days, subject to the approval of the Board of Aldermen.
 - 704.2 Religious meeting, in a tent or other temporary structure, for a period not to exceed thirty (30) days.
 - 704.3 Open lot sale of Christmas trees, in the Industrial or Commercial districts for a period not to exceed forth-five (45 days).
 - 704.4 Satellite real estate sales office representing sales of land on which the use is located, in any district, for a period not to exceed one (1) year.
 - 704.5 Contractor’s office and equipment shed, in any district, for a period covering construction phase of the project not to exceed one (1) year, provided that such office be placed on the property to which it is appurtenant.
 - 704.6 All permits for temporary uses may be renewed provided that it is determined that said use is clearly of a temporary nature, will cause no traffic congestion and will not create a nuisance to surrounding uses.
- 705 Expiration of Zoning Permit – If the work described in any zoning permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire. Upon the beginning of a project, work must be diligently continued until completion with some progress being apparent every twelve (12) months. If such continuance of work is not shown, said permit will expire.
- 706 Complaints Regarding Violations – Any person who is aggrieved by an alleged violation of this Ordinance may file a written complaint with the Zoning Administrator, stating fully the nature of the alleged violation. Whenever the Zoning Administrator receives such a written complaint, he shall record properly such complaint, immediately investigate, and take whatever action is required by this Ordinance.
- 707 Remedies – In any case in which any building or structure is proposed to be or is erected, constructed, reconstructed, altered, maintained, or used; or any land is proposed to be or is used in violation of this ordinance, the Zoning Administrator, Town Manager, Board of Aldermen, Town Attorney, or any other person aggrieved may, in any addition to other remedies provided by law, institute injunctive mandamus, or any other appropriate action or proceeded to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.
- 708 Penalties for Violation – Any person violating any provision of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined, as

determined by the Court for each offense. Each day such violation continues shall constitute a separate offense. No Court conviction shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

709 Appeal from the Decision of the Zoning Administrator – It is the intention of this Ordinance that all questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator.

710 Establishment of the Zoning Board of Adjustment – The Town of Mars Hill Mayor and Board of Aldermen shall serve as the Board of Adjustment. The practice, procedure, and jurisdiction of this Board shall be governed by the provisions of N.C.G.S. 160D-302, 405, 406, and 705 and as set out hereafter.

711 Proceedings of the Zoning Board of Adjustment – The Board of Adjustment shall adopt by laws and rules in accordance with the provisions of this Ordinance and N.C.G.S. 160D-308. Meetings of the Board shall be held at the call of the presiding officer and at other such times as the Board may determine.

712 Powers and Duties of the Zoning Board of Adjustment – The Zoning Board of Adjustment shall have the following powers and duties:

712.1 Administrative Review – To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.

712.2 Variance – To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special condition, a literal enforcement of the Ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, building, or structures in the same district or of permitted or nonconforming use in other districts shall not constitute a reason for the requested variance. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist and in accordance with N.C.G.S. 160D-705(d):

712.2.1 There are extraordinary and exceptional conditions pertaining to the particular piece of property in questions because of its size, shape, or topography that are not applicable to other lands or structures in the same district.

712.2.2 Granting the requested variance will not confer upon the applicant any special privileges that are denied to other residents of the

district in which the property is located.

- 712.2.3 A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- 712.2.4 The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
- 712.2.5 The special circumstances are not the result of the actions of the applicant.
- 712.2.6 The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
- 712.2.7 The variance is not a request to permit a use of land, building or structure which is not permitted in the district involved.

712.3 Appeals – Appeals to the Zoning Board of Adjustment concerning interpretation or administration of the Ordinance may be taken by any person aggrieved or by an officer, Department or Board of the Town. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after notice of reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator and on due cause shown. In exercising the above powers, the Zoning Board of Adjustment may, in conformity with the provisions of this Act, reverse or affirm wholly or in part, or may modify the order, requirements, decision, or determination and to that end, shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit . The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the Superior Court in and for the County of Madison.

713 Application Procedure – Persons wishing to seek a variance, request an administrative review, or to make an appeal shall file an application with the Board of Adjustment thirty (30) days prior to the meeting at which it is to be reviewed. An application fee shall accompany each application. In addition, the applicant shall provide the Zoning Administrator with a list of names and addresses of all persons owning property within two hundred feet (200') of the property in questions.

713.1 The Zoning Board of Adjustment shall hold a public hearing regarding any application. Such hearing shall be publicized and held in accordance with N.C.G.S. 160D-601. If the application is for a variance, written notification shall be made to all property owners within two hundred feet (200') of

the subject property.

- 714 Decisions of the Zoning Board of Adjustment – The concurring vote of four (4) members of the Zoning Board of Adjustment shall be necessary to reverse any order requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to affect any variation of this Ordinance. The Board shall keep minutes of its proceedings showing the failing to vote, indicating such fact; and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be public record. On all appeals, applications and matters brought before the Zoning Board of Adjustment, the Board shall inform the applicant in writing of its decisions.
- 715 Appeals from Decision of the Zoning Board of Adjustment – Any person who may have a substantial interest in any decision of the Zoning Board of Adjustment may appeal any decision of the Board, in accordance with N.C.G.S. 160D-1402, to the Superior Court in and for the County of Madison by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board is rendered and shall follow the rules of civil procedure.

ARTICLE VIII – AMENDMENTS

- 800 Authority – This Ordinance, including the Official Zoning Map of Mars Hill, North Carolina, may be amended from time to time by the Board of Aldermen as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Board for review and recommendation. The Planning Board shall have forty-five (45) days within which to submit its report. If the Planning Board fails to submit a report within the forty-five (45) day period, it shall be deemed that the Planning Board has no objections to the proposed amendment.
- 801 Requirements for Change – When the public necessity, convenience, general welfare, or good zoning practices justify such action, and after the required review and report by the Planning Board, the Board of Aldermen may undertake the necessary steps to amend the Zoning Ordinance.
- 802 Application for Amendments – Requests to amend the Zoning Ordinance may be initiated by the Board of Aldermen or the Planning Board. Any other requests to amend the Zoning Ordinance must be initiated by application filed with the Planning Board by any citizen and/or property owner of the Town.

Application forms for amendment requests shall be obtained from the Zoning Administrator. Completed forms, plus any additional information the applicant feels to be pertinent, shall be filed with the Zoning Administrator who shall forward such to the Planning Board. Any communication purporting to be an application or petition for an amendment shall be regarded as mere inquiry or notice that a potential applicant is interested in some amendment in the Zoning Ordinance until an official application is made in the required form.

Applications for amendment must be submitted in proper form, four (4) weeks prior to a Planning Board meeting in order to be heard at that meeting.

Application for amendment to change a zoning classification shall show the location, the names and addresses of all property owners and existing land uses within two hundred feet (200') of the property boundaries.

- 803 Consideration by the Planning Board – All the required information submitted by the applicant on behalf of the amendment request shall be transmitted to the Planning Board. The Planning Board shall review and comment on the proposed amendment in accordance with 160D-604. At open meetings, the Planning Board shall review the request and prepare a report, including its recommendation, for transmittal to the Board of Aldermen. At a meeting any party may appear in person, or by agent, or by attorney. No member of the Planning Board shall participate in a matter in which he has any direct pecuniary or special interest.

In considering any amendment to the Zoning Ordinance, the Planning Board shall take into account the following criteria:

- (1) Conformity with the Town of Mars Hill Land Use Plan;
- (2) Compatibility with the existing character of the surrounding land uses;
- (3) Consideration of adequate infrastructure (i.e., roads, utilities, etc.); and
- (4) Other relevant criteria that the Planning Board may deem pertinent to the proposed amendment.

Following action by the Planning Board, the application shall be transmitted to the Board of Aldermen for final action.

The Planning Board shall include with its recommendation a written statement addressing comprehensive or land use plan consistency, a statement of reasonableness, and any other matters as deemed appropriate with regard to Town plans and policies, in conformance with N.C.G.S. 160D-604 and 160D-605.

- 804 Public Hearing by the Board of Aldermen – Before enacting an amendment to the Ordinance, the Board of Aldermen shall hold a public hearing thereon. Public hearings shall be held during the regularly scheduled meeting of the Board. Public notice of the hearing shall be given as provided in N.C.G.S. 160D-601. Notice to affected property owners shall be provided by the applicant as required by N.C.G.S. 160D-601.
- 805 Changes in the Zoning Map – Following final action by the Board of Aldermen any necessary changes shall be made in the Zoning Map. A written record of the type and date of such change shall be maintained by the Town Clerk. Action by the Board of Aldermen shall be considered official seven (7) days after the date of the action even if the Town Clerk has failed to make the appropriate changes.
- 806 Reconsideration of Proposed Amendments – the Board of Aldermen shall not reconsider a proposed amendment to the Zoning Map if such amendment requests a change to the same zoning classification for the same lot, parcel, or portion thereof, for a period of one (1) year from the date of final determination of the prior request unless the Planning Board recommends to the Board of Aldermen that such reconsideration be given after the Planning Board has found either: (a) there has been a substantial change of character of the area; or (b) evidence of factors or conditions exist which were not considered by the Planning Board or the Board of Aldermen in previous deliberations which might substantially alter the basis upon which the previous determination was reached.

ARTICLE IX

DEFINITIONS

900 Interpretation of Certain Words or Terms – Except as specifically defined herein, all words used in this Ordinance have their customary dictionary definitions. For the purposes of this Ordinance, certain words or terms used herein are defined as follows:

Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The words "shall" are always mandatory.

The word "may" is permissive.

The word "lot" includes the word "plot" or "parcel".

The word "person" includes a firm, association, organization, partnership, trust company, or corporation as well as an individual.

The word "used" or "occupies" as applied to any land or building shall be construed to imply that said land or building is actually "arranged" or "designed" to be used or occupied. An intended project shall be defined as one where substantial outlays of monies have been spent towards the goal of the project.

The word "map" or "zoning map" shall mean the Official Zoning Map of the Town of Mars Hill, North Carolina.

The term "Planning Board" refers to the Mars Hill Planning and Zoning Board. The terms "Board of Aldermen" or "Mayor and Board of Aldermen" refer to the legally constituted and elected governing body of the Town of Mars Hill. The term "Board of Adjustment" refers to the Zoning Board of Adjustment for the Town of Mars Hill.

Accessory Use or Building – A use or building subordinate to the principal use or building located on the same lot and used for purposes incidental to the principal use or building.

Advertising Sign – A sign that directs attention to a business, commodity, service or entertainment conducted, sold, manufactured, or offered. Such signs are further classified according to location, as follows:

- (a) on the same premises as the business, commodity, service, or entertainment advertised by the sign;

(b) off premises – remote from the business, commodity, service, or entertainment advertised by the sign; (see “Billboard”).

Agriculture – Farms and general farming, including horticulture, floriculture, dairying, livestock and poultry raising, farm forestry, and other similar enterprises or uses.

Alley – A dedicated way, which affords secondary access to the side or rear of abutting property. Side yards abutting alleys shall meet the same requirements as street side yards or corner lots.

Alteration of Building – Any change in the supporting members of a building (such as bearing walls, columns, or girders), and addition or reduction of a building, any change in use, or any relocation of a building from one location or position to another.

Automobile Service Station – Any area of land, including structures thereon, that is used for the retail sale of gasoline or any other motor vehicle fuel or oil and other lubrication substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means.

Awning – A roof-like shelter of canvas or other material extending over a doorway, from the top of the window, over a deck, etc., in order to provide protection from the weather.

Awning Signs – A sign constructed of a fabric-like non-rigid material, which is part of a fabric or plastic awning. Awning signs constructed of a flammable substance are prohibited in the fire district.

Banner – Any sign made of flexible fabric-like material except an awning sign.

Billboard – An advertising sign used as an outdoor display for the purpose of directing attention to a business, commodity, service, or entertainment conducted, sold, manufactured, or offered at a location other than the location of said sign.

Border – A strip along the edges of a sign that outlines the display.

Buffer – (See Landscaped Buffer).

Buildable Area – That portion of any lot which may be used for building upon in accordance with the regulations governing the zoning district within which the lot is located when the front, side, and rear yard requirements for the district have been subtracted from the total area. The required front, side and rear yards shall be measured inward toward the center of said lot from all points along the respective property lines or street right-of-way as appropriate. Buildable area

shall be computed by measuring the allotted distances, perpendicular from each property line.

Building – A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels, and including tents, lunch wagons, dining cars, trailers, free-standing billboards and signs, fences, and similar structures whether stationary or movable. The term “building” shall be construed as if followed by the words “or parts thereof”. Each portion of a building separated by division walls from ground up without openings shall be considered a separate building.

Building, Height – The vertical distance from the mean elevation of the finished grade along the front of the building, or from the established grade where the building is within ten feet (10’) of the street line, to the highest point of a flat roof, or to the declivity or a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

Building Inspector – The official of the County of Madison charged with enforcement of the North Carolina State Building Code.

Building Line – That line determined by meeting respective front, side, rear yard requirements. The required side and rear yards for individual lots shall be measured inward toward the center of the lot from all points along the respective property lines. The required front yard shall be measured inward toward the center of the lot from all points on the edge of the pavement or edge of the traveled roadway for unpaved streets.

Camp – A recreational facility providing supervised activities along with meals and/or lodging. Such facilities generally cater to children and adolescents during the summer months.

Cemetery – A parcel of land used for interment of the dead in the ground or in mausoleums.

(Town) Code – The Code of Ordinances of the Town of Mars Hill, adopted by the Board of Aldermen and any subsequent amendments.

Clinic – An establishment, housing two (2) or more offices, where medical or dental patients, who are not lodged overnight, are given examinations and treatment.

Controlled Access Highway – A roadway with four (4) or more lanes, divided by a median, with speed limits that would exceed 50 MPH, where access to and from said road is by interchange only.

Copy – (As used in conjunction with signs) – The wording on a sign surface either in permanent or removable letterform.

Cultural or Community Facilities – Facilities designed to promote cultural advancement and serve the community such as art galleries, libraries, museums, and community centers, such as YMCA and YWCA; and facilities to house civic or fraternal organizations (provided that such facilities are not operated for profit).

Day Care Center – See Nursery School.

Dedication – The reservation for public use of an area of land, usually a strip of land, a street right-of-way or utilities easement, within which there is to be or may be located streets, sidewalks, utility systems and drainage structures or a lot intended to be used for a public purpose such as a park, playground, or other public facility.

Density – The number of dwelling units per acre of land developed or used for residential purposes. Unless otherwise clearly stated, density requirements in this Ordinance are expressed in dwelling units per net acre; that is, per acre of land devoted to residential use exclusive of land utilized for streets, alleys, parks, playgrounds, school grounds, or other public uses.

Directional Sign – A sign which carries no advertising message or information, but simply the name or the logo of an establishment and information directing persons to the location of said establishment. For the purposes of this Ordinance, directional signs shall be free-standing, not over four feet (4') in height, and shall not have a surface area greater than two (2) square feet per side of sign up to a maximum of four (4) square feet in aggregate surface area. Such signs shall not be illuminated.

Dwelling – A building or portion of building arranged to provide living quarters for one or more families.

Dwelling, Accessory – A dwelling unit, either detached or non-detached, such as a garage apartment or cottage, designed for occupancy by one or two persons, not exceeding 750 square feet of gross floor space and located on a lot with an existing single family dwelling. Said units shall not exceed one per lot.

Dwelling, Single-Family – A detached dwelling, other than a mobile home, designed for or occupied exclusively by one family.

Dwelling, Two-Family – A detached building including two individual dwelling units, also known as a duplex.

Dwelling, Group – A building or portion of a building intended for occupancy by several unrelated persons. The term "group dwelling" includes, but is not limited to the terms "rooming house", "fraternity house", "sorority house", and "dormitory".

Dwelling, Multi-Family – A dwelling designed for or occupied by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling Unit – A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Educational Facility – A facility for the education of children and/or adults including public and private elementary and secondary schools, colleges, technical institutes and universities, but excluding specialized trade schools and nursery schools.

Face of Sign – The entire surface area of a sign on which any copy could be placed.

Farm Enterprise – Activity directly associated with farming, such as roadside stands, grain elevators, and pasturing land.

Family – One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over six persons, but further provided that domestic servants employed on the premise may be housed in the principal building, not to exceed two domestic servants.

Family Care Home – A facility which provides resident service in a private residence to six (6) or fewer individuals who are not related to the resident household. Such facility shall be regulated as a family residence in this Ordinance, in accordance with 160D-907.

Fence – A barrier intended to prevent escape or intrusion or to mark a boundary. A closed fence is one in which the opening through which clear vision is possible from one side to the other on a horizontal plane comprise thirty percent (30%) or less of the total side area of the fence. An open fence is one in which the openings through which clear vision is possible from one side to the other on a horizontal plane comprise seventy percent (70%) or more of the total side area of the fence.

Garage, Private – An accessory building or portion of a principal building used for the storage of private motor vehicles and in which no business, occupation, or service for profit is in any way connected. The term "garage" shall include the term "carport."

Garage, Repair – Any garage which is used primarily for storage, repair, rental, servicing, washing, adjusting, or equipping of automobiles or other vehicles. A garage exceeding 850 square feet in area or used to store more than four (4) automobiles, shall be considered a repair garage.

Grocery Store (Major) – An establishment which deals principally in a variety of general supplies for the table and other household uses. Characteristics of this type of establishment include a building of large physical size, a high volume of business, and a wide variety of products.

Convenience Store – A small retail establishment typically offering for sale gasoline and a limited line of prepackaged food and household items, typically with extended hours of operation.

Ground Sign – A sign that is not attached to any building structure. Such signs shall include, but not be limited to, free standing signs mounted on poles and “A” frame signs.

Adult Care Home – An assisted living residence or facility in which the housing management provides 24-hour scheduled and unscheduled personal care services with seven or more beds licensed under Article 1 of N.C.G.S. 131D and which provides residential care for aged individuals or individuals with disabilities with the supervision and personal care appropriate to their age and disability.

Home Occupation – Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes which does not change the character thereof; and where no person not a resident of the premises, is employed specifically in connection with the activity; and that not over 25% of the total floor space of the structure is used for the home occupation.

Hospital – An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and included related facilities such as laboratories, out-patient facilities, and staff offices which are in an integral part of the facility.

Hotel – Any building containing six (6) or more guest rooms intended to be used, or which are used, rented or hired out to be occupied for sleeping purposes by guests. The term “hotel” shall include the term “motel”.

Identification Sign – A sign which carries no advertising message and is used to identify only the following:

- (a) The name of an institutional use or organization occupying the premises on which the sign is located;
- (b) The name, title and/or occupation or profession of the occupant of the premises on which the sign is located;
- (c) The name and the type of non-retail business occupying the premises on which the sign is located, or;
- (d) The name of the building on which the sign is located, including names and

types of firms occupying the building.

Illuminated Sign – A sign that is illuminated by electric or other devices mainly for clear visibility at night.

Illumination of Signs – The lighting of a sign or exposing of a sign to artificial light either from within or without. In no instance shall the illumination of a sign interfere with adjacent traffic or disturb residential neighborhoods.

Incidental Sign – A sign which carries no advertising message, and is clearly incidental to other major advertising signs onsite, and which is used to do one or more of the following:

- (a) direct traffic flow, either vehicular or pedestrian;
- (b) indicates clearly the location of ingress or egress points;
- (c) direct certain activities to certain areas (i.e., parking, waiting, etc.);
- (d) provide other incidental information.

Indoor Amusement & Recreational Uses: Indoor amusement and recreation means a commercial establishment providing indoor exercise facilities and/or amusement games, either mechanical or electronic.

Junk – The term “junk” shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Junkyard – The term “junkyard” shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard or similar salvage yard. An establishment or place of business which stores or keeps for a period of fifteen (15) days or more materials within the meaning of “junk” as defined herein.

Kennel – A separate facility for the care, boarding, or breeding of more than three (3) dogs or cats, including enclosed shelters and open area.

Landscaped Buffer – A fifteen-foot (15’) strip of land along the perimeter of a lot. Such a buffer must be maintained as a “green” area, planted with grass, shrubs, trees, or other ornamental vegetation.

Loading Space, Off-Street – Space conveniently located for pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles even when required off-street parking spaces are filled.

Lot – An area designated as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official records of Madison County, North Carolina, as maintained in the Madison County Courthouse.

The terms "lot", "lot record", "lot of record", "plot", "parcel", "property", or "tract", whenever used in this Ordinance, are interchangeable.

Lot, Corner – A lot located at the intersection of two (2) or more streets or located where one (1) street makes a sharp angle.

Lot, Double Frontage – A lot which has two (2) street frontages; however, no corner lot shall qualify as a double frontage lot unless said corner lot has frontage on three (3) or more streets.

Lot, Interior – A lot, other than a corner lot, which has frontage on only one (1) street other than an alley.

Lot Depth – The distance between midpoint of the street frontage at the front of the lot to the nearest point at the rear of the lot, measured perpendicular from the street.

Lot Width – The distance between side lot lines.

Marquee Signs – A sign affixed to a hood, canopy, or projecting roof structure over the entrance to a building, store, or place of public assembly.

Manufactured Home – A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein, as defined by N.C.G.S. 143-145(7).

Manufactured Home Park – A parcel of land, at least five (5) acres in size, where mobile homes are parked for living and sleeping purposes, and which include any buildings, structures, vehicles, or enclosure used or intended for use as part of such manufactured home park.

Manufactured Home Space – A plat of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

Mobile Office – A mobile office is either a manufactured or modular unit. A mobile office shall be permitted only in C-2 Highway Business District as the principal building and then only on a lot used exclusively for Manufactured Home sales and services. All provisions of the Zoning Ordinance regarding principal building and the location thereon any lot shall apply to a mobile office.

Module Home – A factory-manufactured structure which is designed and built to specifications established by the U. S. Department of Housing and Urban Development, and which is transported in sections and joined at the time of erection on the site. Modular homes meeting the following standards shall be permitted for residential use in any residential district:

- (1) the unit must be placed on a continuous masonry foundation;
- (2) the unit must be at least 24 feet wide and 30 feet long;
- (3) the unit must have a pitched roof (a slope of at least 2 ½' to 12') with conventional roofing materials (asphalt or fiberglass shingles);
- (4) the unit must have conventional siding materials; and
- (5) the plans (construction drawings or technical specifications) of the unit must be approved by the Building Inspector.

Nameplate Sign – A sign identifying only the name and occupation or profession of the occupant of the premises on which the sign is located. When nameplates are used to identify more than one (1) occupant, each nameplate shall be attached to one (1) freestanding master identification sign.

Natural Grade – The highest elevation where the base of a sign and the ground meet.

Non-Commercial Use – The use of a lot or structure by persons for private purposes, not to include a business, occupation, or service for profit.

Nonconforming Lot – A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of the Ordinance) that cannot meet the minimum area or lot-width requirements of the district in which the lot is located.

Nonconforming Use – A lawful use of a building or land which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this Ordinance or as the result of subsequent amendments to this Ordinance.

Nursery School – A school designed to provide daytime care or instruction for two (2) or more preschool children, and operated on a regular basis. The term “nursery school” shall include the term “day care center”.

Nursing Home – A facility where persons are housed or lodged and furnished with meals and nursing care for hire. (See Group Care Facility.)

Open Storage – The placement or storage of materials or products (such as construction materials or raw materials or products of a manufacturing process) on a lot, outside of a structure which is enclosed by walls and a roof.

Outdoor Advertising Device – A device consisting of twirlings, balloons, flags, flashing lights and other similar materials used to attract attention.

Park – A public facility for recreation, which may have commercial activities for recreational uses only.

Parking Lot – Any public or private open area used for the express purpose of

parking automobiles and other vehicles, with the exemption of areas on the premises of single-family dwellings used for parking purposes incidental to the principal use. Otherwise, parking lots may be the principal use of a given lot or an accessory use to the principal use on a given lot.

Parking Space – A space within a parking lot or a single-family dwelling lot expressly provided for purposes of parking an automobile or other vehicles, excluding access drives.

Political Sign – A sign attracting attention to political candidates or issues.

Portable Sign – A sign which rests on the ground or other surface, and is not directly attached to such surface, and which is designed and/or constructed to be mobile or movable.

Poster – Any sign made of a rigid or semi-rigid, non-durable material, such as paper or cardboard, other than advertising copy applied to a permanent sign structure.

Principal Building – A building on which is conducted the principal use of the parcel on which it is situated.

Product Information Sign – An on-premises, advertising sign which denotes a particular commodity, service, or entertainment offered by said establishment. Identification signs and reader boards shall not be construed as product information signs.

Professional Office – The office of persons performing professional services such as doctors, lawyers, accountants, real estate brokers, and insurance salesmen.

Projection Sign – A sign projecting out from and attached to, the exterior wall of any building, and forming an angle of thirty (30) degrees or more to said wall.

Property Line - The legally established boundary of a lot, which boundary shall be considered coincident with any abutting public street right-of-way line unless the metes and bounds description contained in a recorded deed for a lot clearly and specifically establishes the lot boundary at some other location.

Reader Boards – A permanent sign, affixed either to the wall of a structure or to an existing free-standing identification sign, which is comprised of a surface to which letters may be attached on a temporary basis thereby forming messages advertising special sales or services offered. Reader boards may not serve in substitution for identification signs.

Real Estate Sign – Any sign pertaining to the sale, lease, or rental of land or buildings.

Religious Complex – A building or group of buildings for the purpose of religious worship including the sanctuary(s), education building(s), recreation buildings(s),

child care facilities and parsonage.

Right-of-Way – A dedicated strip of land reserved for a specific use, such as for a street or utility easement.

Roof Line – The edge of the roof around the building structure where a wall intersects with the eave of the roof.

Roof Sign – A sign erected, constructed, or maintained upon the roof of the building.

Screening–Evergreen Barrier – A planting of two (2) or more rows of evergreen shrubs or trees at such intervals and with the rows so staggered as to restrict visibility through the same, said shrubs or trees to be at least four feet (4') tall when planted with no more than thirty percent (30%) open space horizontally through the width of the strip of plantings and expected to reach a height of at least eight feet (8') at maturity.

Shopping Center – A development consisting of one or more principal business structures or buildings and accessory structures or buildings to be constructed on a lot or plot not subdivided into the customary streets and lots and which will not be so subdivided.

Sign – Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is known, including any surface fabric or other materials or structure designed to carry such devices, such as are used to designate or attract attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are exposed to public view, and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit.

Sign Area – The area of a sign shall be determined by measuring the display and border parts of a sign structure. If the sign is composed in whole or in part of free-standing letters, devices, or sculptured matter and not mounted to a measurable surface, the sign area shall be construed to be the area of the least squares, rectangles, or circles that will enclose the letters, devices, and/or sculptured matter.

Sign Height – The vertical distance measured from the street grade of the closest point in the street the sign is located along or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure.

Specialized Training School – Commercial establishment offering specialized training such as business college, barber and beauty colleges, and voice and dance schools.

Street – Any public alley, avenue, circle, highway, lane, road, street, or other public way situated within a dedicated public right-of-way and which has been

accepted by the appropriate governmental agency for continuing maintenance and up-keep.

Major Thoroughfares – Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

Minor Thoroughfares – Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the Major Thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

Residential Collector Street – A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

Local Street – A local street is any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

Street Grade – The percentage of slope of the centerline of the street or highway.

Structure – Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Surface Area – The entire area of a sign as measured by the square, rectangle, semi-circle, or parallelogram thereof, and comprising the entire sign inclusive of any border or trim and all of the elements of the matter displayed, but excluding the base or apron, supports and other structural members. In the case of three-dimensional letters or painted letters directly on the wall surface, the surface area shall be defined as the area encompassing the individual letters themselves including any trim or border and excluding the background that supports the three-dimensional letters.

Suspended Sign – A sign which is suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and is supported by such surface.

Tattoo Parlor: An establishment where “tattooing”, body piercing or the inserting of permanent markings or coloration, or the producing of scars, upon or under human skin through puncturing by use of a needle or any other method takes place on the premises.

Temporary Sign – A sign that can be used for thirty (30) days as specified by this Ordinance.

Trailer – Any vehicle or structure capable of moving or being moved, over street and highways on its own wheels or on flat beds or other carriers, which is designed to be utilized to:

- (1) provide temporary or permanent quarters for the conduct of a business, profession, trade or occupation;
- (2) serve as a carrier of people, new or used goods, products, or equipment;
- (3) be used as a selling, advertising, or display device.

Traffic Sign – A sign indicating federal, state, or city regulations for automobile, truck, bicycle, and pedestrian traffic.

Travel Trailer (Camper) – A mobile home, tent, trailer, or other self-contained vehicle, designed for recreation purposes, mounted on two (2) or more wheels and self-propelled or rigged for towing, provided such vehicle is less than thirty-two feet (32') in length.

Variance – A modification of the area regulations of this Ordinance granted by the Board of Adjustment where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of the Ordinance would result in unnecessary and undue hardship, and where such modification will not authorize a principal or accessory use of the property which is not permitted within the zoning district in which the property is located.

Veterinarian's Office – A facility where a veterinarian supplies medical care for animals and which may include boarding facilities which are completely enclosed.

Visible – Capable of being seen without visual aid by a person of normal visual acuity.

Yard – A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings and structures are expressly permitted.

Yard, Front – A yard situated between the front building line and the front lot line extending the full width of the lot.

Yard, Rear – A yard situated between the rear building line and the rear lot line extending the full width of the lot.

Yard, Side – A yard situated between a side building line and side lot line and extending from the required front yard to the required rear yard. In determining the situation of accessory structures, the side yard shall be assumed to extend through the rear yard to the rear lot line.

Wall Sign – A sign affixed to the surface of, and whose plane is parallel to, the exterior wall of a building, or which forms an angle of less than thirty (30) degrees with said wall and does not project out from the wall more than twenty-four inches (24”) from said wall. No wall sign shall extend above the roof line of the building upon which it is located. In cases of flat roofs, no sign shall extend above the parapets. Mansard roofs with an angle of sixty (60) degrees or more from horizontal shall be considered as wall space for the placement of signs.

Window Sign – Any sign oriented toward and visible from the exterior of a building which is placed directly on a glass window.

Zoning District – The term applied to various geographical areas of the Town of Mars Hill for the purpose of interpreting the provisions of the Ordinance. The districts are designated with the use of symbols on the Official Zoning Map. Regulations controlling land use in the various districts are set forth in Article III of this Ordinance. The terms “district” and “zoning district” are synonymous and are used interchangeably throughout this Ordinance.

ARTICLE X

SIGN REGULATIONS

1000 Purpose – The purpose of this Article is to permit such signs in the Town of Mars Hill that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health and safety; and to permit and regulate signs in such a way as to support and complement land-use objectives set forth in the Zoning Ordinance for the Town of Mars Hill.

1001 General Regulations – The following regulations shall apply to all signs in all districts.

1001.1 Compliance – No sign of any type shall be constructed, erected, painted, posted, placed, replaced, or hung in any district except in compliance with this Ordinance.

1001.1.1 Repainting or Reposting of Signs – Nonconforming painted signs may be repainted so long as the new coat of paint is for maintenance purposes and the design of the sign is not altered in any fashion. If, during repairing, the design of the sign structure is altered in any way, then the entire structure shall comply with the provisions of this Ordinance. (See also Section 1001.2.) Billboards existing at the time of enactment of this Ordinance or during the amortization period (when applicable) shall be allowed to be reposted so long as the structure of the sign itself remains in good repair. The structure of the billboard and the advertising message carried on such board shall be subject to all other provisions of this Ordinance. If at any time an advertising message on a billboard becomes obsolete or in disrepair, the advertising copy itself shall be subject to Section 1001.3, even though the structure may not be subject to removal.

1001.1.2 Vandalism and Adverse Weather – Signs destroyed by vandals or adverse weather conditions shall be allowed to be replaced even if such signs do not conform to this Ordinance provided they existed before the date of enactment of this Ordinance and they are replaced in the exact location, in the exact manner and with the exact same advertising copy of the same size as the previously destroyed sign. Adverse weather conditions shall not be interpreted to be normal weatherization of a sign. If a sign is allowed to deteriorate over time due to exposure to the weather elements, then it shall not be deemed as replaceable under this Section.

- 1001.2 Maintenance – All signs, together with braces, guys and supports shall at all times be kept in good repair. If at any time a sign should become unsafe or poorly maintained, the Zoning Officer shall notify the owner or lessee of the sign of such condition. Upon failure of the owner or lessee to correct such condition within thirty (30) days, the Zoning Administrator shall enforce compliance as provided in Section 1001.10.
- 1001.3 Removal of Obsolete Signs – Signs identifying establishments no longer in existence, products no longer being sold, and services no longer being rendered shall be removed from the premises within thirty (30) days from the date of termination of such activities. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the Zoning Administrator shall order their removal subject to the terms of Section 1001.10. Temporary signs and political signs shall be removed within ten (10) days after the termination of the event or election advertised. Upon failure of the owner or lessee of these signs to remove such signs within the prescribed time period, the Zoning Officer shall order their removal subject to the terms of this Article and any additional expense of removal shall be billed to the owner or lessee of said sign(s).
- 1001.4 Nonconforming Signs – Any off-premise sign existing on the date of enactment of this Article which is not regulated by the provisions of GS 136-131.1 shall be taken down and removed by the owner, agent or person having the beneficial use of the building, land, or structure upon which such sign may be found within the period of time prescribed in the following schedule:

<u>Replacement Value of Signs</u>	<u>Period for Removal</u>
0\$ to \$500	1 year
\$501 to \$1,500	2 years
\$1,501 to \$3,000	3 years
\$3,001 to \$5,000	4 years
\$5,001 to Over	5 years

The period for removal in each situation dates from the effective date of this Article.

- 1001.4.1 Removal of Nonconforming Signs – Any nonconforming sign existing on the date of enactment of this Article shall not be repaired if fifty percent (50%) or more of the structure must be restored in order for it to be deemed in good repair; instead, such a sign shall be removed and a new sign which conforms to the regulations set forth by this Article may be erected.
- 1001.4.2 Relocation of Nonconforming Signs – Any nonconforming sign existing on the date of enactment of this Article may be relocated on the same premises of the establishment having beneficial use of said structure so long as it is the same sign structure and the nonconformance is not increased in any manner beyond the point of noncompliance that existed before the movement of said structure.
- 1001.5 Measurement of Area; Height – Sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof which will encompass the entire advertising copy of art designed to attract attention including borders and other architectural embellishments. Sign height shall be measured from the street grade of the closest point in the street the sign is located along or the grade at the base of the sign, whichever is higher, to the highest point of the sign structure.
- 1001.6 Building Code Compliance – All signs shall fully comply with the requirements of the State of North Carolina Building and Electrical Codes.
- 1001.7 Sign Setback Requirements – No portion of any free standing sign may be located closer than ten feet (10') to any street right-of-way except in the C-1 and C-2 districts. Setbacks in the C-1 and C-2 districts shall be no closer than five feet (5') to any street right-of-way. No portion of any free standing sign shall be located any closer than twelve feet (12') to any side or rear property line. No sign shall be located in such a manner as to constitute a traffic or safety hazard.
- 1001.8 Illumination of Signs – Unless otherwise expressly prohibited, signs may be illuminated provided that lighting directed toward a sign shall be shielded in such a manner as to illuminate only the face of the sign, and shall not project into any portion of the traveled roadway.
- 1001.9 Sign Permit Required – A sign permit, issued by the Zoning Officer, shall be required for all signs except those specified in Section 1003 and 1004. No permit shall be issued until the Building Inspector inspects plans for such signs and determines that they are in accordance with the requirements contained in this Article. The fee for sign permits are per sign and shall be set annually by the fee schedule adopted by the Town per.
- 1001.10 Enforcement of Regulations – Any nonconforming sign constructed after the date of enactment of this Article, or any sign in violation of Section 1001.2 or 1001.3, or any sign off-premise maintained in a nonconforming manner after

the passage of the amortization period specified above (1001.4) shall be subject to the following actions.

1001.10.1 Notice – The Zoning Administrator shall notify in writing, the following persons of the nonconforming structure:

- (a) the owner or lessee of the sign;
- (b) the owner of the property on which the sign is located; and
- (c) the occupant of the property on which the sign is located.

Notice shall also be given to the above persons that the nonconforming condition shall be corrected within thirty (30) days from the date of notification.

1001.10.2 Penalties – After passage of the thirty (30) day notice period, the owner or lessee of a nonconforming sign shall be fined fifty dollars (\$50.00) for each nonconforming structure.

1001.10.3 Appeals – Any person having an interest in a sign found to be nonconforming or the property on which it is located may appeal a determination by the Zoning Administrator ordering removal or compliance to the Board of Adjustment as provided in this Ordinance.

1001.10.4 Removal – If the nonconforming sign has not been brought into compliance with the provisions of this Ordinance or removed within thirty (30) days of the assessment of penalties as specified above, then said sign shall be removed by the Town and the cost of removal shall be billed to the owner or lessee of the sign.

1001.10.5 Failure to pay Removal Costs – If the owner or lessee of a nonconforming sign that has been removed by the Town fails to pay for the costs of removal within thirty (30) days of the billing date for such action, then the Town will collect the cost as a lien on the property. The amount of such lien may include the actual cost of removal of said sign, plus any fines which may have been levied and not paid, plus fifteen percent (15%) representing penalty and interest for cost of collection.

1002 Prohibited Signs

1002.1 Signs Constituting Traffic Hazards – Any sign located in a manner or place so as to constitute a hazard to traffic as demonstrated by the Zoning Officer.

1002.2 Signs in Street Right-of-Way – Any free-standing sign located in a street right-of-way, or projecting over into a street right-of-way.

- 1002.3 Signs Obstructing Passages – Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.
- 1002.4 Off-Premises Advertising Signs – Billboards and other types of off-premises advertising signs.
- 1002.5 Flashing Devices – Any moving signs or device to attract attention, all or any part of which moves by any means, including motion by the movement of the atmosphere or by electrical or other means, including but not limited to, pennants, flags, propellers, or discs, whether or not any such device has a written message.
- 1002.6 Posted Signs – Any sign posted to utility poles, trees, fences, rocks or other signs.
- 1002.7 Copies of Official Signs – Any sign which is a copy or an imitation of an official sign, or which purports to have official status.
- 1002.8 Portable Signs – As defined in Article IX.
- 1002.9 Roof Signs – Only signs on mansard roofs shall be permitted. In instances where signs on mansard roofs are used, the area of said sign shall be computed as a portion of the area allotted for a wall sign.
- 1002.10 Signs Not Permitted – Any sign not expressly permitted elsewhere in this Ordinance.
- 1003 Exempt Signs – The following signs are exempt from the provisions of this Ordinance.
- 1003.1 Governmental Agency Signs – Signs erected by a governmental agency to regulate, control or direct traffic including signs indicating bus stops, taxi stands, and similar transportation facilities. Such signs may be illuminated, flashing, or moving as required for public safety. Furthermore, signs erected by a governmental agency which convey information regarding a public service or the location of a public facility may also be illuminated as is necessary.
- 1003.2 Signs Required by Law.
- 1003.3 Warning Signs – Signs which warn of hazards to life, limb, and property such as high voltage electrical equipment explosives and the like.
- 1003.4 “No Trespassing” Signs – “No Trespassing” signs not to exceed four (4) square feet in surface area.

1004 Signs Permitted Without a Permit – The following types of signs shall be permitted in any use district without the issuance of a sign permit provided they meet the stated requirements.

1004.1 Temporary Real Estate Signs – Temporary real estate signs advertising a specific piece of property for sale, lease, rent, or development, located on said property, provided such signs shall not exceed eight (8) square feet in surface area per side of sign up to a maximum of sixteen (16) square feet of aggregate surface area. Signs shall not be illuminated and shall not exceed one (1) per parcel of land unless such land is located at an intersection of two streets; in such a case, two signs shall be allowed, one facing each street.

1004.2 Signs Incident to Place of Worship – One (1) free-standing sign on the property on which a place of worship is located is permitted except where a place of worship is located on a corner lot, then said place of worship is allowed two (2) free-standing signs, one (1) facing each street that borders the lot. Maximum size of such free-standing signs shall be the same as that allowed under Section 1005 for other uses in the district in which the place of worship is located. Signs located in residential districts shall not exceed thirty-two (32) square feet in surface area per side of sign up to a maximum of sixty-four (64) square feet of aggregate surface area. In addition, each place of worship shall be allowed one (1) bulletin board not to exceed twelve (12) square feet of surface area (which may be a wall sign or a free-standing sign). Each place of worship located more than one hundred and fifty feet (150') from a major thoroughfare or collector street as defined in the Mars Hill Thoroughfare Plan shall be allowed one (1) directional sign. These signs may be located on private property, with the written permission of the owner, at the nearest intersection of the major thoroughfare or collector street to the site of the place of worship.

1004.3 Signs on Window Glass – Signs on window glass, regardless of size.

1004.4 Private Traffic Signs – Private, unofficial traffic signs not exceeding two (2) square feet in surface area per side of sign up to a maximum of four (4) square feet with aggregate surface area per sign, which indicate directions, entrances, and exits. Such signs are to be located entirely on the property to which they pertain, and shall not contain any advertising message.

1004.5 Organization Signs – Any flag, badge, insignia, or design customarily displayed by any governmental agency or government, or any charitable, civic, fraternal, patriotic, religious, or similar organization.

1004.6 Service Station Signs – Gasoline service stations or any businesses selling gasoline are allowed, in addition to other provisions of this

Ordinance, the following signs:

- 1004.6.1 Price and Self-Service Signs – Gasoline price/self-service signs located at and secured to each pump island and not exceeding nine (9) square feet per side of sign. One gasoline price/self-service sign may be free-standing and located at a place other than the pump island, but must be on the business site and meet all other sign regulations. If such signs are free-standing signs, they shall not exceed forty inches (40”) in height.
- 1004.6.2 Brand Name and Grade Signs – Each brand sign, emblem of the gasoline sold, the grade of gasoline and any other related signage shall not exceed nine (9) square feet in total aggregate surface area for each pump island. If free-standing, said sign shall not exceed forty inches (40”) in height.
- 1004.6.3 NC Inspections Sign – A North Carolina Inspections sign at any location on the business premises as long as said sign is not placed in any right-of-way. If said sign is to be placed within a right-of-way, a permit shall be required from the Zoning Officer. Said sign shall not exceed forty inches (40”) in height.
- 1004.7 Municipal, School, Recreation, Club Sign – Municipal, school, recreational and civic club sponsored signs, schedules of events, rules and regulations, and parking signs shall not require a permit, but if they are to exceed forty-eight (48) square feet of aggregate surface area per sign, then they must be approved by the Zoning Officer.
- 1004.8 Outdoor Menu Signs – Outdoor menu signs when used in conjunction with drive-thru windows at restaurants.
- 1004.9 Numbers and Nameplates – House numbers and nameplates not exceeding two (2) square feet in area for each residential building.
- 1004.10 Construction Signs – One (1) construction sign per construction project not exceeding thirty-two (32) square feet of sign area in residential districts or sixty-four (64) square feet in commercial or industrial districts, provided that such signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed five (5) days after completion of construction and prior to occupancy.
- 1004.11 Public Notice – Official notices posted by public officers or employees in the performance of their duties.

1004.12 Commemorative Plaques – Commemorative plaques of recognized historical agencies or identification emblems of such agencies, provided that no plaque or emblem shall exceed four (4) square feet in area.

1005 Signs Allowed With Permits – The following types of signs shall be allowed upon the issuance of a sign permit for each proposed sign and subject to the regulations set forth below:

1005.1 Signs Allowed in Residential Zones – The following types of signs shall be allowed in all of the residential districts subject to the accompanying restrictions and the issuance of a sign permit.

1005.1.1 Nameplate Signs – Each home occupation shall be allowed one (1) nameplate sign for purposes of identification. Said sign shall not exceed two (2) square feet of surface area. Nameplate signs shall not be illuminated.

1005.1.2 Subdivision and Unified Housing Development Signs – One (1) ground sign per entrance to a subdivision, unified housing development, or mobile home park. Said sign(s) shall be no larger than thirty-two (32) square feet of surface area per side of sign up to a maximum of sixty-four (64) square feet of aggregate surface area per sign. Signs shall not exceed ten feet (10') in height and may be indirectly illuminated.

1005.2 Signs allowed in Commercial and Industrial Zones - The following types of signs shall be allowed subject to the accompanying restrictions and the issuance of a sign permit. Each business shall be allowed a wall sign, and in addition thereto, may either have a ground sign or a suspended sign.

1005.2.1 Ground Signs – A ground sign shall not exceed the following limitations:

C-1 and I Districts: Thirty-two (32) square feet in surface area per side of sign, up to a maximum of sixty-four (64) square feet of aggregate surface area for the entire sign. No signs shall be located higher than 25 feet above ground level or 25 feet above road level, whichever is higher.

C-2 District: One hundred (100) square feet in surface area per side of sign up to a maximum of two hundred (200) square feet of aggregate surface area for the entire sign. No signs shall be located higher than 25 feet above ground level or 25 feet above road level, whichever is higher.

Ground signs shall be located on the property where the advertised use is located. If a business or industry is

located on a large tract of land, such that the business or industrial use does not extend throughout the entire tract, then the ground sign shall be located at the site of the firm's main building, as determined by the Zoning Officer. Where a business or industrial use is located on property which does not abut a public street, a directional ground sign shall be allowed at the public street where the entrance driveway to the property is located. This directional sign shall be allowed in addition to the other signs permitted in this Article. Such sign shall not exceed two (2) square feet in surface area per side or four feet (4') in height.

1005.2.2 Wall Signs – Wall identification signage may be placed on any portion of a building, occupied by a business, provided that the signage does not exceed 50% of the surface area of the wall or walls on which it is to be located, said surface are to be computed excluding glass or doors, or the following specifications, whichever is less:

- C-1 and I Districts: Thirty-two (32) square feet;
- C-2 District: Seventy-five (75) square feet.

In addition, each establishment shall be allowed one (1) small business identification sign not to exceed eight (8) square feet in surface area, located on the rear or the side of the building denoting the identification of the establishment.

1005.2.3. Suspended or Projection Signs – A suspended or projection identification sign not to exceed twelve (12) square feet per side, up to a maximum of twenty-four (24) square feet for the entire sign.

1005.2.4 Unified Business Developments – Properties owned by the same individuals or entities or properties which are being jointly developed as multi-unit businesses shall be classified and governed as unified business developments and their signage shall be regulated as follows:

1005.2.4.1 Business Development – Each unified business development, as a whole shall be allowed one (1) freestanding identification sign denoting the name of the development. Said sign shall be conformed in all respects with the signage requirements of individual businesses not a part of unified business developments as set forth in section 1005.2 hereinabove. Said

signage may also mention individual businesses located within the development. The content of same shall be under the total control of the developer provided that said sign otherwise complies with the terms of this Ordinance.

1005.2.4.2 Individual Businesses – Individual businesses located within the unified business development may have one of the following types of signs:

- (1) Wall identification sign;
- (2) Suspended or projection identification sign not exceeding six (6) square feet per side;
- (3) Product information signs;
- (4) Reader board.

1005.3 Marquee Signs Allowed in All Commercial Districts – Movie theaters located within commercial districts shall be allowed a marquee with one (1) or two (2) copy sign surfaces. Total copy area allowance, for all sign surfaces, shall not exceed five (5) square feet per linear foot of canopy with a maximum total height limit of no more than five feet (5') at any point. A marquee shall not extend more than ten feet (10') from the building nor be less than nine feet (9') above the ground or sidewalk at the lowest point.

1005.4 Temporary Signs Allowed in All Districts – Temporary signs, flags, or banners advertising the initial openings of businesses, establishments, special events or special sales may be permitted provided the location of such signs is approved by the Zoning Officer. Such signs may be free-standing or attached to any part of the building wall or said sign shall not exceed thirty (30) square feet in aggregate surface area and shall meet all other requirements. Permits for these on-premises signs are limited to thirty (30) days. Temporary signs shall require a deposit of fifty dollars (\$50.00) to insure the cost of removal of such signs. The deposit shall be returned after the signs have been removed.

ARTICLE XI

LEGAL STATUS PROVISIONS

- 1100 Conflict with Other Laws – Whenever the regulations of this ordinance require a greater width or size of yards, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes; the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.
- 1101 Repeal of Previous Zoning Ordinances – The Zoning Ordinance of the Town of Mars Hill, adopted December 15, 1970, together with all subsequent amendments thereto, is hereby repealed as of the effective date of this Ordinance. All suits at law or in equity and/or all prosecutions resulting from the violations of any zoning ordinance heretofore in effect which are pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality as of this Ordinance had not been adopted; any and all violations of existing zoning ordinances, which have been pre-filed, shall be prosecuted to their finality.
- 1102 Effect Upon Outstanding Building Permits – Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been issued before the time of passage of this ordinance.
- 1103 Validity – Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.
- 1104 Repeal of Conflicting Ordinances – All ordinances and parts of ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.
- 1105 Effective Date – This Ordinance shall take effect and be in force from and after the date of its adoption.

ARTICLE XII

REPEALED BY THIS ORDINANCE

Ordinance Number 81

ARTICLE XIII

COMMUNICATION TOWERS

1300 It is the desire of the Town of Mars Hill to encourage communication facilities in order to ensure an adequate level of service to the Town, while at the same time, protecting the health, safety, welfare and scenic beauty of the Town.

1301 Communication Facility

A communication facility is a tower or other transmission or receiving device operating for the purpose of broadcasting or receiving verbal or visual communication signals.

1302 Permit required

It shall be unlawful for any person, corporation, or entity to erect any communication facility without first obtaining a permit from the Zoning Officer. A permit, however, shall not be required for the erection of any communication having a height from its location on the ground of less than seventy-five (75) feet.

1303 Application required for permits

1. Any individual, corporation or entity desiring to construct a communication facility shall submit an application for a permit to the Zoning Office and shall pay an application fee.
2. The application shall be on a form approved by the Zoning Officer and shall include or have attached thereto at least the following information:
 - a. A site development plan which contains the following information:
 1. The name of the telecommunications tower owner and/or property owner and tax identification number of the parcel.
 2. All identifiable structures located on the parcel; to wit, all private and public roads, highways and underground and overhead utilities.
 3. Surveyed boundary lines of the parcel containing the proposed communication facility, construction area and its fall area.
 4. The names, addresses and tax parcel numbers of all the adjoining property owners.
 5. The elevation of the proposed tower's base.

6. A preliminary tower design plan, prepared by a registered professional engineer showing all guideline anchors and support structures, proposed building and other proposed improvements, including access roads and utility connections.
 7. Showing the proposed height of the tower, lighting and antennas and the tower's design of load.
- b. The applicant shall identify all possible alternative existing structures within the proposed broadcast area and explain why given those facilities, the proposed tower is necessary.

1304 Special Use Permit

All communication towers shall be subject to the issuance of a special use permit. A communication facility may be sited in all zoning districts of the Town.

1305 Written Statements

Written statements shall be provided from the Federal Aviation Administration and the Federal Communications Commission establishing that the proposed communication facility complies with all regulations administered by the FAA and the FCC, or establishing that the proposed facility is exempt from administration by the FFA and the FCC.

1306 Conditions to be met

1. Prior to granting a permit for construction of a communication facility, the Planning Board shall conduct a public hearing as required by this Ordinance, and shall establish that the facility meets at least the following minimal standards:
 - a. The facility shall be situated in such a manner so it will not fall across a public street or adjoining property lines in the event of structure failure. Same may be established by either sitting the tower a distance from the adjoining property line greater than the height of the tower, or by using a self-collapsing structure that will collapse upon itself. Any self-collapsing structure must be documented by a professional engineer.
 - b. The setbacks for the communication facility and any accessory structures shall not be less than that required in the underlying zoning district in which the facility is located.
 - c. The tower must be set back a distance greater than the height of it from any residence or structure on adjoining properties.

2. The communication facility must be of a type or height such that the Federal Aviation Administration would not require the tower to be lighted or painted.
3. All communication facilities for broadcast must be designed and constructed to provide for the co-location of a minimum of four services. Certification must be provided by a professional engineer establishing that the tower will accommodate at least four users, prior to a conditional use permit issuing.
4. The applicant must certify that future co-locations on the tower will be allowed and made available at a fair market value, and the application must outline the method to be used by the applicant in determining what would constitute a fair value.
5. As a condition for the issuance of any permit for construction of a communications facility, the owner must record in the office of the Madison County Register of Deeds a letter of intent to allow such co-locations which shall bind all subsequent owners for the facility.
6. No new broadcast communication facilities shall be approved unless the Planning Board finds that the equipment for the proposed tower cannot be accommodated on existing towers located within a two mile search radius of the proposed site.
7. The only acceptable reason why a communication facility could not be located on the existing tower would be that the equipment exceeds the structural capacity of the existing tower, or that the planning equipment would cause interference with equipment already located on the tower which could not be prevented at a reasonable cost.
8. Showing must be made that the applicant for the communication facility is licensed by the Federal Communications Commission to provide communication services, or if the applicant is not such a licensee, it must demonstrate it has binding commitments from one or more FCC licensees to utilize the proposed facility.
9. The owner of a communication facility shall provide a certificate of insurance evidencing it has liability coverage in the amount of at least \$1,000,000 and the certificate shall contain certification that the insurance company will notify the Town of Mars Hill thirty (30) days prior to the cancellation or modification of said policy.

1307

Additional mandatory conditions

The Planning Board shall not issue a special use permit for the purposes of this Article, unless the following conditions are also made a part of the permit:

- a. All communication facilities and their accessory structures and equipment shall be enclosed within a secure fence.
- b. No advertising of any kind will be permitted on or about the communication facility.
- c. If a communication facility ceases to function for its intended purpose for a continuing period of ninety (90) days, the owner of the tower and/or the owner of the property upon which the property is located shall be required to dismantle and remove the entire structure within ninety (90) days of notification of the expiration of the aforesaid ninety (90) day period.
- d. The owner of the tower shall be required to provide the Zoning Officer a copy of any notice of cessation of operation which is filed with the FCC, within seven days of said filing, and likewise, shall be required to provide the Zoning Officer within seven days any notices issued by the FCC directing the cessation of operation of the facility.
- e. All towers shall be unpainted, light grey or environmental green.
- f. The owner of the tower must allow the location of telecommunication facilities operated by the Town of Mars Hill, if it is determined that the proposed tower is situated in a location that will benefit the telecommunications system of the Town of Mars Hill, provided that the Town of Mars Hill makes said request within sixty (60) days of the filing of the permit application.
- g. Each telecommunication facility must be designed to survive a natural disaster without interruption in operation. Said design shall include the following: Non-flammable exterior wall and roof covering; openings and all equipment enclosures shall be protected against penetration by fire and in-blown embers; the tower, when fully loaded, must be designed to withstand "maximum credible earthquake" and all equipment shall be mounted in such a manner that a quake will not tip them over, throw equipment off shelves or otherwise apt to damage equipment; back up generators must be available for use at all communication facilities.

1308

Additional Requirements

The Planning Board may impose additional requirements before the issuance of the permit to address the following:

- a. To prevent the facility from causing significant adverse visual impact on nearby residences.

- b. To provide for the public safety.
- c. To ensure that the communication needs of the Town of Mars Hill are met.

1309 Technical Assistance

If, in the course of its consideration of an application, the Planning Board deems it necessary, it may employ an engineer or other expert of its choosing to review the application submitted, and shall in such cases, assess the reasonable costs for same to the applicant in an amount not to exceed \$2,500.

1310 Renewal of Special Use Permit

An annual telecommunication permit shall be required for each communication facility constructed pursuant to this Article. The holder of any such permit must file an annual report, on a form provided by the Zoning Officer, which should demonstrate the continued compliance with the requirements of this Article. An annual permit fee shall be required, and said fee shall not be prorated.

The Zoning Officer shall make an annual inspection of each site as a part of the permit renewal to certify that all conditions set forth by the Planning Board are being met, that fences are in good repair, that no unauthorized communication facilities are present and to determine whether there are any hazards associated with the facility.

Failure to obtain the annual permit within thirty (30) days after the commencement of the annual period shall result in the facility being deemed abandoned and subject to removal as required by Section 1307(c).

ARTICLE XIV

ESTABLISHING LANDSCAPE STANDARDS

1400

Purpose

The purpose of this article is to protect the landscape of our Town and to thereby protect the quality of life.

1401

Definitions

1. Caliper – diameter measurement of tree trunk taken at six inches above ground level for trees up to and including trees four inches in caliper. For larger trees, measurement of caliper shall be taken at 12 inches above ground level.
2. Large Shade Tree – A tree whose height will exceed 35 feet at maturity.
3. Small Ornamental Tree – A tree whose height will be below 35 feet at maturity.
4. Planting Area – Landscaping area reserved for the sole purpose of providing growth area for required plant material.
5. Planting Strip – Planting area along public right-of-way is reserved for landscaping purposes.
6. Vehicular Use Area – Areas accessible to vehicular traffic on a regular established basis. These areas have an improved surface such as gravel, asphalt, brick, or concrete pavement. Examples include but are not limited to driveways and parking lots.

1402

Landscape Plan Required

All new structures except those used for single family residences will be required to submit a landscaping plan to the Zoning Officer prior to a building permit being issued.

1403

Streetscape Landscape

All developed property, other than single family residential, abutting a public right-of-way must comply with the following requirements.

1. A perimeter planting strip of at least five feet, exclusive of access drives, adjacent to the public right-of-way, provided each streetscape tree shall have a minimum four and one-half feet (4 ½) radius

planting area. The strip's total length shall be equal to the total length of the property line adjacent to the public right-of-way.

2. Trees and shrubbery shall be planted within planting strip according to one of the following requirements:
 - a. One large shade tree for every 75 linear feet or fraction thereof greater than one half of said 75 feet. Each tree shall be a minimum of two inch caliper and have a minimum height of ten feet from the ground surface at the time of planting.
 - b. One small size ornamental tree for every 50 linear feet or fraction thereof greater than one half of said 50 feet. Each tree shall be a minimum of one inch caliper and shall have a minimum height of six feet from the ground surface at the time of planting. Multi-stem trees shall be a minimum of six feet in height from the ground surface.
 - c. A combination of both large and small ornamental trees may be substituted for (a) and (b).

1404 Vehicle Use Areas

1. Trees shall be planted according to one of the following requirements:
 - a. One large shade tree for every 3500 square feet of vehicle use area or a fraction thereof equal to or greater than one half of said 3500 feet. Each tree shall be a minimum of two inch caliper and have a minimum height of ten feet from the ground surface at the time of planting. Multi-stem trees shall be a minimum of six feet in height from the ground surface at the time of planting.
 - b. One small shade tree for every 2000 square feet or a fraction thereof greater than one half of said 2000 feet. Each tree shall be a minimum of one inch caliper and have a minimum height of six feet from the ground surface at the time of planting. Multi-stem trees shall be a minimum of six feet in height from the ground surface at the time of planting.
2. Minimum planting area - A minimum planting area for each required tree shall be provided as follows: Large shade tree, 230 square feet; small ornamental tree, 150 square feet.
3. Planting areas provided for vehicle use area planting must meet the following requirements:
 - a. Demonstrate that adequate drainage and mulching has been provided for all planting areas.

- b. Planting areas shall have a minimum dimension in any one direction of nine (9) feet.

1405 Loading and Service Areas

1. Loading and service areas shall be screened from public view from adjacent property and public right-of-way.
2. Screening must be accomplished by one of the following methods:
 - a. A continuous row of large evergreen shrubs. Shrubs shall have a minimum height of 30 inches at planting and shall attain a minimum height of six feet at maturity. Shrubs shall be planted a maximum of eight feet apart. Minimum planting area width for the shrubs shall be five feet.
 - b. An opaque fence or wall with a minimum height of six feet and a maximum height of eight feet. The design and materials of any fence or wall must be presented as part of the site plan. The side of the fence or wall facing the affected property owner shall be the finished, or better appearing side.
 - c. An earth berm to a minimum of six feet. The berm shall be vegetated with grass, shrubs or trees.
 - d. A combination of the above such that an effective screen to a minimum height of six feet is obtained. Small evergreen shrubs may be substituted for larger shrubs when planted on berms in excess of two feet in height. Smaller shrubs shall have a minimum height of 18 inches at initial planting and shall attain a minimum height of four (4) feet at maturity.

1406 Existing Trees

Existing trees may be used to satisfy all or part of the plantings required by this Ordinance. Provision for ensuring the livability of the trees to be saved must be demonstrated by the owner/developer. These provisions shall include but not be limited to an adequate undisturbed area for each existing tree of at least 2½ feet.

1407 Planting Standards

The minimum spacing between trees required by this Ordinance or between trees required by this Ordinance and other trees on the property shall be as follows: large shade tree or small ornament tree – 8 feet.

1408 Information to be Submitted with Site Plan.

A site plan of the property at a scale of 1 inch = 50 feet or a lesser scale shall be submitted as a part of the materials submitted to the Zoning Enforcement Officer. The plan shall include the following:

1. All proposed structures, drives, walks, parking areas and other features pertinent to the location and planting of trees.
2. All existing structures and site features to remain which are pertinent to the location and planting of trees.
3. All existing and proposed, above or below ground utility lines.
4. All proposed trees required by this ordinance and all existing trees proposed to be saved under the requirements of this Ordinance.
5. The required planting areas for all trees including the planting strip along public rights-of-way. Critical dimensions for these areas shall be noted.
6. Permanent and temporary protection measures.
7. Guying and staking of trees.
8. Plant list including quantity, species and size to be installed.

1409 Tree Replacement

Owner(s) and their agent(s), heirs or assigns shall be responsible for installation, preservation and maintenance of all planting and physical feature required to satisfy the conditions of this section. Any dead or missing vegetation must be replaced (with like or similar plants) within one calendar year.

1410 Inspection of Sites.

Agents and authorized representatives of the Town of Mars Hill may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a person has failed to comply with the provisions of this Ordinance, the Zoning Officer will call his/her attention to this failure and request compliance within a reasonable time. If the person continues in noncompliance, a written notification will be sent by registered mail. This notice shall set forth that which will be necessary to comply with the Ordinance.

1411 Penalties and Remedies

1. Penalties and remedies of this Ordinance shall constitute a misdemeanor

punishable as provided by G.S. 14-4.

2. Any act constituting a violation of this division shall also subject the offender to a civil penalty of \$25.00 per day. If the offender fails to pay the penalty within ten days of receiving final written notice of a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt.

1412

Variances

The Board of Adjustment may authorize variances from this Ordinance. Prior to any variance being granted, a landscape plan should be submitted to the Board of Adjustment with the rationale to support the need for variation from this ordinance.

ARTICLE XV

PLANNING & ZONING BOARD

SECTION I: Establishing a Planning & Zoning Board for the Town of Mars Hill

WHEREAS, The North Carolina General Statutes N.C.G.S. 160D-301 authorize the creation of a planning agency, and

WHEREAS, the health, safety and general welfare of the citizens of the Town of Mars Hill will be promoted through the study of conditions and trends within the Town, and through the establishment of development objectives and plans and regulations to address such objectives,

NOW, THEREFORE, BE IT ORDAINED that a Planning & Zoning Board is hereby established for the Town of Mars Hill. The Planning & Zoning Board shall consist of five (5) members who reside within the Town and shall be appointed by the Mayor and Board of Aldermen of the Town of Mars Hill. The members shall be appointed for terms as determined by the Board of Aldermen and set forth within this ordinance. Vacancies shall be filled by appointments to fulfill the unexpired term.

BE IT FURTHER ORDAINED that the Board shall adopt a set of By-Laws governing the proceedings, rules and duties of the Board.

This Article shall take effect and be in force upon adoption of this Zoning Ordinance for the Town of Mars Hill.

SECTION II: BY-LAWS FOR PLANNING AND ZONING BOARD OF THE TOWN OF MARS HILL

1501 Objectives

The objectives and purposes of the Planning and Zoning Board of Mars Hill, North Carolina are those set forth in General Statutes of North Carolina, N.C.G.S. 160D-301, and amendments and supplements thereto, and those powers and duties delegated to the Planning and Zoning Board by the Mayor and Board of Aldermen by this Zoning Ordinance for the Town of Mars Hill of June 7, 2021, in accordance with the enabling law.

1502

Powers and Duties

1502.1

It shall be the duty of the Planning and Zoning Board in general:

- 1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions;
- 2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
- 3) To establish principles and policies for guiding action in the development of the area within the Town;
- 4) To prepare and recommend to the Board of Aldermen ordinances promoting orderly development along the lines indicated in the Comprehensive Plan;
- 5) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan of the growth and improvements of this area;
- 6) To keep the Board of Aldermen and the general public informed and advised as to these matters; and
- 7) To perform any other duties which may lawfully be assigned to it.

1503

Membership and Vacancies

1503.1

Membership: The Planning and Zoning Board shall consist of five (5) members that shall be citizens and residents of the Town and shall be appointed by the Board of Aldermen.

1503.2

Membership, Terms: Members shall be appointed for staggered terms of two (2) years, provided that vacancies occurring for reasons other than expiration of term shall be filled as they occur for the unexpired remainder of the term.

1503.3

Unexcused Absences: Any member missing three (3) consecutive unexcused meetings or six (6) meetings in any calendar year shall be removed. Faithful attendance to meetings of the Board is to be considered a prerequisite to continued membership.

1504 Officers and Their Duties

- 1504.1 Officers: The officers of the Planning and Zoning Board shall consist of a Chairman, a Vice-Chairman, and a Secretary. Officers shall be elected by a majority vote of the Board at the January meeting of the Planning and Zoning Board.
- 1504.2 Chairman, Rights, Privileges, and Duties: The Chairman shall preside at all meetings and hearings of the Planning and Zoning Board and shall have the duties normally conferred by parliamentary usage of such officers, which include the appointment of committees and the authorizing of and certifying of the expenditure of funds (postage, phone calls, etc.). He shall have the authority to discuss all matters before the Board and of voting thereon.
- 1504.3 Vice-Chairman, Duties: The Vice-Chairman shall act for the Chairman in his absence.
- 1504.4 Secretary, Duties: The Secretary shall keep the minutes and records of the Board, prepare agenda of regular and special meetings with the Chairman, provide notice of meetings to Board members, arrange proper and legal notice of hearings, attend to correspondence of the Board and to such other duties normally carried out by the Secretary.

1505 Meetings

- 1505.1 Meeting Time and Place: Meetings of the Planning and Zoning Board shall be held on a schedule adopted by the membership.
- 1505.2 A Quorum: A majority of the membership of the Board shall constitute a quorum, and the number of votes necessary to transact business shall be a majority of the members which constitute the quorum for a given meeting.
- 1505.3 Special Meetings: Special meetings may be called by the Chairman. It shall be the duty of the Chairman to call such a meeting upon recommendation of the Board. During a special meeting, no other business may be considered except that which was specified by advance notice. The Secretary shall notify all members of the Board in writing not less than 48 hours in advance of such special meetings.
- 1505.4 All Official Action Public: All meetings of which official action is taken shall be open to the general public.

1506 Public Hearings

- 1506.1 Hearings in the Public Interest: In addition to those required by law, the Board may, at its discretion, hold public hearings when it decides that such hearings will be in the public interest.

1506.2 Notification: Notice of the time and place of such hearing shall be published in any official newspaper of general circulation of Madison County, which shall comply with the current existing North Carolina General Statutes pertaining to and setting forth the requirements of publications of legal notices.

1506.3 Organization, Rules and Records: The case before the Board shall be that which the Board notified the public by advance notice. The case before the Board shall be represented in summary by the Secretary of a designated member of the Board at the beginning of said hearing. Therefore, all interested parties shall have privileges of the floor. A record shall be kept of those speaking before the Board.

1507 Amendments

These By-Laws may be amended by a two-thirds vote of the entire membership of the Planning and Zoning Board with subsequent approval and ratification by the Board of Aldermen of the Town of Mars Hill.

1508 Adoption of these By-Laws

These By-Laws are hereby adopted together as part of the Zoning Ordinance for the Town of Mars Hill.