The Town of Bryson City
Unified Development Ordinance

Bryson City, North Carolina

DATE

The Town of Bryson City Unified Development Ordinance

Effective Date: DATE

Planning Board Review and Recommendation: DATE
Approved by the Town Board of Commissioners: DATE

Acknowledgements

MAYOR AND THE BOARD OF ALDERMAN

PLANNING BOARD/STEERING COMMITTEE

STAFF

CONSULTANT

WithersRavenel
Our People. Your Success.

137 S Wilmington Street, Suite 200

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Section 153.100: General Provisions

153.101 Title

A. This ordinance shall be known as and may be cited as the Unified Development Ordinance. It may also be known and may be referred to as the 'UDO' or “this Ordinance”.

153.102 Authority and Enactment

A. The Town Board of Aldermen, pursuant to the authority conferred by the General Assembly of the State of North Carolina in Chapter 160A, Article 8, Section 174, General Ordinance Authority, and Section 175, Enforcement and N.C.G.S. §160D, does hereby ordain and enact into laws this Ordinance and its Sections.

153.103 Jurisdiction

A. The provisions of this Ordinance shall apply within the entire corporate limits of the Town of Bryson City ("the Town") and the entire extraterritorial jurisdiction (ETJ) area as may hereafter be brought within the purview of this Ordinance pursuant to law, which shall be defined and established on the map entitled, "Zoning Map of the Town of Bryson City, North Carolina" ("the Zoning Map"), which is adopted simultaneously herewith. The Zoning Map and all explanatory matter thereon accompany and is hereby made a part of this Ordinance.

B. The current Zoning Map and all its prior versions shall be kept on file in digital or paper format with the Town Clerk. While the digital shall be accessible to view from the Town website at all times, the paper format is available for public viewing during normal business hours. The original official version of the map shall bear the seal of the Town. It shall be the final authority as to the status of the current zoning district classification of land within the Town’s jurisdiction and shall only be amended in accordance with the provisions of this Ordinance.

153.104 Expansions of Jurisdictions

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

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

153.105 Purpose and Intent

A. This Ordinance is adopted to promote and protect the health, safety, and general welfare of the residents, businesses, and visitors of Bryson City. Specifically, it is the intention of this Ordinance to:

1. Implement the overall vision and goals of the Town as outlined in the Town's Land Use Plan and other officially adopted plans of the Town;

2. Provide adequate transportation, water, sewerage, stormwater management, and other public facilities and amenities;

3. Improve the quality of life by lessening congestion, provide adequate light and air, prevent overcrowding of land, protect the integrity of neighborhoods, and ensure safety;

4. Provide for the orderly, safe, and efficient subdivision and development of land in the Town and any future extraterritorial jurisdiction;

5. Conserve the value of buildings and development by encouraging the most appropriate use of land throughout the Town;

6. Protect natural resources and conserve the Town's natural features, such as trees, rolling vistas, and the Tuckasegee River;

7. Promote alternative transportation modes, such as cycling, walking, and transit; and

8. Support the residents, business community, and developers with clear, concise, and efficient regulations, processes, and procedures.

153.106 Consistency with Adopted Plans

A. Land Use Plan

1. As a condition of adopting and applying zoning regulations under N.C.G.S. §160D, the Town shall adopt and reasonably maintain a land-use plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The development regulations contained herein should be consistent with the adopted Town of Bryson City Comprehensive Land Use Plan, adopted in September 2022, and any subsequent revisions.

B. Adopted Plans and Policies

1. All proposed subdivisions and land development shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

153.107 Minimum Requirements

A. In its interpretation and application, the provisions of this section shall be held to the minimum requirements for the promotion of public health, safety, and general welfare. Whenever the requirements of lawfully adopted uses, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this section, the most restrictive, or higher standards, shall govern.

B. Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this section, nothing contained within this section shall be construed to render such covenants inoperative.

153.108 Severability

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

153.109 Legal Status

A. Statute of Limitations

1. In accordance with N.C.G.S. §160D-1405, a cause of action as to the validity of this section, or amendment thereto, shall accrue upon the adoption of this section or amendment thereto and shall be brought within sixty (60) days as provided in N.C.G.S. § 1-54.1.

B. Repeal of Conflicting Ordinance

1. All ordinances or parts of ordinances of the Town which are in conflict or inconsistent with this section are repealed and superseded to the extent necessary to give this section full force and effect.

C. Administrator

1. Enforcement

a. The Administrator shall be responsible for the administration and enforcement of this Ordinance as designated by the Town Manager.

2. Interpretation

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

3. Development Approval Required

a. No building, sign, or structure or any part thereof shall be erected, structurally altered, moved, or changed in use until development approval has been granted by the Administrator or other approving body, as set forth in Section 153.500.

153.110 Effective Date

A. This Ordinance was adopted on _____ and became effective on _____.

153.111 Existing Uses

A. All land uses that comply with the standards of this ordinance upon its adoption shall be considered permitted uses. Any expansions or modifications to these uses that require a Special Use Permit, as outlined in Section 153.208, will require the submission of a Special Use Permit application (refer to Section 153.522).

153.112 Conflicting Provisions

A. If any provisions of this UDO are inconsistent with similar provisions of Local, State or Federal law, the more restrictive provision shall control, to the extent permitted by law.

Section 153.200: Zoning and Use Standards

153.201 Districts Established

A. Incorporated areas of the Town of Bryson City as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, are hereby divided into the following zoning districts which shall be established and governed by this Ordinance in accordance with N.C.G.S. 160D-703. Districts are further identified by a symbol following the district name.

1. Downtown District – DT
2. Specialty District - S
3. Residential District – R
4. Commercial District – C
5. Industrial District – I

153.202 District Descriptions

A. Downtown District

1. The Downtown District is the core and heart of Bryson City. The Downtown District is intended to support specialized retail uses, restaurants, limited office space, and vertical mixed-uses including residential mixed-use. Standards provided in this ordinance are intended to encourage a walkable district that encourages exploration and economic development while retaining the character of the community.

B. Specialty District

1. The Specialty District is designed to support innovative development patterns where lots adjoin important cultural and environmental resources. The district supports open space conservation of land, but also considers opportunities that provide community services in innovative ways.

C. Residential District

1. The Residential District is designed to accommodate the majority of housing provided in Bryson City. This area is primarily designed for single-family and multi-family developments, however institutional uses may be appropriate under specific circumstances.

D. Commercial District

1. The Commercial District provides commercial and retail opportunities along corridors that are primarily utilized by automobiles and through traffic. The Commercial District is intended to extend retail opportunities and amenities outward from the downtown core. These commercial areas are intended to serve local residents via proximity and multi-modal connectivity to the surrounding Residential District in addition to serving regional shoppers along major throughfares. Campgrounds and other short-term rental accommodations may be appropriate where adjoining the Tuckasegee River.

E. Industrial District

1. The Industrial District provides locations, primarily along the railroad corridor, for industrial, manufacturing, warehousing, and similar purposes. Intended uses work to support a stable tax base for the Town, but must provide buffering from adjacent residential and commercial uses to mitigate nuisance.

153.203 Interpretation of District Boundaries

A. The boundaries of these districts are established as shown on the map "Official Zoning Map, Town of Bryson City." It shall be the duty of the Administrator to maintain the zoning map and to faithfully modify it in accordance with map amendments which may be adopted by the Town in the future. In maintaining the zoning map, the Administrator is authorized to make minor adjustments to the map where to do so would cause zoning boundaries to match property lines, streets, streams, or other zoning boundaries, or where circumstances otherwise make it clear that such adjustment fulfills the intent of previous zoning map amendments per N.C.G.S. 160D-105.

153.204 Measurements and Exceptions

A. General

1. No lot, even though it may consist of one (1) or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, setback, and other requirements of this section are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

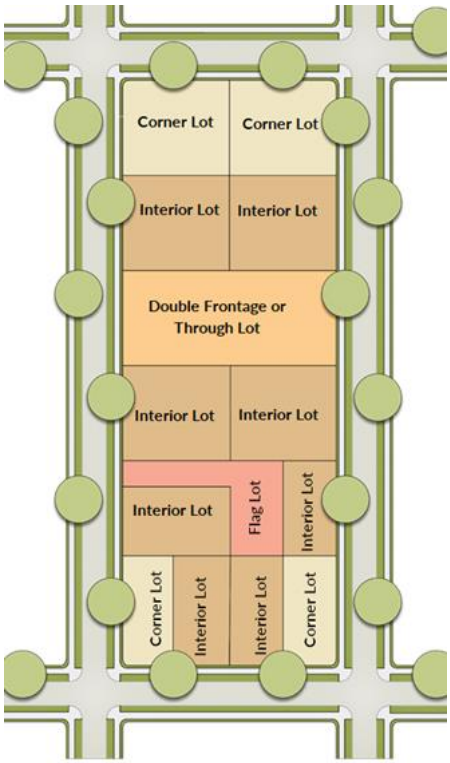
B. Lot

1. A parcel of land recorded with Swain County, or a parcel described by metes and bounds, the description of which has been so recorded.

2. **Lot Types**

(1) Interior

(a) A lot other than a corner lot or a through lot, where only one property line fronts onto a street and all other lot lines are shared with other lots.



(2) Corner

(a) A lot that occupies the interior angle at the intersection of two (2) or more right-of-way lines.

(3) Double Frontage

(a) A continuous lot of the same depth as the width of a block, and which has street frontage along two (2) or more property lines.

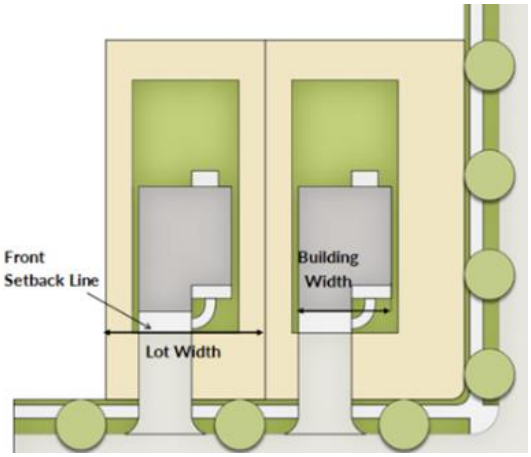
(4) Flag

(a) An irregularly shaped lot which has an appendage or extension which does not meet lot width requirements of the district at the street.

3. **Width**

   a. **Building Width**

      (1) Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting onto a street).

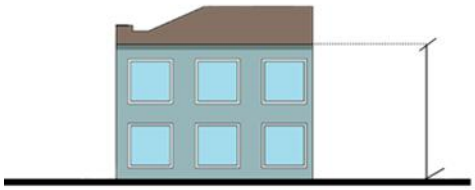


   b. **Lot Width**

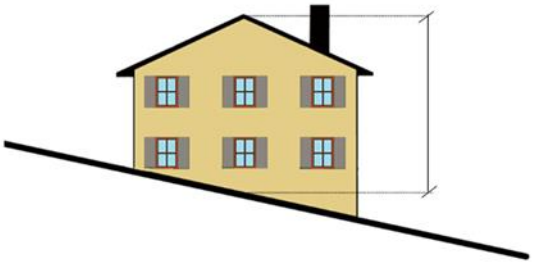
      (1) Lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the front setback line, parallel to the front property line or along the chord of the front property line.

C. **Height**

1. Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface of any flat roof, to the deck line of a mansard roof, or to the highest point of the ridge of any pitched roof.



Measured to the highest finished roof surface



Measured from the average finished ground level to the highest point of the ridge.

2. No structure shall be erected or altered so as to exceed the height limit or density regulations of this Section for the district in which it is located.

3. Structures such as spires, belfries, cupolas, domes, monuments, water tanks/towers, chimneys, flagpoles, aerials, or antennas, or other similar structures not intended for human occupancy, may exceed established height limits of the district in which it is to be located.

D. Setbacks and Street Yards

1. Defined

a. Setback

(1) The distance by which any building or structure must be separated from the lot line. Usually conveyed as the minimum distance permitted.

b. Yard

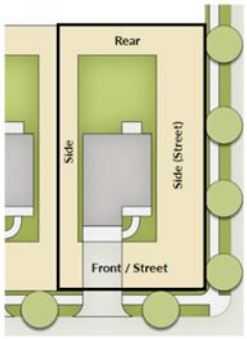
(1) The unoccupied, open space, at grade, on a lot extending from the lot line to the building. Usually conveyed as the minimum width permitted.

2. Types

a. Front

b. Side

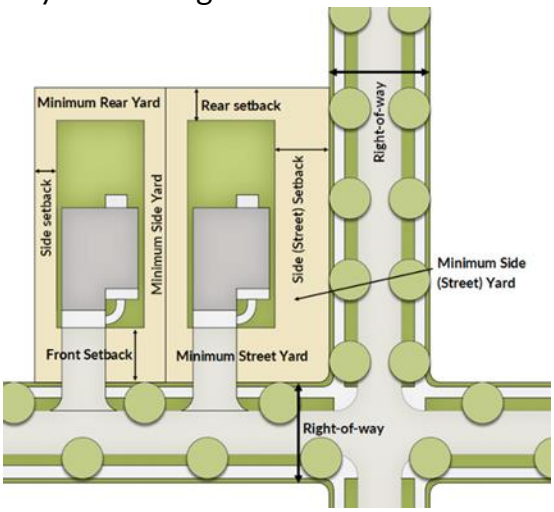
c. Rear



3. Measurement

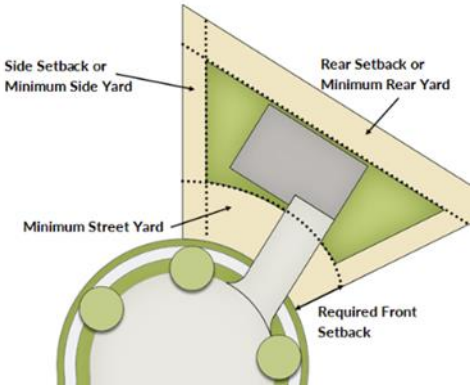
a. Depth of a required front or side yard (when adjoining an additional street frontage to the principal frontage) shall be measured perpendicular to the street right-of-way line so that the yard established is equal to the minimum front or side (street) setback required by district regulations.

b. The width of a required side yard shall be measured perpendicular to the side lot line so that the yard established is equal to the minimum side setback width required by district regulations.



c. Depth of a required rear yard shall be measured perpendicular to the rear lot line in such a manner that the yard established is equal to the minimum rear setback required by district regulations.

d. For lots located on a cul-de-sac, the street yard shall be measured as a line that extends parallel to the arc of the street right-of-way at a distance measured perpendicularly along the side lot lines and equal to that of the required minimum front setback required by the district regulations.



e. All street yard and setbacks shall be measured from the edge of the property line.

f. Double frontage lots shall be considered to have two (2) street yards.

g. No part of a yard or other open space required for any structure or used for the purpose of complying with the provisions of this section shall be included as a part of a yard or other open space similarly required for another structure or use.

4. **Irregular Lot Shapes**

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

E. Yard Encroachments

1. The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

   a. Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.

   b. Building eave or roof overhang may extend up to twenty-four (24) inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and a half (7½) feet above the ground elevation, and it is located at least five (5) feet from any other building or eave.

   c. Sills and ornamental features may project up to twenty-four (24) inches into any required yard.

   d. Except in the DT, fire escapes may project up to eight (8) feet into any required yard.

   e. Signs may extend into required yards in conformance with standards found in Section 153.409.

   f. Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.

   g. Security gates and guard stations may be located within any required yard.

   h. Unenclosed patios, decks or terraces, including lighting structures, may extend up to four (4) feet into any required side yard, or up to eight (8) feet into any required rear yard.

   i. Covered porches may encroach a maximum of twenty percent (20%) of the required street yard setback depth. This does not apply to enclosed porches and in no way shall a covered porch extend into the right-of-way.

   j. Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four (4) feet from the property line.

k. Bay windows, entrances, balconies, and similar features that are less than ten (10) feet wide may extend up to eighteen (18) inches into any required yard but shall remain at least six (6) feet from the property line.

l. Structures below and covered by the ground may extend into any required yard.

m. Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two (2) feet from the side property line, except for residential driveways which may coincide along a property line.

n. Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard, subject to visibility restrictions.

o. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

153.205 Table of Dimensional Standards

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

B. Table of Dimensional Standards

Dimensional Standards	DT Downtown District	S Specialty District	R Residential District	C Commercial District	I Industrial District
Lot Width	N/A	60’	40’	60’	60’
Front Yard Setback (Minimum/Maximum)	15’ (Maximum)	15’	15’	15’	25
Side Yard Setback[1] (Minimum)	N/A	10’	5’	5’	10’
Rear Yard Setback (Minimum)	N/A	10’	10’	10’	10’
Max Height	55’	55’	45’	55’	55’

[1]Where a corner lot takes adjoins a secondary frontage street, the side street setback shall apply, and the front yard setback shall only apply to the primary frontage.

153.206 Establishment of Uses

A. Except as otherwise provided herein, regulations governing the use of land and structures are hereby established as shown in the Table of Permitted Land Uses in Section 153.208.

153.207 Uses Not Mentioned in the Ordinance

A. Uses which are not expressly listed in the Table of Permitted Land Uses (Section 153.208), as Permitted or Permitted with Additional Standards shall be regulated as a use most similar to an existing use within the Town of Bryson City, in accordance with the procedures outlined in Subsection B., below.

B. It is recognized that new types or forms of land use will develop within the Town of Bryson City that are not anticipated by this Ordinance. To provide for such changes and contingencies, the classification of any new or unlisted land use shall be made by the Administrator or designee to determine if the use can reasonably be determined to fit into a similar use category described in the Ordinance with the information presented by the applicant and research completed by the Administrator. The Administrator or designee may, at their discretion, use other classification methods to determine if and where certain uses may be permitted such as the latest version of the North American Industry Classification System (NAICS) Guide produced by the Bureau of Labor Statistics. If the Administrator or designee cannot make a determination on a particular use, then the Board of Adjustment may make such a determination after conducting a public hearing.

153.208 Table of Permitted Land Uses

A. Permitted Land Use Table Key
The permitted land use table is subject to the explanation as set forth below.

B. Permitted (P)
A ”P” indicates that a use is permitted in the respective district subject to the specific use standards throughout this Chapter. Such uses are also subject to all other applicable requirements of this chapter.

C. Permitted with Additional Standards (AS)
A “AS” indicates that a use is permitted with additional standards. Use Standards are located in Section 153.209.

D. Special Use Permit Required (S)
An “S” indicates a use that may be permitted in the respective general use district only where approved by the Town Board of Aldermen in accordance with Section 153.522. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in Section 153.209, except where such use standards are expressly modified by the Town Board of Aldermen as part of the special use approval.

E. Uses Not Permitted (N)
An “N” in the use table indicates that a use is not permitted in the respective district.

F. Table of Permitted Land Uses

Use	Districts					Additional Standards
Residential Uses	DT	R	C	I	S	
Accessory Dwellings	AS	AS	AS	N	N	**153.209.A**
Boarding Houses	N	N	AS	AS	N	**153.209.B**
Family Care Homes	N	N	AS	AS	N	**153.209.C**
Home Occupations	P	P	S	P	S	
Homeless Shelter	N	N	N	N	S/AS	**153.209.D**
Manufactured Home Parks	N	P	P	P	N	
Manufactured Homes	N	P	P	P	N	
Multi-Family Residential	AS	P	P	N	AS	**153.209.E**
Single-Family Residential Detached	AS	P	P	N	AS	**153.209.F**
Duplex	AS	P	P	N	AS	**153.209.G**
Triplex	AS	P	P	N	AS	**153.209.G**
Quadplex	AS	P	P	N	AS	**153.209.G**
Tiny Homes (Permanent)	AS	AS	AS	AS	AS	**153.209.H**

Use	Districts					Additional Standards
Tiny Homes (Non-permanent)	N	AS	AS	AS	N	**153.209.I**
Vertical Mixed-Use	AS	AS	AS	N	AS	**153.209.J**
Civic and Recreational Uses	DT	R	C	I	S	
Cemeteries	N	S	S	S	S	
Government Buildings	P	P	P	P	S	
Place of Worship	P	P	P	P	S	
Recreational Facilities (public/private)	S	S	P	P	S	
Schools (public/private)	S	S	P	P	S	
Office, Institutional, & Service Uses	DT	R	C	I	S	
Animal Services (with outdoor and/or overnight component)	N	N	AS	P	N	**153.209.K**
Animal Services (without outdoor and/or overnight component)	AS	S/AS	P	P	N	**153.209.L**
Art/Dance/Music Studio	P	N	P	P	S	
Automotive/Boat Services	S	N	P	P	S	
Cryptocurrency Mining	N	N	N	S	N	
Daycare Centers	AS	S/AS	AS	N	S	**153.209.M**
Healthcare Facilities	S/AS	N	P	P	S	**153.209.N**
Heavy Equipment Services	N	N	P	P	N	
Office Uses (greater than 10,000 sq. ft.)	S	N	P	P	N	
Office Uses (less than 10,000 sq. ft.)	P	N	P	P	S	
Residential Care Facilities	N	N	P	P	S	
Tattoo/Piercing Services	P	N	P	P	S	
Commercial, Retail, and Lodging Uses	DT	R	C	I	S	
Adult Establishments	N	N	N	S/AS	N	**153.209.O**
Automotive/Boat Sales	S/AS	N	P	P	N	**153.209.P**
Bar/Tavern	P	N	P	P	S	
Bed & Breakfast	P	N	P	P	S	
Brewery/Winery	P	N	P	P	S	
Campground	N	N	P	P	S/AS	**153.209.Q**
Car Wash	AS	N	P	P	N	**153.209.R**
Entertainment Uses (indoor)	P	N	P	P	S	
Entertainment Uses (outdoor)	P	N	P	P	S	
Gas Station	S	S	P	P	S	
Grocery Store	S	N	P	P	S	
Gymnasium	P	N	P	P	S	
Heavy Equipment Sales	S	N	P	P	N	
Hotel/Motel	AS	N	AS	AS	S/AS	**153.209.S**
Nightclubs	AS	N	P	P	N	**153.209.T**
Outdoor Sales	AS	N	AS	AS	S/AS	**153.209.U**
Restaurants (with drive-through)	S	N	P	P	S	
Restaurants (without drive-through)	P	N	P	P	S	

Use	Districts					Additional Standards
Retail Uses (less than 10,000 sq. ft.)	P	N	P	P	S	
Retail Uses (more than 10,000 sq. ft.)	S	N	P	P	S	
RV Park/Park Models	N	N	P	P	N	
Shopping Center	N	N	AS	AS	S/AS	**153.209.V**
Short-Term Rentals	P	P	P	P	S	
Sweepstake Games	N	N	N	AS	N	**153.209.W**
Industrial & Infrastructure Uses	DT	R	C	I	S	
Essential Services	P	S	P	P	P	
Manufacturing	N	N	S/AS	AS	S/AS	**153.209.X**
Outdoor Storage	N	N	P	P	S	
Scrap Yard	N	N	AS	AS	N	**153.209.Y**
Train Depot	P	N	P	P	P	
Warehousing	S	N	P	P	N	
Wholesale Trade	S	N	P	P	S	
Wireless Telecommunication Towers	N	N	S/AS	S/AS	S/AS	**153.209.Z**
Agricultural Uses	DT	R	C	I	S	
Commercial Agriculture	N	N	P	P	S	
Livestock and Poultry	N	AS	N	N	N	**153.209.AA**
Farmer's Market	P	S	P	P	P	
Nurseries	S	S	P	P	S	
Miscellaneous Uses	DT	R	C	I	S	
Temporary Events	AS	AS	AS	AS	AS	**153.209.BB**

153.209 Use Standards

A. Accessory Dwellings

1. Accessory Dwellings shall be clearly subordinate to the principal structure and not exceed thirty three percent (33%) of the heated floor area of the principal dwelling unit.

2. No more than one Accessory Dwelling shall be located on the lot.

3. Accessory dwellings may not come in the form of manufactured homes or recreational vehicles (RVs).

4. All Accessory Dwellings shall be located in the rear or side yard and meet all dimensional standards for the applicable zoning district.

B. Boarding Houses

1. At least one flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system, and in good working condition, shall be supplied for each four (4) rooms within a rooming house whenever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall, or passageway, to all persons sharing such facilities.

2. Every lavatory basin and bathtub, or shower, shall be supplied with hot water at all times.

3. Every room occupied for sleeping purposes by one person shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor space for each occupant.

4. Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the governed area, or of the state.

5. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for maintenance of a sanitary condition in every part of the rooming house.

6. He or she shall be further responsible for the sanitary maintenance of the entire premises when the entire structure, or building, is leased, or occupied, by the operator.

C. Family Care Homes

1. Family Care Homes shall provide support and supervisory personnel for room and board, personal care and habilitation services in a family environment for not more than six (6) resident persons with disabilities as defined in NCGS § 168, Article 3.

D. Homeless Shelter

1. A homeless shelter shall not be located within 2,000 linear feet of any other homeless shelter, as measured in a straight line from the closest edge of the property occupied by the homeless shelter to the proposed site.

2. An employee or volunteer must maintain continuous on-site supervision during hours of operation.

3. The facility shall meet all applicable adopted State Building and Fire Codes.

E. Multi-Family Residential

1. Multi-Family Residential structures located in the DT, Downtown and S, Specialty Zoning Districts must be reviewed and approved by the Town Board of Aldermen in a legislative hearing.

F. Single-Family Residential Detached

1. Single-Family Residential Detached uses located in the DT, Downtown and S, Specialty Zoning Districts must be reviewed and approved by the Town Board of Aldermen in a legislative hearing.

G. Duplex/Triplex/Quadplex

1. Duplex, Triplex, and Quadplex uses located in the DT, Downtown and S, Specialty Zoning Districts must be reviewed and approved by the Town Board of Aldermen in a legislative hearing.

H. Tiny Home (Permanent)

1. All tiny homes with a permanent foundation shall be considered a single-family residential detached structure and must meet the North Carolina Residential and Electrical Code requirements.

2. All applicable setback requirements shall be met.

I. Tiny Home (Non-permanent)

1. Tiny homes which lack a permanent foundation shall be considered non-permanent and may only be occupied for a period of time not to exceed 180 days.

2. All applicable setback requirements shall be met.

J. Vertical Mixed-Use

1. Retail uses shall be located at street level, while office and residential uses are placed in the rear or on the upper stories.

K. Animal Services (With outdoor and/or overnight component)

1. All structures and outdoor runs must be located a minimum of 500 feet from any residentially zoned property.

2. Outdoor and enclosed kennels shall adequately protect all animals from weather extremes and protect adjacent residences from noise, odors, and other objectionable characteristics.

L. Animal Services (Without outdoor and/or overnight component)

1. In the DT and R districts, Animal Services shall be restricted to veterinarian, grooming, and similar pet care uses.

M. Daycare Centers

1. The use of any accessory building or accessory structure for a day care is not allowed.

2. Any outdoor play equipment stored throughout the day and night shall not be permitted in the front yard area and can be located no closer than fifteen (15) feet from any adjoining lot containing a dwelling.

3. No more than eight (8) persons shall be cared for at any given time.

4. Must comply with all state and local standards.

N. Healthcare Facilities

1. Healthcare Facilities located in the DT, Downtown Zoning District shall not contain outdoor activities of any kind unless reviewed and approved by the Administrator.

O. Adult Establishments

1. Adult Establishments shall not be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.

2. There shall be no more than one such use on the same property or in the same building or structure.

3. Except for permanent signage as permitted in Section 153.409, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of- way.

P. Automotive/Boat Sales

1. Automotive and Boat sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

Q. Campground

1. All campgrounds shall have a gross land area of five (5) acres or greater and contain a minimum of fifteen (15) camper spaces.

2. The campground owner/operator is responsible for providing a central location for refuse collection.

3. In addition to meeting the requirements of Section 153.205.B., all campers/camp sites within the campground must be separated by a minimum of ten (10) feet, and campers/camp sites must be twenty (20) feet from any other structure.

R. Car Wash

1. The car wash structure shall be located no closer than twenty (20) feet to any side or rear property line or right-of-way.

2. The car wash structure shall not exceed a height of twenty (20) feet or exceed an overall building dimension of twenty-five (25) feet in width and fifty (50) feet in length.

3. The car wash structure shall be located behind the rear building line of the principal building.

4. All car wash structures shall meet all applicable yard requirements.

S. Hotel/Motel

1. Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use.

T. Nightclubs

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

U. Outdoor Sales

1. Operational standards for the temporary outdoor display, storage and sale of outdoor-related goods not contained within a permanent structure.

    a. All outdoor sales activities shall be proposed to and reviewed by the administrator and be accompanied by a proposed duration of display.

    b. Outdoor-related goods shall include, but are not limited to, goods that are customarily used outside, including outdoor furniture, sporting goods for outdoor sports activities, plants, flowers, fertilizers, mulch, sod, gardening tools, lawn equipment, storage sheds, grills, snow blowers and firewood, as determined by the Administrator.

    c. Outdoor display, storage and/or sale of outdoor-related goods shall be sold in connection with an established retail business on the same lot and shall be permitted without specified duration.

    d. The proposed display, storage and/or sale area shall not impede vehicular or pedestrian traffic and parking.

    e. If applicable, building, electrical, fire prevention code and hazardous use permits shall be obtained.

2. Exemptions. Town-sponsored events such as outdoor festivals are subject to review and approval of the Town Manager and are exempt from the permitting requirements and limitations of this section.

V. Shopping Center

1. For shopping centers that are greater than 250,000 square feet in size, a traffic study based on ITE (Institute of Transportation Engineering) rates or other

comparable source analyzing the proposed site's impact on the existing road network shall be provided. Proposed roadway improvements serving the site should also be detailed.

2. Uses in a shopping center are limited to those that are allowed in the underlying zoning district as provided in Section 153.208. Any use shown as a "S" for Special Use Review shall require the issuance of a Special Use Permit.

W. Sweepstake Games {fish/duck games}

1. No sweepstake games operations shall be located within 1,000 feet of a place of worship, public or private school, child daycare center, residential district, residential development, public park, or an establishment with an on-premises North Carolina ABC license.

2. There shall be no more than one (1) sweepstake games establishment on the same lot or property or in the same building, structure, or portion thereof.

3. No other use may occupy the same building, structure, property, or portion thereof as a sweepstake games establishment.

4. Sweepstake games establishments shall not operate outside of the hours of 7:00 am to 12 midnight each day, seven (7) days per week.

5. No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where sweepstakes games operations occur and the rear wall of such room so that a clear view of the interior may not be had from the entrance to the room.

6. There shall be one (1) paved parking space for every terminal, machine, and computer in addition to one (1) paved parking space per employee.

X. Manufacturing

1. All manufacturing activity shall be conducted entirely within a fully enclosed building.

    a. Outdoor storage may be allowed as an accessory to the manufacturing use subject to approval from the Administrator.

2. Uses shall not emit smoke, odor, or objectionable waste materials.

3. No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.

4. No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

5. The following manufacturing uses shall not be permitted:

    a. Abattoirs

    b. Bone distillation

    c. Fat rendering

    d. Offal or dead animal reduction

    e. Stockyards

Y. Scrap Yard

1. No salvaged, discarded, junked, or other similar materials shall be placed in a scrap yard for more than thirty (30) days.

2. No material shall be placed in a scrap yard that could be moved by the elements out of the scrap yard.

3. All materials in scrap yards shall be stored within a chain-link or similar fence.

4. All scrap yards that adjoin or are visible from a public right-of-way shall be screened from view by appropriate fencing and/or landscaping approved by the Administrator.

Z. Wireless Telecommunication Towers

1. **General Requirements**

    a. All wireless communications towers must comply with FCC and FAA guidelines. The communications tower owner shall provide the town each year with a copy of any FCC and FAA licenses required.

    b. Wireless communications towers may be considered either a principal or an accessory use. A different existing use or structure on the same lot shall not preclude the installation.

2. **Location/Site Design**

   a. Wireless communications towers may only be located above an elevation of 3,500 feet or on property under town or county ownership.

   b. Wireless communications towers may only be located on a lot one (1) acre or greater in size.

   c. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the land development district to the extent consistent with the function of the communications equipment. Towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical.

   d. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

   e. Towers must be set back from any property in R residential district by a distance equivalent to the height of the tower being erected or 100 feet whichever is greater.

   f. Wireless communications towers shall be landscaped with a buffer of plant materials that effectively screens the view of tower compound from adjacent property.

   g. Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located within buildings, equipment shelters or cabinets shall be fenced, screened and landscaped to screen views from adjacent properties. Accessory equipment facilities located on the roof of buildings shall be enclosed so as to be shielded from view. Accessory equipment facilities may not be enclosed with exposed metal surfaces.

   h. Security fencing, if used, shall be painted or coated with a non-reflective color.

   i. Proposed access to the tower shall produce the least disturbance for adjoining uses as is practicable.

3. **Tower Design**

   a. The use of colors and facility designs shall be compatible with the surroundings (buildings, vegetation, etc.) or the surroundings likely to exist

in the area and should prevent the facility from dominating the area in which it is located.

b. The use of stealth design technology is required.

c. The maximum height allowed for a tower is 180 feet unless required to be shorter due to any local, state, or federal regulations.

d. Antennas may not extend more than fifteen (15) feet above any tower.

e. Towers shall not be artificially lit unless required by the FAA or other applicable authority. If lighting is required, the Board of Aldermen may review the available lighting alternatives and approve the design that will cause the least disturbance to surrounding views.

f. Security lighting for equipment shelters or cabinets and other on-ground accessory equipment is also permitted, as long as it is appropriately down-shielded to keep light within the boundaries of the site.

g. No equipment shall be operated so as to produce noise levels above forty-five (45) dB as measured from the nearest adjacent, residentially zoned property. Operation of a back-up power generator in the event of power failure, or the testing of a back-up generator between 8:00 a.m. and 9:00 p.m. are exempt from this standard.

h. No lettering, symbols, images or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall be place on or affixed to any part of a telecommunications tower or attached antenna other than as required by FCC regulations regarding tower registration or other applicable law.

4. **Collocation**

a. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Aldermen that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can reasonably accommodate the applicant's proposed tower or antenna.

b. Applicants and permittees shall make a good faith effort to share wireless communications, structures, facilities and sites where reasonable and appropriate. Such good faith shall include sharing technical information and application information to evaluate the feasibility of collocation. In the event a dispute arises as to whether a permittee has exercised good faith in

accommodating other users, the town may require a third-party technical study at the expense of either or both the applicant and permittee.

5. **Discontinuance**

   a. Discontinued wireless communications towers shall be reported immediately by the service provider to the Administrator. Discontinued facilities shall be decommissioned and removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. The Administrator may approve an extension of an additional six (6) months if good cause is demonstrated by the facility owner.

   b. The provider erecting a wireless communications tower, must have a draft lease agreement with the landholder, or separate equivalent documentation, that specifies if the provider fails to remove the facility upon six (6) months of its discontinued use, the responsibility for removal falls upon the landholder.

   c. A performance bond shall be filed for 1.25 times the estimated cost of removal of all towers and accessory equipment structures that are approved. The amount of the bond shall be determined by a removal company. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI).

AA. Livestock and Poultry

1. No more than one animal shall be kept, maintained and/or stabled per 5,445 square feet (one-eighth acre). For the purpose of this section, one (1) animal shall mean a goat, sheep, donkey, mule, cow, horse, bison, llama, alpaca, ostrich, or similar animals weighing 200 pounds or more. Twelve (12) chickens or similar fowl defined as poultry shall count as one (1) animal unit. The keeping of hogs, excluding a potbellied pig as a pet, is not permitted.

2. All livestock or poultry shall be fenced so that they are no closer than 150 feet from an adjacent dwelling unit. This shall not apply to a residence constructed after the establishment of such livestock or poultry containment area. However, the containment area may not encroach further towards the newly established residence.

3. All stables, pasture areas, and manure and feed storage areas shall be kept in a neat and healthy condition so as not to constitute a nuisance for adjoining property owners.

BB. Temporary Events

1. The Administrator may issue a temporary permit for carnivals, religious events, sport events, circuses, festivals and similar activities that will last for a period of up to sixty (60) days in the districts in which they are indicated as a permitted use.

2. All temporary events shall submit an application and site plan, at least thirty (30) calendar days prior to the event, with a description of activities so that it can be determined if adequate parking, sanitation & other necessary facilities will be available.

    a. If road closures are required as part of the event, the application must be submitted at least ninety (90) calendar days prior to the event.

    b. In certain circumstances, an event may be held and organized with less than a thirty (30) day notice to the Town so long as the Administrator and necessary authorities are adequately prepared.

3. The Administrator shall submit each temporary event proposal to the Building Inspector, County Health Director, Law Enforcement, and Fire Marshal for review and approval.

Section 153.300: Subdivision and Infrastructure

153.301 Purpose

A. In order to promote orderly land development patterns, the Town regulates the subdivision of land, the subsequent installation of infrastructure, and other features necessary to ensure adequate provision of public and private services. These regulations help ensure harmonious developments that are connected, attractive, and well-served by infrastructure.

153.302 Applicability

A. This Section and the submission requirements contained in Section 153.500 of this Ordinance, are applicable to all development of land, including divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions are created for the purpose of sale or building development (whether immediate or future).

B. However, the following divisions of land shall not be included within the definition of subdivision, as outlined in NCGS 160D-802, nor be subject to the regulations herein:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Bryson City as contained herein.

2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.

3. The public acquisition by purchase of strips of land for the widening or opening of streets.

4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Bryson City, as contained herein.

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

153.303 Sequence of Improvements

A. Subdivision improvements shall be installed on the site in the following sequence unless otherwise approved by the Administrator:

1. Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, fiber optics, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement.

2. Street base material.

3. Curb and gutter and sidewalks.

4. Landscaping improvements.

5. Street paving.

153.304 Access

A. Access Required

1. No principal building, structure, or use may be erected or established on any lot which does not abut at least fifteen (15) feet on a street constructed to the standards of the Town whether public or private.

2. The erection or establishment of a principal building, structure, or use on a lot not meeting the access requirements shall only be permitted when an access easement is provided and when:

   a. The applicant shall prove to the Administrator there is adequate emergency vehicle access for the type and intensity of use proposed and that special circumstances make the application of these requirements not feasible or undesirable to the Town.

3. All Fire requirements of the Town shall be met.

B. Connection to State- and Town- Maintained Streets

1. Whenever a subdivision that involves the creation of one (1) or more new streets borders on or contains an existing or proposed street, no direct driveway access may be provided from lots within the subdivision unless approved by the North Carolina Department of Transportation (NCDOT) or the Town of Bryson City, whichever is applicable.

C. Residential and Non-Residential Driveways

1. Residential and non-residential and driveway access to and from streets shall be constructed in accordance with Town standards as outlined below, or meet NCDOT specification if proposing to connect to a state-maintained road:

a. Width of Driveway

(1) The width of a residential driveway shall be no less than ten (10) feet and no more than thirty (30) feet. When two (2) residential driveways coincide along a property line, the maximum width shall not exceed thirty (30) feet.

b. Number of Driveway Access Points

(1) The number of residential driveway access points servicing any lawful lot should be limited to one (1); however, in no instance shall there be more than two (2) residential driveway access points servicing the lot.

c. Location of Driveway Access Points

(1) Residential driveways shall be spaced at least twenty (20) feet from any other driveway on the same lot, but not nearer than two (2) feet to any lot line, except where two (2) residential driveways coincide along the same lot line.

(2) Driveways shall be appropriately distanced from intersections as determined by the North Carolina Department of Transportation or Town of Bryson City.

D. Multiple Entrances Required

1. In order to accommodate emergency and service vehicles, the following standards shall apply:

a. Any residential subdivision of greater than thirty (30) lots shall include at least two (2) access points. The second access may consist of a stub street to future development. Where a stub street is provided, emergency turn-around must be constructed.

(1) No more than thirty (30) certificates of occupancy may be issued within the subdivision until the required secondary access has been constructed or bonded for construction.

b. Any residential subdivision of greater than seventy-five (75) lots shall include at least two (2) access points. Stub streets shall not be considered part of the two (2) access points.

(1) No more than seventy-five (75) certificates of occupancy may be issued within the subdivision until the required secondary access has been constructed or bonded for construction.

c. Residential subdivisions of 250 or more lots shall provide at least three (3) separate access points. Where three (3) or more access points are required, the Town Board of Aldermen may waive the requirement for immediate construction of more than two (2) access points, provided that subdivision phasing and design illustrates the additional required connections. For those subdivisions large enough to require a third access, a stub-out street may be credited as a required access if the two (2) functioning access roads are both connected to a collector road.

E. Divided Entrances Required

1. Where NCDOT determines it is necessary, a divided entrance may be required for a subdivision or development.

F. Nonresidential Driveway Access to Adjacent Development

1. When required by NCDOT, nonresidential driveway connections to adjacent development shall be provided and clearly identified. All driveway connections shall be constructed and stubbed, and future development of adjacent property shall complete a connection to any existing stub.

2. Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

3. The Town Board of Aldermen may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

G. Closure or Relocation of Existing Access Points

1. The Town Board of Aldermen, in conjunction with NCDOT, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.

H. Visibility at Intersections

1. Corner Lots

a. On a corner lot, a sight triangle shall be established. The sight triangle shall meet all NCDOT requirements.

2. Driveways

a. For any driveway, a sight triangle shall be designed to meet all NCDOT requirements.

b. Driveways are not permitted within required sight triangles.

153.305 Streets

A. General

1. Streets within the Town of Bryson City are intended for multi-purpose use, as follows:

   a. To carry motor vehicle traffic, and, in some cases, allow on-street parking;

   b. To provide a safe and convenient passageway for pedestrian traffic;

   c. To serve as an important link in the Town's drainage system; and

   d. To meet all Fire requirements of the Town.

2. Before any new street offered for dedication to the Town and is accepted as such, and officially recognized as a town-maintained street, The Board of Aldermen must give its approval, finding that the street complies with engineering standards set by the Board, and that the interests of the Town would be served by accepting the street as a town street as outlined in Chapter 94, Streets and Sidewalks, of the Town's Code of Ordinances.

3. All public streets which serve properties connected to the Town's utility system shall be constructed in conformance with Town standards and specifications; however, if the roadway is maintained by NCDOT, then the roadway shall be constructed in conformance with either Town or NCDOT standards and specifications, whichever is more stringent.

4. Streets shall adhere to NCDOT standards and specifications unless more stringent provisions are required by the current adopted NC Fire Code and any approved appendices.

B. Street Improvements

1. Public Streets

a. All designated public streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards. Streets shall also be reviewed and in accordance with Appendix D, Fire Apparatus Access Roads, from the North Carolina Building Code: Fire Prevention Code.

2. Private Streets

a. All designated private streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards. Streets shall also be reviewed and in accordance with Appendix D, Fire Apparatus Access Roads, from the North Carolina Building Code: Fire Prevention Code.

b. However, variations to right-of-way widths and geometric design may be permitted upon the Administrator's review and approval where certain features such as topography, environmental features or unique needs of a development exist.

c. Prior to approval of any final plat for a major subdivision, the Administrator shall review the covenants of the Property Owners Association to ensure compliance with town requirements. Covenants shall include provisions for the ownership and maintenance of private streets. The Administrator may refer the covenants to the town's attorney for review.

C. Street Dedication

1. Whenever a parcel of land included within any proposed development plan embraces any part of an arterial system roadway, after such part of it has been adopted by the proper authority, such part of such proposed public way shall be platted and dedicated in the location and width indicated on the plans. This requirement shall not require the applicant to dedicate rights-of-way unless indicated by the Town. It is the responsibility of the applicant to take future roadway plans of the Town and the NCDOT into account when laying out a development plan.

2. Developments which front only one (1) side of an existing or planned arterial street right-of-way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with Town and NCDOT standards.

D. Cul-de-sac Length

1. No residential cul-de-sac serving any lots of less than seventy (70) feet in width, or more than thirty (30) lots shall exceed 1,000 feet in length.

2. No residential cul-de-sac serving any lots of less than sixty (60) feet in width, or more than thirty (30) lots shall exceed 700 feet in length.

3. No commercial cul-de-sac shall exceed 400 feet in length.

E. Sidewalks

1. When provided, no sidewalk of any description shall be built by any individual, firm, or corporation of any brick, wood, or other material without a written permit from the Town as outlined in Chapter 94, Streets and Sidewalks, of the Town's Code of Ordinances.

F. Relationship of Streets to Topography

1. Streets shall be designed to relate appropriately to the topography of a site.

2. The maximum grade for street construction shall meet the design requirements of the Town of Bryson City or NCDOT.

G. Street Names and Signs

1. Street names shall be subject to the approval of the Town Administrator and Swain County. New street names shall not duplicate nor be similar to existing street names. Existing street names, however, shall be protected where appropriate.

2. Street name signs shall be in place prior to issuance of any building permit on that street.

153.306 Utilities

A. Utility Easements

1. Utility easements shall be at least twenty (20) feet wide, unless approved by the Town's Public Works Department. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum twenty-foot (20') wide easement. All easements shall be clearly shown on the approved construction plans and recorded on the final plat.

B. Ownership of Utilities

1. All water, sanitary sewerage, electrical (when in the Town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

C. Required Additional Capacity

1. Where the Town Board of Aldermen deems it necessary, in the interest of the health, safety and general welfare of the residents of the Town of Bryson City, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon. With the Town and the applicant.

D. Water Distribution Lines and Sanitary Sewers

1. All lots as part of a new subdivision that are located within the Town's corporate limits and within 500 feet of the Town's water and/or sanitary sewer system shall be connected at the applicant's expense to the Town's water and/or sewer system. The applicant shall pay all applicable system development fees in accordance with the Town's fee schedule for all property to be served by a connection to the Town's water and/or sanitary sewer system.

2. Where a subdivision lies more than five hundred (500) feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the Town's water and/or sanitary sewer system. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Swain County specifications and standards.

3. Sanitary sewers shall be no smaller in size than eight (8) inches nominal diameter. Water distribution lines shall be no smaller in size than six (6) inches nominal diameter, with the following exception: On cul-de-sacs which are served by hydrants at their intersection with a local street, and the hydrant is connected to a water line of six (6) inches nominal diameter, or larger, water service may be provided with lines smaller than six (6) inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the

subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least six (6) inches nominal diameter.

4. Water systems outside of Town limits and not connected to the Town water system need not provide fire hydrants. However, such systems shall be designed for future fire flows so that when tied in with the Town system in the future, adequate flow for firefighting will be available to every lot in the subdivision. This provision will require that the main lines be a minimum six (6) inches in diameter, and that a hydrant tee and valve be provided within 500 feet of each lot.

5. For the purpose of this section, the term “water system” shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the Town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the Town.

E. Lots Not Served by Public Water and Sewer

1. Septic and well approvals shall be coordinated with the Swain County Environmental Health Department.

F. Storm Drainage

1. When applicable, the applicant shall obtain a state stormwater permit from the North Carolina Department of Environmental Quality and comply with all permit requirements.

G. Electrical Utilities

1. Electrical improvements in accordance with Town of Bryson City or NC Duke Energy Progress standards, whichever is applicable, shall be required in all subdivisions.

H. Fire Protection

a. All Fire requirements of Town shall be met.

153.307 Easements

A. Easements shall be conveyed to the town or other appropriate agency for underground and overhead utility installation, stormwater drainage, and other purposes as required by the town. The Administrator may vary easement widths if the topography along the proposed right-of-way is such that maintenance equipment or other necessary access cannot reasonably be achieved within the minimum widths specified in the Section. All easements shall be clearly shown on the final plat and placed in accordance with the approved construction plans.

B. **Utilities**

1. All utility easements shall be located within the right-of-way unless approved by Public Works Department.

2. Utility easements for water and sewer shall be at least twenty (20) feet wide.

3. Utility easements for gas, electricity, fiber/cable, and other utilities shall be at a minimum width of twenty (20) feet.

4. Public utility access easements for utility boxes on private lots shall have a minimum of a five (5) foot envelope surrounding such facilities for maintenance.

C. **Drainage Easements**

1. Drainage easements shall be a minimum of twenty (20) feet in width.

2. Easements for Stormwater Control Measures (SCMs) shall be in accordance with the most recent version of the North Carolina Division of Environmental Quality (NCDEQ) Stormwater BMP manual.

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

4. Natural streams, creeks, river, and bodies of water shall not be maintained by the Town except to remove debris/blockage that are adversely affecting the Town's drainage system. However, where a subdivision is traversed by a watercourse, under or above ground drainage way, channel, or stream, there shall be provided a drainage maintenance easement conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the Town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The Town reserves the right to reject any intended dedications.

D. Access Easements

1. All pedestrian access easements shall be a minimum of twenty feet (20') and vehicular access easements shall be thirty (30) feet.

2. Vehicular access easements shall be no longer than 500 feet.

153.308 Cluster Mailbox Units

A. Cluster mailbox units shall be provided in accordance with the United States Postal Service regulations. Units may not encroach into the public right-of-way and shall be placed in an easement on private property or on a commonly-owned lot under the care of a property owner's association or homeowner's association. Dedicated parking in the amount necessary to accommodate the development, including required accessible spaces, shall be provided for cluster mailboxes. Safe pedestrian connectivity shall also be provided.

153.309 Permanent Reference Points

A. The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing permanent monuments.

153.310 Guarantee of Improvements

A. General

1. If the subdivision is to be phased or developed in sections, the Administrator shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

B. Performance Guarantees

1. In lieu of prior construction of the improvements required by this Section, the Town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the Town's specifications at the applicant's expense. Such a guarantee may be in the form of a performance bond, letter of credit, or certified check drawn in favor of the Town or cash deposited with the Town during plat recordation. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Town of Bryson City may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one

hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained. The developer shall have the option to post one type of a performance guarantee as provided for in this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

2. Performance guarantees shall run for a period of one (1) year upon written approval of the Town Board of Aldermen, and be phrased such that they automatically renew until the work is completed. This duration may be extended if the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

3. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in Section B. and shall include the total cost of all incomplete improvements.

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

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

    a. The Town of Bryson City;

b. The developer at whose request or for whose benefit the performance guarantee is given; and

c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

C. Town's Right of Inspection and Acceptance

1. Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the Town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the Town at least two (2) days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the Town of any required improvements.

2. If improvements are guaranteed by a bond or cash deposit, failure by the applicant to perform the work to the Town's standards shall free the Town, at the discretion of the Town Board of Aldermen, to liquidate the bond or cash deposit, to finance the necessary repairs. This provision shall extend through the one (1) year warranty period. The Town will provide the applicant with a written notice of its intent to carry out this provision at least two (2) weeks prior to such liquidations and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Board of Aldermen.

3. The Town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager as specifically authorized by the Town Board of Aldermen.

153.311 Maintenance and Documentation

A. Establishment

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

B. Documentation

1. A copy of the Restrictive Covenants and Articles of Incorporation for new Homeowners Associations shall be provided to the Town for record-keeping purposes.

Section 153.400: Development and Design Standards

153.401 Open Space and Recreation

A. Purpose

1. Recreation and open space are an integral part of every community. The purpose of this section is to require open space for the preservation of natural features, adding character and amenities to development, and provides active and passive recreational opportunities for the residents.

B. Applicability

1. All residential development classified as multi-family residential shall be required to dedicate open space.

C. Minimum Open Space Requirements

1. Open space shall be required as a percentage of the total acreage of the site and the total number of units or lots as follows:

    a. 5-14 units/lots – 5% of site

    b. 15-30 units/lots – 10% of site

    c. 31-60 units/lots – 13% of site

    d. 61+ units/lots – 15% of site

2. For developments that are proximate to an existing publicly-accessible recreation space, they may count external open space as follows:

    a. Adjacent to site: Credit of adjacent recreation space up to fifty percent (50%) of required open space dedication.

    b. Within one-quarter (¼) mile of site: Credit of recreation space up to twenty-five percent (25%) of required dedication.

3. Open space areas should be readily accessible from all buildings with the maximum number of units possible sited adjacent to the open space areas.

4. Required open space shall be cleared of underbrush and debris and shall contain one or more of the following enhancements: landscaping, walls or pathways, fences, walks, civic spaces, fountains, ball fields, and/or playground equipment. The Administrator may consider additional enhancements, as submitted by the applicant, for compliance with this section.

5. **Maintenance**

   a. Open space maintenance is limited to removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing.

   b. Natural water courses are to be maintained as free-flowing and devoid of debris.

   c. Stream channels shall be maintained so as not to alter floodplain levels.

   d. No specific maintenance is required for agricultural uses.

6. **Failure To Maintain**

   a. In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to owner(s) of the open space and may include administrative costs and penalties.

7. **Fee-In-Lieu**

   a. Reserved

153.402 Erosion Sediment Control & Stormwater Management

A. Purpose

1. The purpose of these requirements is to ensure orderly land disturbing activity development within the Town of Bryson City.

B. Applicability

1. All land disturbance activity in excess of one acre shall meet all applicable North Carolina Department of Environmental Quality (NCDEQ) requirements for obtaining an Erosion and Sediment Control permit.

2. All land development activity meeting the NCDEQ threshold for obtaining a Stormwater permit is required to do so.

3. Any land disturbance activity not meeting the threshold for requiring either of the two NCDEQ permits listed above and in excess of 5,455-sf (1/8-acre) shall be required to obtain a zoning permit prior to the commencement of the proposed activity.

   a. The proposer shall provide the administrator with a plan demonstrating the limits of land disturbance along with documented confirmation that no access and or utility easements are impacted for which the proposer is not authorized to disturb.

C. Floodplain Regulation

1. All development shall comply with the requirements outlined in the Swain County Flood Prevention Ordinance, when applicable.

153.403 General Landscape Requirements

A. *Reserved*

153.404 Buffers, Street Trees, and Screening

A. Street Trees

1. When street trees are proposed as part of new or existing development, planting shall comply with the following standards:

   a. Canopy trees shall be planted every forty (40) linear feet.

   b. When the planting of canopy trees is not practical due to the location of overhead utilities, one (1) understory tree for every thirty (30) linear feet may be substituted.

   c. All street trees shall be a minimum of two and one half (2 ½) caliper inches at the time of planting.

   d. Street trees shall be planted outside of the right-of-way on the subject property. They shall be planted no less than five (5) feet or more than fifteen (15) feet from the back of the sidewalk. All trees planted outside the right-of-way shall be placed within a minimum ten foot (10') wide landscape easement.

e. Street trees are to be maintained and replaced as needed by the property owner. Street trees on private lots in residential subdivisions should be placed in a minimum ten (10) foot landscape easement for maintenance access.

f. Street trees shall be located and planted so as not to diminish the effectiveness of required street lighting.

153.405 Sidewalks

A. Applicability

1. All new development and redevelopment of parcels located in the DT zoning district shall install sidewalks along the entire frontage of the lot to be developed.

B. Material

1. Sidewalks shall be constructed of concrete material, unless the administrator approves an alternate material due to environmental constraints, including but not limited to properties located in flood-prone areas or designated wetlands.

2. No sidewalk of any description shall be built by any individual, firm, or corporation of any brick, wood, or other material without a written permit from the Town as outlined in Chapter 94 of the Town's Code of Ordinances.

C. Sidewalk Dimensions

1. The minimum depth of a sidewalk shall be four (4) inches and six (6) inches at driveways.

2. The minimum width of a sidewalk shall be five (5) feet for to ensure American Disability Act accessibility.

3. Sidewalk width may exceed five (5) feet to accommodate outdoor seating, pedestrian gathering spaces and the like, so long as a minimum pedestrian travel way of five feet (5') in width is preserved.

D. Location and Construction

1. New sidewalks in the DT district shall connect to existing sidewalks on adjacent properties as feasible.

2. When a property line extends to the centerline of a roadway, the owner of the property shall dedicate the portion of the property which encompasses the road,

plus an additional seven feet to accommodate the sidewalk and an additional two feet for curb separation.

3. In the event that a property line does not allow a sidewalk to be constructed within a right-of-way, the property owner or developer of the property shall coordinate with the town on the amount of land needed to accommodate the required sidewalk.

4. All sidewalk construction shall be at the expense of the property owner or developer.

5. Should the property owner or developer choose to pay a fee in lieu to the Town of Bryson City for sidewalk construction, said fee must be inclusive of a sealed engineered plan and cost estimate for construction and material.

153.406 Off Street Parking and Loading

A. Applicability

1. All new development shall provide adequate parking on-site to accommodate the estimated number of visitors and users.

B. Parking Space Dimensions

1. Parking space dimensions (other than those designed to meet ADA requirements) shall be a minimum of eighteen (18) feet long and nine (9) feet wide.

2. Parallel parking space dimensions shall be a minimum of twenty (20) feet by eight (8) feet (twenty [20] by seven [7] feet may be used in constrained conditions or on residential streets). The dimension is measured from the face of the curb and may include the gutter.

153.407 Outdoor Lighting

A. Applicability

1. Lighting features may be provided for all new developments.

B. Design Requirements

1. All proposed lighting fixture types shall be cutoff units, BUG rated, and downward casting to avoid adverse effects on neighboring properties.

2. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.

3. When provided in the DT district, lighting fixtures shall be consistent with those existing in the area.

153.408 Building Design Standards

A. Applicability

1. The requirements of this section shall apply to all buildings located in the DT, Downtown District except buildings subject to regulation by the Residential Code for One and Two-Family Dwellings.

B. Buildings in the DT, Downtown Zoning District

1. Acceptable exterior primary wall materials for such buildings include brick, stacked stone, lap siding (cementitious fiber board), stucco, stone/stone masonry units, and architectural concrete masonry units (CMU). Exterior insulation finishing systems (EIFS) may be used as a secondary building material. No vinyl or metal siding shall be attached to any side of a building that is visible from a public street.

C. *Reserved*

153.409 Signs

A. Purpose

1. The purpose of this provision is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, and consistent sign standards and requirements. Consistent with this objective, the Board of Aldermen finds that Bryson City is a traditional mountain community that depends largely upon a tourism-based economy. Tourists, in large part, are attracted to the history, natural environment, scenic beauty, and aesthetic character of the community.

   A proliferation of signs in the Town would result in visual blight and unattractiveness and would convey an image that is inconsistent. In order to preserve the quality, character, and economic vitality of the community, these sign regulations are intended to:

   a. Create a balance between the need to advertise, identify, and communicate and the desire to maintain a safe, healthful, and attractive community environment.

b. Enhance the general welfare of the community by protecting property values and preserving the natural environment, the unique character, and the aesthetic integrity of the community. The preservation of Bryson City's appearance and natural beauty from excessive and obtrusive signs is a matter of critical importance to the Town because of its reliance on tourism.

c. Permit signs that are compatible with their surroundings and that are consistent with the scenic beauty and aesthetic quality of the community.

d. Improve pedestrian and traffic safety through the proper placement of signs.

e. Protect the public from the dangers of unsafe signs, and require that signs be constructed, installed, and maintained in a safe and satisfactory manner.

f. Lessen the confusion, visual clutter, and sight impairment that can be caused by the proliferation, improper placement, excessive illumination, and disproportionate sizes of signs when such signs are not properly controlled or regulated.

B. Applicability

1. No sign shall be erected, constructed, placed, painted, enlarged, moved, used, illuminated, maintained, or substantially altered in the Town of Bryson City except in conformance with the standards, procedures, and other requirements of this ordinance.

C. Exemptions

1. The following signs are considered exempt from needing to obtain a zoning permit, provided the following are applicable:

a. The provisions of this ordinance shall not apply to signs placed by the N.C. Department of Transportation or signs required by other Bryson City ordinances.

b. Further, informational, directional or required public instruction signs are likewise exempt, provided such signs shall not exceed fifty (50) square feet in area on any one side exposed to public view.

c. Building identification signs limited to displaying the name and date of the structure on which they are located are exempt in the DT, Downtown district so long as they do not exceed thirty-two (32) square feet.

d. Political signs as defined in Section 153.600.

e. Trade names and graphics which are located on newspaper, soft drink, and similar vending devices.

f. Manufactures' signs displaying brand names or emblems located on gasoline pumps at service stations.

g. On-premise banner signs not exceeding eighteen (18) square feet.

h. Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device or merchandise.

i. Decorations associated with a national or religious holiday.

j. Warning or danger signs when appropriately located as determined by the Administrator or applicable local, state, or federal agency.

k. Commemorative tablets, markers, or monuments erected by or with the permission of the Board of Aldermen.

l. Signs on vehicles indicating the name of a business, when the vehicle is not intended to be used for a stationary display of signs.

m. "For Sale" signs on private vehicles.

n. Residential nameplate signs whether located on or off-premise.

o. Signs required by law, statute or ordinance.

p. Off-premise yard sale signs and off-premise real estate directional signs except to the extent that all yard sale signs shall be placed and removed within forty-eight (48) hours of the date of sale, and only with the permission of the landowner where any sign is placed.

D. Nonconforming Signs

1. Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on or before the effective date of this Ordinance, or any amendments to this Ordinance, may be continued until they are required to be removed under this section. Where the term "message" is used in the following subsections, it shall not apply to the changeable copy on the message board portion of any sign.

2. Existing signs that do not conform to the provisions of this ordinance shall not be enlarged, extended, reconstructed, structurally altered, redesigned, replaced,

or modified as to the message or identification thereon. Nor may illumination be added to any nonconforming sign.

3. The nonconforming use of existing signs shall cease when the message or display contained thereon becomes unreadable, obsolete, or no longer functional. A nonconforming sign may be continued so long as it is kept in good repair and maintained in safe condition.

4. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this ordinance.

5. The message of a nonconforming sign other than an outdoor advertising sign may not be changed unless the sign is brought into compliance with the provisions of this ordinance. The message of a nonconforming outdoor advertising sign may be changed, subject to the other provisions of this ordinance.

6. If a nonconforming sign is severely damaged or destroyed, it may be repaired and used as before with no enlargement or relocation, provided all repairs are initiated within ninety (90) days and completed within 120 days of such damage. If the sign is deemed unsafe, the Town may require the owner of the sign or owner of the property to immediately correct all unsafe conditions.

7. If a nonconforming sign, other than an outdoor advertising sign, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign. A sign that advertises a business, enterprise, or other activity that is closed for the off-season, not to exceed 180 consecutive days, shall not be considered an abandoned sign.

8. If a nonconforming outdoor advertising sign remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within thirty (300 days after abandonment, be altered to comply with this ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this subsection, a sign is “blank” if:

    a. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating, being offered, or being conducted;

    b. The advertising message it displays becomes illegible in whole or substantial part; or

c. The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

E. Amortization of Nonconforming Signs

1. Subject to the remaining subsections of this section, a nonconforming sign that exceeds the height or size limitations by more than forty (40) percent, or that is nonconforming in some other way, shall, within one (1) year after the Effective Date of this Ordinance, be removed or altered to comply with the provisions of this ordinance.

2. If the nonconformity consists of too many signs on a single lot or building, or excessive sign area, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the property or development into conformity with the provisions of this ordinance.

3. Within six (6) months after the Effective Date of this ordinance, the Administrator shall make every reasonable effort to identify all the nonconforming signs, excluding on-premise and off-premise sign types as defined in Section 153.600 within the Town's jurisdictional limits. The Administrator shall then contact the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person:

   a. That the sign is nonconforming;

   b. How it is nonconforming;

   c. What must be done to correct it and by what date; and

   d. The consequences of failure to make the necessary corrections. The Administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

4. Off-premises signs that are protected from enforced removal by Section 136-131.1 of the North Carolina General Statutes shall not be subject to the provisions of this section unless and until just compensation is provided in accordance with the cited statute.

F. Permits Required

1. All signs maintained, erected, placed, posted, attached, painted, or otherwise made visible from an adjacent property or right-of-way, except as otherwise

prohibited, exempted, or not requiring a permit by this article, require a sign permit to be issued in accordance with the provisions of this ordinance and any other procedures as may be established by the Administrator under the direction of the Board of Aldermen. Any sign that is erected or maintained without a required permit shall be in violation of this ordinance.

G. Prohibited Signs

1. The following signs are prohibited within the jurisdiction of this Ordinance in Bryson City:

   a. Any non-governmental signs which resemble a public safety warning or traffic sign/light.

   b. Billboards, including digital billboards.

   c. Feather flags

   d. Gas- or air-filled balloons, figures, and other inflatable signs.

   e. Signs, whether temporary or permanent, within any street or highway right-of-way, with the exception of those signs approved by the government with road maintenance responsibility.

   f. Any sign which obstructs ingress or egress, creates an unsafe distraction for motorists, or obstructs the view of motorists entering a public road or highway.

   g. Any moving sign or device to attract attention, all or any part of which moves by any means, including fluttering, rotating, or otherwise moving devices set in motion by the atmosphere, or by mechanical means, such as pennants, flags, propellers, discs, or balloons, whether or not any said device has a written message; however, this provision shall not prohibit traditional barber poles located at barber shops.

   h. Snipe signs as defined as a sign of any material that is attached in any way to a communication tower, utility pole, fence post, tree, or a similar object located or situated on public or private property.

   i. Roof signs as defined as a sign which is attached to the roof of a building.

   j. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

   k. Off-premise signs located on utility poles owned by utility companies.

H. Regulated Signs Allowed Without a Permit

1. The following signs are permitted without a sign permit, provided they conform to the requirements of this Ordinance.

2. **Temporary Regulated Signs Allowed Without a Permit**

   a. Temporary on-premise or off-premise signs for church and other community nonprofit functions, except to the extent that such signage shall not be displayed more than thirty (30) days prior to the event and removed within 48 hours after the event.

   b. On-premise yard sale signs and off-premise yard sale directional signs, except to the extent that all yard sale signs shall be placed no more than forty-eight (48) hours prior to the sale and removed within forty-eight (48) hours after the sale and only with the permission of the landowner where any sign is placed. Any such sale held on a regular basis, constitutes a business and would require a permanent sign permit.

   c. One (1) on-premise sign advertising the rent, sale or lease of a commercial or residential property, provided such signage does not exceed thirty-two (32) square feet for commercial or sixteen (16) square feet for residential properties.

   d. On-premise real estate signs and off-premise real estate directional signs, except to the extent that each sign is removed within forty-eight (48) hours of the sale or lease and only with the permission of the landowner where any off-premise signs are placed.

   e. “Open” signs, limited to one sign per business entrance and street-facing building frontage, and shall not exceed four (4) square feet. Types of displays may be wall, freestanding, hanging or displayed within a window. Such signage shall not include any of the prohibited displays described within Sec. 153.409.G.

   f. Commercial signage displayed on the inside of the windows are allowed, provided only twenty-five (25) percent of the inside of the window is covered

   g. One (1) construction identification sign used prior to and during construction to identify the name of a new project and/or contractor or developer. Such signs shall not exceed thirty-two (32) square feet. Additional signage for each subcontractor is permitted, provided each sign does not exceed four (4) square feet.

3. **Permanent Regulated Signs Allowed Without a Permit**

a. **Permanent On-Premise Signs**

(1) Small professional or announcement signs for Customary Home Occupations, non-illuminated and not exceeding four (4) square feet. Such signs must be displayed on the property of the Customary Home Occupation or located at the intersection of the nearest street that provides access to the residence.

(2) Private commercial informational signs, such as entrance and exits signs, parking, loading zone, traffic flow, handicap, and other similar signs, provided such signs do not exceed two (2) square feet.

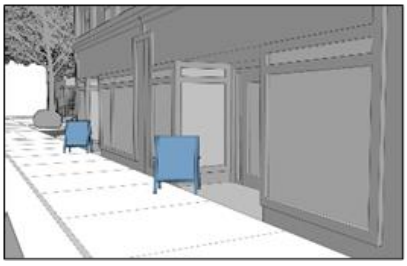
I. **Regulated Signs Requiring a Permit**

1. The following signs are permitted subject to issuance of a sign permit by the administrator and provided they conform to the requirements of this Article.

2. **Temporary Regulated Signs Requiring a Permit**

a. One (1) on-premise temporary banner sign advertising the initial opening of a business establishment or promoting special sales or events are permitted, provided such signs shall not exceed twenty-four (24) square feet and are displayed for a maximum of thirty (30) days, not to exceed four (4) sign displays per year.

b. One (1) sandwich board sign may be allowed per business in the DT district, per street frontage, as follows:



(1) Location. Signs may be placed on a sidewalk directly in front of the associated establishment or on the parcel on which the establishment is located. The sign must be placed so as not to interfere with or obstruct pedestrian or vehicular traffic: however in any event, a minimum of five (5) feet of passage must be maintained on the sidewalk. Signs may not be anchored to the sidewalk, or attached or chained to poles, newspaper vending boxes, or other structures or appurtenances.

(2) Size. No sandwich board sign shall exceed twenty-eight (28) inches in width or forty-eight (48) inches in height, or otherwise exceed a total of nine and a half (9.5) square feet per side in area.

(3) Appearance. The sign must be constructed of materials that present a finished appearance, e.g. rough-cut plywood is not acceptable. The sign frame shall be painted or stained wood or anodized aluminum or metal. Stenciled or spray-painted signs are prohibited. Windblown devices, including balloons, may not be attached or otherwise made part of the sign, unless permitted for a single day.

(4) Lighting and Display Hours. Signs may not be illuminated. The sign shall be removed at the end of the business day and may only be displayed during regular business hours. Sandwich boards must be weighted down or removed during inclement weather or gusting winds.

(5) Liability. Any person erecting a sandwich board sign shall indemnify and hold harmless the Town of Bryson City and its officers, agents, and employees from any claim arising out of the presence of the sign on the public property or rights-of-way.

(6) Right to Move/Remove. Town staff may move/remove sandwich boards for municipal or safety purposes or non-compliance and give to the owner. (i.e. traffic issues, maintenance, etc.)

3. Permanent Regulated Signs Requiring a Permit

a. Off-Premise Directional Signs

(1) Off-premise directional signs will be allowed only in accordance with the following regulations:

(a) Off-premise directional signs shall not exceed sixteen (16) square feet in area per sign face, one sign face per directional flow of traffic, and a maximum height of six (6) feet.

(b) Not more than two (2) off-premise directional signs shall contain directions to the same location from each of two different directions.

(c) Height: The maximum height of an off-premise directional sign shall be twenty-five (25) feet.

(d) Setback: An off-premise directional sign shall be setback ten (10) feet from any road, street or highway right-of-way, if no right-of-way exists, the sign shall be setback twenty (20) feet from the nearest edge of the road, street or highway.

(e) Spacing from Other Off-Premise Directional Signs: No off-premise outdoor advertising sign shall be located closer than 500 linear feet

from any other off-premise directional sign as measured from either side of the same road, street or highway.

(f) Spacing from Other Structures or Land Uses: No off-premise directional sign shall be located within a 1,000 foot radius of a structure used for residence, a church or place of worship, or within a 1,000 foot radius of any property used for a school, public park or cemetery. Additionally, off-premise directional signs shall not be located within a 500 foot radius of the intersection of two or more roads, streets or highways or from any bridge fifty (50) feet in length or greater.

(g) No new off-premise directional signs within the DT district are to be permitted after the Effective Date of this ordinance.

b. Outdoor Advertising Signs

(1) Outdoor advertising signs will be allowed only in accordance with the following regulations:

(a) Size: The maximum size of an off-premise outdoor advertising sign shall be 150 square feet per sign face, one sign face per directional flow of traffic per sign structure.

(b) Height: The maximum height of an off-premise outdoor advertising sign shall be twenty-five (25) feet.

(c) Setback: An off-premise outdoor advertising sign shall be setback ten (10) feet from any road, street or highway right-of-way, if no right-of-way exists, the sign shall be setback twenty (20) feet from the nearest edge of the road, street or highway.

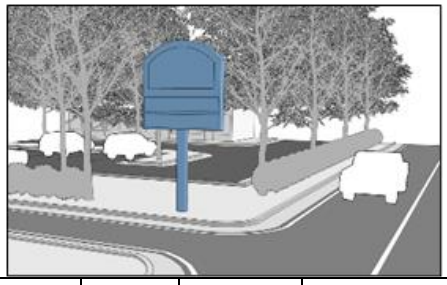
(d) Spacing from Other Off-Premise Outdoor Advertising Signs: No off-premise outdoor advertising sign shall be located closer than 2,000 linear feet from any other off-premise outdoor advertising sign as measured from either side of the same road, street or highway.

(e) Spacing from Other Structures or Land Uses: No off-premise outdoor advertising sign shall be located within a 1,000 foot radius of a structure used for residence, a church or place of worship, or within a 1,000 foot radius of any property used for a school, public park or cemetery. Additionally, off-premise outdoor signs shall not be located within a 500 foot radius of the intersection of two or more roads, streets or highways or from any bridge fifty (50) feet in length or greater.

(f) No new outdoor advertising signs within the DT district are to be permitted after the Effective Date of this ordinance.

c. On-Premise Signs

(1) On-premise signs may only be permitted for new commercial, industrial, residential subdivision entrances, multi-family, and mixed use developments and comply with the following dimensional requirements:

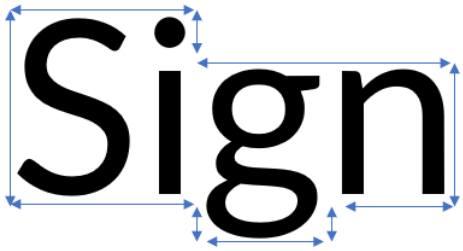
WALL		FREESTANDING				WINDOW
						
Max. # Signs	Max. Size (s.f.)	Max. # Signs	Max. Size (s.f.)	Max. Height (ft)	Min. Setback (ft Measured from edge of ROW)	Max. Size (% of window area)
4 per business or multi-family development.	60 (combined)	1	32	15	10	25

HANGING			FREESTANDING SHOPPING CENTER			
						
Max. # Signs	Max. Size (s.f.)	Min. Height (ft)	Max. # Signs	Max. Size (s.f.)	Max. Height (ft)	Min. Setback (ft Measured from edge of ROW)
1 per business entrance	60 (combined)	8 ft above sidewalk	1	100	15	10

J. Computation of Sign Dimensions

1. Sign Area

a. Sign area includes the area within a single, continuous perimeter enclosing the sign content and not the background on which the content is located.



Measurement of sign area

b. With respect to a two-sided, multi-sided, or three-dimensional sign, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the preceding statement: when two identical sign faces are

placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than thirty-six (36) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.

2. **Sign Height**

   a. The height of a sign shall be computed as the distance between the average grade of the land beneath the sign and the top of the highest attached component of the sign.

K. Sign Design, Construction, and Maintenance

1. Any sign permitted under this Ordinance must comply with applicable requirements of the NC State Building Code, National Electric Code, and other applicable Federal, State, and local codes.

2. Every sign and its support, frames, guys, anchors, and electrical equipment shall be securely fastened and placed to withstand adverse weather conditions.

3. All signs, except those protected by glass or other transparent cover, shall be constructed of material that are permanent in nature and that will not rapidly deteriorate, fade, fall apart, or in any way become a hazard to the public health, safety, and general welfare.

4. All signs shall be kept free from defective or missing parts or peeling paint. The Administrator shall possess the authority to order the painting, repair or alteration of a sign, at the owner's expense, if such sign constitutes a hazard to the public health, safety, or general welfare by reason of inadequate maintenance, dilapidation, or obsolescence. Notice of such repair shall be given to the owner by personal service or registered mail, return receipt requested.

5. No person other than persons authorized by the Town shall damage, trim, destroy, or removed trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of increasing or enhancing the visibility of a sign; nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

Section 153.500: Administration and Procedures

153.501 General Provisions

A. To establish an orderly process to develop land within the jurisdiction of the Town of Bryson City, consistent with standard development practices and terminology, this section provides a clear and comprehensible development process that is fair and equitable to all interests including the applicants, affected neighbors, the Administrator, staff and related agencies, and the Town Board of Aldermen.

B. **No Construction to Commence without Permit**

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

C. **Development Approvals Run with the Land**

1. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Section attach to and run with the land, subject to the provisions of this Ordinance.

153.502 Established Boards and Staff

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

1. The Board of Aldermen
2. Planning Board
3. Board of Adjustment
4. Administrator
5. Technical Review Committee (TRC)

153.503 Organization

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

B. **Rules of Conduct**

1. A Board may adopt rules necessary to conduct its affairs and to establish Board organization, procedures, and the conduct of its meetings. In the absence of an officially adopted policy or ordinance, Roberts Rules of Order will be used as guidance.

C. **Conformance of Rules**

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

D. **Election and Terms of Officers**

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

E. **Record of Meetings**

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

153.504 Town Board of Aldermen

A. **Organization**

1. The Town Board of Aldermen is established and composed pursuant to Title III of the Town Charter.

B. **Power and Duties**

1. In execution of the provisions of this chapter, the Town Board of Aldermen shall be responsible pursuant to the Review Authority Table (§153.509).

C. Conflict of Interest

1. In accordance with N.C.G.S 160D-109(a), a member of the Board of Aldermen shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Section where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board member shall not vote on any zoning amendment if the landowner of the property is subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2. In accordance with N.C.G.S 160D-109 (d), a member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible violations of the due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or financial interest in the outcome of the matter.

D. Board Statements Required

1. Consistency Statement

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

2. Statement of Reasonableness

a. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Aldermen.

153.505 Planning Board

A. Establishment and Composition

1. The Planning Board is established and composed pursuant to Title III of the Town Charter.

B. Oath of Office

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

C. Powers and Duties

1. In execution of the provisions of this chapter, the Planning Board shall have the following power and duties:

a. General Authority

(1) The Planning Board may exercise additional powers as may be described elsewhere in this chapter and as permitted by NCGS § 160D-301.

(2) The Planning Board shall perform related duties as directed by the Town Board of Aldermen.

b. Review Authority.

(1) The Planning Board shall review and make recommendations pursuant to the Review Authority Table (§153.509).

D. Conflict of Interest

1. Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property is subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. (NCGS 160D-109(b)).

E. Quorum

1. Three (3) or more members of the Planning Board shall constitute a quorum.

F. Voting

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

G. Vote of the Chairman

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

153.506 Board of Adjustment

A. Establishment

1. The Board of Adjustment is established pursuant to G.S. § 160D-302.

B. Composition

1. Number and Term

a. The Board of Adjustment shall consist of five (5) members, each to be appointed for three (3) years.

b. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board of Aldermen may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time.

2. Membership

a. If and when the Town of Bryson City exercises extraterritorial jurisdiction (ETJ), membership on the Board of Adjustment shall include proportional representation from the ETJ in accordance with G.S. 160D-307. The representative from the ETJ shall vote on decisions in the ETJ or that would affect a zoning district included in the ETJ. To ensure proportional representation from the ETJ, population estimates to the ETJ shall be updated no less frequently than after each decennial census.

b. Any member of the Board of Adjustment representing the ETJ shall be appointed by the Town Board of Aldermen, subject to approval by the Swain County Board of County Commissioners.

3. Alternate Members

a. The Town Board of Aldermen may, in its discretion, appoint and provide compensation for two alternate members to serve on the Board of Adjustment in the absence of any regular member. One alternate member shall be from the Town of Bryson City and one alternate member shall be

from the ETJ if and when the Town of Bryson City exercises extraterritorial jurisdiction.

b. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members.

c. Each alternate member, while attending any regular or special meeting and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member. Three unexcused absences shall constitute a vacancy to be filled by the Town Board of Aldermen at the next regularly scheduled meeting.

C. Proceedings

1. Oath of Office

a. All members of the Board of Adjustment shall, before entering into their duties, qualify by taking an oath of office as required by G.S. 160A-61.

2. Meetings

a. All meetings of the Board of Adjustment shall be held at a regular place and shall be open to the public.

3. Minutes

a. The Board of Adjustment shall keep minutes of proceedings showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution, indicating the reasons of the Board, all of which shall be a public record.

4. Quorum

a. No final action shall be taken on any issue unless a quorum is present. Three (3) or more members of the Board of Adjustment shall constitute a quorum. However, a vote on a variance will require a 4/5 vote.

5. Powers and Duties

a. In execution of the provisions of this chapter, the Board of Adjustment shall have the following powers and duties.

b. General Authority

(1) The Board of Adjustment may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes. Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision pursuant to G.S. § 160D-406.

c. Final Authority

(1) The Board of Adjustment shall be responsible pursuant to the Review Authority Table (§153.509).

D. Conflict of Interest on Quasi-Judicial Decisions

1. A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible violations of the due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or financial interest in the outcome of the matter.

E. Voting

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

153.507 Administrator

A. Designation

1. The Board of Aldermen shall, by a majority vote, appoint an Administrator who shall be duly sworn in and charged with administering and enforcing the provisions of this Ordinance. The Administrator shall serve at the pleasure of the board and may be removed from office without cause at any time by an

affirmative vote of a majority of the members of the Board. The Administrator shall administer certain provisions of this chapter as may be required below.

B. Delegation of Authority

1. The Administrator may designate any staff member to represent the Administrator in any function assigned by this chapter but shall remain responsible for any final action.

C. Powers and Duties

1. In execution of the provisions of this chapter, the Administrator shall have the following powers and duties:

    a. The Administrator may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.

    b. The Administrator shall perform related duties as directed by the Town Board of Aldermen.

    c. The Administrator or their designee will be responsible for the administration of this Unified Development Ordinance.

    d. The Administrator will be responsible for the issuance of permits and other development approvals and/or determining the additional applications needed (such as a variance or rezoning) should an application not meet the requirements of this Ordinance.

D. Review and Final Authority

1. The Administrator shall act pursuant to the Review Authority Table (§153.509).

E. Administrative Adjustments and Minor Modifications

1. The Administrator is responsible for the review and approval (or denial) of minor modifications and administrative adjustments in accordance with (§153.526) of this Ordinance.

F. Additional Duties

1. Establish application content requirements and a submission schedule for the review of applications and appeals.

2. Determine completeness of all applications for development approval.

3. Maintain the Official Zoning Map and related materials.

4. Enforce the regulations contained within this Ordinance. In exercising the full police power of the Town, the Administrator, or duly authorized representative, may enter any building, structure, or premises to perform any duty imposed by this Ordinance, provided entry is made with proper notice and at reasonable hours.

5. Maintain the official copy of the Unified Development Ordinance.

6. Maintain a record of all permits and approvals.

7. Act as chair of the Technical Review Committee.

G. Determinations

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

H. Conflict of Interest

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

153.508 Technical Review Committee

A. Organization

1. The Administrator shall assemble a Technical Review Committee (TRC) consisting of professionals and reviewers for development applications and land use proposals, typically including but not limited to the following:

a. District highway engineer as to proposed State streets, State highways, and related drainage systems.

b. The Swain County Health Director or the Town's local public utility authority, as appropriate, as to proposed water or sewerage systems.

c. Any other agency or official designated by the Board of Aldermen or Administrator.

d. All Fire protection requirements of the Town.

B. Review Responsibilities

1. In execution of the provisions of the section, the Technical Review Committee shall be given an opportunity to make recommendations pursuant to the Review Authority Table (§153.509).

2. The Administrator may consult the Technical Review Committee (TRC) for any additional development proposals as they deem appropriate.

153.509 Review Authority Table

Development Approval	Section(s)	Process Type	Required Meetings	Reviewer	Public Notice	Approving Body	Appeal	Validity
Zoning Permit	153.514	ADMIN		PA		PA	BOA	6 months
Sign Permit	153.515	ADMIN		PA		PA	BOA	6 months
Written Interpretation	153.516	ADMIN		PA		PA	BOA	6 months
Exempt (Final) Plat	153.517	ADMIN		PA		PA	BOA	1 year
Minor Subdivision	(*see Final Plat*)							
Major Subdivision Preliminary Plat	(see below)							
• *Less than 20 Lots*	153.517	ADMIN	PS	PA, TRC		PA	BOA	2 years
• *20 or More Lots*	153.517	QJ	PS, NB	PA, TRC	B, C	TBOA	NCSC	2 years
Final Plat	153.517	ADMIN		PA, TRC		PA	BOA	30 days
Minor Site Plan	153.518	ADMIN	PS	PA		PA	BOA	2 years
Major Site Plan	153.518	ADMIN	PS	PA & PB	A,B,C	TBOA	BOA	2 years
Text Amendment	153.519	LEGIS		PA & PB	A	TBOA	NCSC	
Rezoning/ Map Amendment	153.520	LEGIS	PS	PA & PB	A,B,C	TBOA	NCSC	
Developer Agreement	153.521	LEGIS		PA & PB	B,C	TBOA	NCSC	Varies
Special Use Permit	153.522	QJ	PS	PA	B,C	TBOA	NCSC	2 years
Variance	153.523	QJ		PA	B,C	BOA	NCSC	30 days to appeal
Admin. Appeal	153.524	QJ		N/A	B,C	BOA	NCSC	
Voluntary Annexation	153.525	LEGIS	PS	PA	A	TBOA	NCSC	

ADMIN = Administrative
LEGIS= Legislative
QJ= Quasi-Judicial

PA= Administrator

PB= Planning Board
PS = Pre-Submittal Meeting
TBOA = Town Board of Aldermen

BOA = Board of Adjustment

NB = Neighborhood Meeting
NCSC = NC Superior Court
TRC = Technical Review Committee

Public Notice:
A=Published Notice
B=Posted Notice

C=Mailed Notice

153.510 Submission Procedures

A. The following requirements shall apply to all applications prior to and for development approval as identified in this Section.

B. Applicants

1. Applications for development approvals may only be made by the landowner, a lessee or person holding an option or contract to purchase or lease land with the permission of the landowner, or an authorized agent of the landowner. The director of the appropriate department, or designee, may require an applicant to present evidence of the authority to submit an application.

C. Pre-Submittal Meeting

1. A pre-submittal conference with the Administrator or designee held prior to the applicant submitting an application for development approval to discuss the procedures, standards and regulations required for development approval in accordance with this chapter. The meeting is required with certain applications as outlined on the Review Authority Table in Section 153.509. For all other applications, the Pre-Submittal meeting is optional.

    a. At the time of the pre-submittal conference, applicants shall submit a sketch plan for review by the Administrator. This plan should, in simple sketch form, show the proposed layout of streets, proposed structures in relation to property boundaries, lots and other features in relation to existing conditions.

    b. When a subdivision is to be developed in stages, a master plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.

D. Forms

1. Applications required under this Ordinance shall be submitted with application forms approved by and made available from the Administrator.

E. Fees

1. Application filing fees shall be established and updated as needed to defray the actual cost of processing the application, as listed in the approved Fee Schedule maintained by the Town. Fees shall be submitted with applications.

F. Plans

1. The necessary engineered and/or surveyed plans shall be submitted with each application as outlined in Section 153.512.

G. Completeness Review

1. Submission

a. All completed applications for development approval shall be submitted to the Administrator, including the application fee, all appropriate forms and

documentation, and the plan sets in accordance with the requirements of this Section and the Fee Schedule adopted by the Town Board of Aldermen.

b. Applications sufficient for processing shall be submitted to the Administrator or designee, in accordance with the established submission schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

2. **Completeness Determination**

a. An application shall be considered submitted only after it has been determined to be complete as provided below, not upon submission to the Administrator.

b. On receiving a development application, the Administrator shall determine whether the application is complete or incomplete. A complete application is one that:

(1) Contains all information and materials required by this Unified Development Ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for the Town of Bryson City Administrator to evaluate the application for compliance with applicable review standards; and

(2) Is accompanied by the fee established for the applicable type of application.

3. **Complete Applications**

a. Once the application has been determined complete, the Administrator shall:

(1) Accept the application as submitted in accordance with the procedures and standards of this Ordinance in effect at the time of the submittal; and

(2) Provide the applicant written notice of application submittal acceptance electronically.

(3) Copies of the application and plans shall be referred by the Administrator to the appropriate reviewing entities.

4. **Incomplete Applications**

a. On determining that the application is incomplete, the Administrator shall provide the applicant written notice of the submittal deficiencies

electronically or physically. The applicant may correct the deficiencies and resubmit the application for a completeness review.

b. If the applicant fails to resubmit an application within three (3) months after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. If an applicant submits a request in writing to the Administrator within fifteen (15) calendar days of the application abandonment date, fifty (50) percent of the application fee paid for the withdrawn application shall be refunded.

H. Additional Information as Needed

1. The presumption shall be that all the information required in the application forms is necessary to satisfy the requirements of this section. However, it shall be recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the Administrator as to whether more or less information should be submitted.

I. Withdrawal of Application

1. An applicant may withdraw an application at any time and forfeit the associate application fee, by filing a statement of withdrawal with the Administrator or designee.

2. The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.

3. The Administrator may withdraw applications due to the failure of the applicant to submit required information within ninety (90) days of the initial request.

4. An applicant may postpone a scheduled public meeting or public hearing once per application for up to ninety (90) days after the date the first public hearing was scheduled to occur, after which the Administrator may withdraw the application. Notification of the desire to postpone the application must occur in writing at least ten days before the scheduled hearing.

J. Related Applications

1. Related applications necessary for development approvals may be filed and reviewed simultaneously, at the option of the applicant, and with approval from the Administrator. Any application that also requires a rezoning, variance or special use permit, shall not be eligible for final approval until the rezoning, variance, or special use permit has been granted.

2. Related applications submitted simultaneously are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

K. Active Application Time Period

1. Requests for additional information, corrections, or other modifications for all applications, unless otherwise indicated in this Ordinance, shall be returned to the Administrator or designee within ninety (90) days from the date comments on the application are officially issued. Failure to meet this deadline shall result in the application being considered withdrawn and voided, thus requiring a new application, including all requirements associated with a new application.

2. Requests for additional information, corrections, or other modifications for applications submitted to address a notice of violation shall be returned to the Administrator or designee within thirty (30) days from the date comments on the application are officially issued. Failure to meet this deadline shall result in the application being considered withdrawn and voided, thus requiring a new application, including all requirements associated with a new application.

153.511 Public Notification

A. Public notice for certain applications will be required prior to consideration and/or approval in accordance with the table in Section 153.509 and with the specific requirements of this Section.

B. Published Notice

1. An advertisement shall be placed by the Town and published in a newspaper of general circulation once a week for two (2) successive weeks, The first publication shall appear no less than ten (10) days or more than twenty-five (25) days prior to the date of the public hearing. An annexation public hearing requires a single notice.

2. Optional Published Notice

a. The first-class mail notice required under subsection D. of this section may not be required if a zoning map amendment proposes to change the zoning designation of more than fifty (50) properties, owned by at least fifty (50) different property owners. The Town may, instead, elect as an alternative to publish notice of the hearing as outlined in subsection B.1., above, provided that each advertisement shall not be less than one-half of a newspaper page in size.

3. All published notices shall contain the following:

    a. Parcel Identification Number

    b. The address of the subject property (if available);

    c. The general location of the land that is the subject of the application, which may include, a location map;

    d. A description of the action requested;

    e. The current and proposed zoning districts;

    f. The time, date and location of the public hearing;

    g. A phone number to contact the Town; and

    h. A statement that interested parties may appear at the public hearing.

C. **Posted Notice**

1. A sign shall be placed in a prominent location on the subject property(ies) or on an adjacent public street or highway right-of-way not less than ten (10) days prior to the hearing in which the application shall be reviewed.

2. The posted sign shall include the following information:

    a. A case number;

    b. Notice of the pending action; and

    c. Phone number to contact for additional information.

3. When multiple parcels are included, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

4. When multi-tenant properties are required to be posted pursuant to Section 153.510.D.2, signage shall be posted by the applicant, and shall comply with the following:

    a. Signage shall be posted in the right-of-way immediately adjacent to the multi-tenant property at a conspicuous location visible from the nearest public street or streets if the property fronts on multiple streets.

b. The sign shall not measure less than eighteen (18) inches by twenty-four (24) inches, and constructed of durable materials sufficient to withstand the effects of weather.

c. Signage shall be posted at least ten (10) calendar days prior to the date of the meeting.

d. The content of the required posted notice shall be as listed in Section 153.510.C.2, above.

D. Mailed Notice

1. The Town shall notify by first-class mail (at the last addresses listed in the county tax records) the applicant, the affected property owner, and all property owners and tenants within 150 feet and immediately abutting the subject property. For the purpose of this section, properties are "abutting" even if separated by a public or private right-of-way, railroad crossing, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property.

2. Where the tax records reflect a mailing address for an owner of property under subsection 1. to be different than the address of the property owned, then notification shall also be mailed to the address of the property itself. The applicant shall comply with subsection 1. requirements, except if the individual mailing addresses of tenants in any type multi-tenant properties are not readily available, the multi-tenant property shall be posted in accordance with Section 153.510.C.

3. The notice must be mailed at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. The Town shall certify to the Town Board of Aldermen that fact that mailings occurred, and such certificate shall be deemed conclusive in the absence of fraud.

4. Mailed notices shall contain the following:

   a. Parcel Identification Number;

   b. The address of the subject property (if available);

   c. The general location of the land that is the subject of the application, which may include, a location map;

   d. A description of the action requested;

e. The current and proposed zoning districts;

f. The time, date and location of the public hearing;

g. A phone number to contact the Town; and

h. A statement that interested parties may appear at the public hearing.

153.512 Plan Requirements

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

B. **General**

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

i. By the landowner, an engineer, architect, landscape architect, or land surveyor who is authorized by the State of North Carolina to practice as such, or an AICP-certified planner;

ii. To a scale of one inch equal to forty (40) feet (1" = 40') or larger, where the applicant can rely upon the Administrator for guidance;

iii. In one (1) or more sheets to show clearly the information required by this Ordinance and to facilitate the review and approval of the site plan;

iv. Showing all horizontal dimensions in feet;

v. Indicating decimal fractions of a foot shall be rounded to the closest tenth of a foot (0.0); all bearings shall be in degrees, minutes, and seconds; and,

vi. Showing the name and address of the owner or developer, the north arrow, the date, the scale of the drawing, and the number of sheets. In addition, it shall reserve a blank space three (3) inches in width by five (5) inches in length for the use of the approving authority.

153.513 Quasi-Judicial Processes

A. All quasi-judicial processes are required to have an evidentiary hearing as outlined in NCGS § 160D-406.

B. **Notice**

1. Mailed and Posted Notice shall be provided in accordance with the requirements of Section 153.511.

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

C. **Evidentiary Hearing**

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

2. **Contact with Decision-Making Board Members**

a. Contact with any members of a decision-making board prior to the evidentiary public hearing by any individual regarding the matter is prohibited.

3. **Materials**

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

4. **Oaths**

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

5. **Presentation of Evidence**

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

6. **Administrator as Witness**

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

7. **Competent Evidence Required**

   a. All decisions shall be based on competent evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

      (1) The use of property in a particular way would affect the value of other property.

      (2) The increase in vehicular traffic resulting from a proposed development would pose a danger to public safety.

      (3) Matters about which only expert testimony would generally be admissible under the rules of evidence.

8. **Objections**

   a. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party or the inclusion or exclusion of administrative materials, may be made to the Board. The Board chair shall rule on any objections, and the chair's rulings may be

appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

9. **Voting**

   a. A simple majority is needed for all quasi-judicial decisions with the exception of variances that require a concurring vote of four-fifths (4/5) of the Board. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the majority if there are no qualified alternates available to take the place of such members.

10. **Decisions**

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

11. **Effective Date**

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

12. **Judicial Review**

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

13. **Appeals from Quasi-Judicial Decisions**

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

personal service or by registered mail or certified mail return receipt requested.

153.514 Zoning Permit

A. Applicability

1. It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Administrator has issued a zoning permit for such work.

2. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Administrator has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this chapter.

3. It shall be unlawful to undertake any land-disturbing activity until the Administrator has issued a zoning permit for such work. All proposed land-disturbing activity shall comply with Section 153.402.

4. An approved, permitted temporary event (see §153.200) shall function as a zoning permit.

B. Action by Administrator

1. If the proposed application is in conformity with the provisions of this chapter, the Administrator shall issue a zoning permit, provided that all of the following conditions shall apply:

2. Issuance of a zoning permit shall in no case be construed as waiving any provisions of this section;

3. The Administrator shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter or use buildings, structures or land;

4. Prior to the issuance of a zoning permit, the Administrator or designee shall consult with other applicable departments, as necessary.

5. If the proposed application is not in conformity with the provisions of this chapter, the Administrator or designee shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

C. Expiration

1. Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six (6) months. If the proposed moving, constructing, altering, repairing, or use of land, as set forth in an application for a zoning permit, is discontinued for a period of one (1) year or more, the zoning permit shall lapse and be of no further force and effect.

153.515 Sign Permit

A. Applicability

1. Except as otherwise provided in Section 153.409, no sign may be erected, located, or altered in any manner until a sign permit, and building permit, if necessary, has been secured from the Planning Department. A sign permit is essentially a specialized version of a zoning permit. The change of copy on a legally constructed sign shall not require a permit.

2. All signs erected in conformance with these regulations shall be recorded by the Town and a copy will be provided to the applicant once approved. Any sign which does not display this sticker shall be considered a zoning violation or nonconforming sign, and subject to the relative provisions of this chapter.

B. Action by Administrator

1. Following completion of the review period, the Administrator or designee shall approve the sign permit, provided the sign meets all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements.

C. Inspection of Permanent Signs

1. The applicant shall request an inspection by the appropriate inspector after installation of the signs.

2. If the signs are found to be in compliance, the applicant will receive a copy of approval from the Town. The applicant shall attach the identification in a conspicuous location which is accessible to the Administrator or designee. It is

recommended that businesses place the permit in a lower corner of the front door of the business in those cases where the seal is not affixed to the sign.

3. The sign permit shall be null and void if sign installation is not completed within six (6) months or the signs are not in conformance with the approved application.

4. Valid sign permits may be assigned to a property owner or lessee.

D. Temporary Sign Permit

1. A temporary sign permit shall be issued in accordance with §153.409, Signs.

E. Revocation of a Sign Permit

1. The sign permit shall be revoked if a sign is found to be in violation of the requirements of this chapter, or other applicable electrical and North Carolina State Building Code requirements.

153.516 Written Interpretation

A. Applicability

1. When uncertainty exists, the Administrator or designee, after consultation with other involved staff and the Town Attorney, shall be authorized to make all interpretations concerning the provisions of this chapter.

B. Action by Administrator

1. The Administrator shall review and evaluate the request in light of the text of this chapter, the Zoning Map, the adopted plans and policies of the Town and any other relevant information.

2. Following completion of the review period, the Administrator shall render an opinion.

3. The interpretation shall be provided to the applicant in writing.

C. Official Record

1. The Administrator shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

153.517 Subdivisions

A subdivision is considered the division of land for the purpose of sale or development. Each subdivision application must follow the procedure and approvals necessary for the type of subdivision for which it is classified.

A. Exempt subdivisions.

1. **Applicability.**
   As outlined in NCGS § 160D-802(a), the following subdivisions of land are considered exempt from the subdivision regulations of this ordinance:

   a. The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

   b. The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved.

   c. The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.

   d. The division of a tract in single ownership the entire area of which is no greater than two (2) acres into not more than three (3) lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

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

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

3. Only a Final Plat shall be required for all Exempt Subdivisions.

4. The Review Authority Table found in 153.509 further outlines the process for all Exempt Subdivisions.

5. The required certificate for exempt subdivisions may be found in subsection 153.517.A.5.a, below.

    a. This subdivision qualifies as an exempt subdivision under the Surf City Subdivision Ordinance and no further review is required.

    _____ _____
    Town of Bryson City Administrator Date

B. **Minor subdivisions.**

1. **Applicability.**
A Minor Subdivision is a tract to be subdivided which meets all of the following standards:

    a. Is two (2) acres or less in total size;

    b. Will result in five (5) or fewer lots;

    c. Has lots that all front on an existing approved street; and

    d. All resultant lots meet the standards of this ordinance.

2. Applicants are strongly encouraged to submit a sketch plan for staff review and comment before preparing the proposed subdivision plat. Minor Subdivision plats must include the same information required for subdivision final plats.

3. If the plat is found to qualify as a Minor Subdivision and to meet the standards of the Town's Unified Development Ordinance and all other applicable ordinances, the plat may be approved for recording.

4. Only a Final Plat, in accordance with the Review Authority Table in Section 153.509, shall be required for all Minor Subdivisions.

C. **Major subdivisions.**

1. **Applicability**.
A Major Subdivision is any division of land that does not qualify as an Exempt Subdivision or a Minor Subdivision as defined in this ordinance.

    All Major Subdivision applicants shall submit a sketch plan for review prior to preparing the required Preliminary Plat and Final Plat in accordance with the Plan Requirements outlined in Section 153.512. The Review Authority Table in Section 153.509 further outlines the review process for all Major Subdivisions.

153.518 Site Plans

A. Applicability

1. All proposed development, except for dwelling units on individual lots (single-family detached, subdivisions, single-family attached, duplexes, triplexes, and quads), shall be subject to the site plan review process.

B. Site Plan Types

1. A site plan is a development plan prepared to scale, showing accurately and with complete dimensions, the boundaries of the site and the location of all buildings, streets, uses, and site development features proposed for a specific parcel of land. There are two (2) types of site plans with differing levels of scrutiny required for each. The criteria for establishing which type of site plan and the corresponding level of approval for each are indicated below.

2. **Minor Site Plans**

   a. The following shall be reviewed as a minor site plan:

      (a) New developments, including accessory structures of less than 20,000 square feet of building for nonresidential uses;

      (b) Multi-family developments containing less than forty (40) units; and,

      (c) Expansion of an existing conforming structure or expansion of a previously approved site plan by five percent (5%) or less in floor area or number of units.

3. **Major Site Plans**

   a. The following shall be reviewed as a major site plan:

      (1) Any development requiring site plan review not listed in above as a minor site plan.

      (2) Any project, not considered a subdivision, requiring a Traffic Impact Analysis

      (3) Any project, not considered a subdivision, requiring a Special Use Permit.

C. Plan Review Procedures

1. Minor Site Plan

a. Action by Administrator

(1) Upon submission of a completed application, the Administrator shall schedule the minor site plan for review by the Technical Review Committee. The Technical Review Committee shall review the minor site plan for consistency with the requirements of this chapter.

(2) After technical review, the Administrator shall determine whether the minor site plan conforms to the requirements of this chapter.

2. Major Site Plan Review

a. Action by Administrator

(1) Upon submission of a completed application, the Administrator or designee shall schedule the major site plan for review by the Technical Review Committee. The Technical Review Committee shall review the major site plan for consistency with the requirements of this chapter.

(2) Upon completion of the technical review, the Administrator or designee shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, and in light of the adopted plans and policies of the Town and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Planning Board for recommendation. After Planning Board review, the project shall then be reviewed by the Board of Aldermen for final approval.

b. Action by Board of Aldermen

(1) After considering the Administrator's comments and Planning Board's recommendation, the Board of Aldermen shall approve or disapprove the major site plan, with or without conditions, or send the site plan back to the Technical Review Committee for additional consideration.

3. Approval Criteria

a. In approving a site plan, the Administrator, TRC, the Planning Board, and Board of Aldermen shall consider the compliance with the Ordinance. The

Board shall note that this is a legislative proceeding and as such, there shall be no subjective considerations. If the application meets the requirements of the ordinance, the Board must approve the Site Plan.

b. Period of Validity

(1) An approved site plan shall expire two years from the date of approval unless the proposed development is pursued as set forth below:

(a) A complete building permit application has been submitted and remains valid;

(b) The development is actively under construction and or substantial progress is being made towards the development in question as determined by the Administrator.

(c) If no building permit is required, a certificate of occupancy has been issued.

c. Building Permit/Certificate of Occupancy

(1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate Town officials.

(2) In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan, or request the Board approve said site plan as a site specific development plan, in accordance with §160D-108.

Major Site Plan

153.519 Text Amendments

A. Applicability

1. Amendments to the text of this chapter shall be made in accordance with the provisions of this section. The Town Board of Aldermen shall consider amendments to the text of this chapter, as may be required from time to time.

B. Initiation of Amendment

1. A request to amend the text of this chapter may be initiated by the Town Board of Aldermen, Board of Adjustment, Planning Board, Administrator, or the general public.

C. Action by Administrator

1. The Administrator shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.

2. Following completion of technical review by staff, the Administrator shall forward the completed request and any related materials to the Planning Board for a recommendation.

D. Action by Planning Board

1. The Planning Board shall make a recommendation on the application to the Town Board of Aldermen. If the Planning Board fails to make a recommendation, the Town Board of Aldermen may process the request without a recommendation.

2. **Plan Consistency**

   a. When conducting a review of proposed map amendment pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with the Town's Comprehensive Plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency. A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen.

3. Following Planning Board review, the Administrator or designee shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Aldermen for final action.

E. Action by Town Board of Aldermen

1. Before taking action on a text amendment, the Town Board of Aldermen shall consider the recommendations of the Planning Board and Administrator or designee.

2. The Town Board of Aldermen may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

3. Concurrently with adopting, denying, or remanding any text amendment, the Town Board of Aldermen shall adopt a statement describing whether its action is consistent or inconsistent with the adopted plans and polices of the Town and explaining why the Town Board of Aldermen considers the action taken to be reasonable and in the public interest. The requirement may also be met by a clear indication in the minutes of the Board of Aldermen that the Board of Aldermen was aware of and considered the planning board's recommendations and any relevant portions of the comprehensive plan.

F. Approval Criteria

1. In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Board of Aldermen shall consider the following:

   a. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements;

   b. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;

   c. Whether or not the proposed text amendment corrects an error in the chapter; and

   d. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.

2. In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Board of Aldermen is whether the proposed amendment advances the public health, safety or welfare and is consistent with

the adopted plans and policies of the Town and the specific intent of this chapter.

153.520 Rezoning / Map Amendment

A. Applicability

1. Amendments to the Zoning Map shall be made in accordance with the provisions of this Section.

2. Rezonings should correspond with the boundary lines of existing platted lots or parcels. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.

3. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

B. Initiation of Amendment

1. The landowner may authorize a person holding a valid option, lease, or contract to purchase as to act as his or her agent or representative for the purpose of making applications for development approvals as outlined in N.C.G.S 160D-102 (18).

2. **Citizen Comment**

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

C. Review Process

1. Action by Administrator

a. The Administrator shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the Town and the general requirements of this chapter.

b. Following completion of review by staff, the Administrator shall forward the completed request and any related materials to the Planning Board.

2. Action by Planning Board

a. All proposed amendments to zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the planning board within thirty (30) days of referral of the amendment to that board, the Board of Aldermen may act on the amendment without the planning board report. The Board of Aldermen is not bound by the recommendations, if any, of the planning board.

b. **Plan Consistency**

(1) When conducting a review of proposed map amendment pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan or future land use plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency.

(2) A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen.

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

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

c. Following Planning Board review, the Administrator shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Aldermen for final action

3. **Action by the Board of Aldermen**

a. Before taking action on a rezoning, the Town Board of Aldermen shall consider the recommendations of the Planning Board and Administrator.

b. The Town Board of Aldermen may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.

c. Concurrently with adopting, denying, or remanding any rezoning, the Town Board of Aldermen shall adopt a statement describing whether its action is consistent or inconsistent with the adopted plans and polices of the Town and explaining why the Town Board of Aldermen considers the action taken to be reasonable and in the public interest. The requirement may also be met by a clear indication in the minutes of the Board of Aldermen that the Board of Aldermen was aware of and considered the planning board's recommendations and any relevant portions of the comprehensive plan.

(1) If a zoning map amendment is adopted and the action was deemed inconsistent with the plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required.

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

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

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

(5) **Additional Reasonableness Statement for Rezonings**

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

(b) The size, physical conditions, and other attributes of the area proposed to be rezoned,

(c) The benefits and detriments to the landowners, the neighbors, and the surrounding community,

(d) The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;

(e) Why the action is taken is in the public interest;

(f) Any changed conditions warranting the amendment; and

(g) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of Aldermen' statement on reasonableness may address the overall rezoning.

(6) Single Statement Permissible

(a) The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

153.521 Development Agreements

A. Authorization

1. As authorized by G.S. 160D-1001, the Town may enter into development agreements with developers subject to the procedures outlined in G.S. 160D-804.1.

B. General

1. The Town may not exercise any authority, make any commitment, or impose any tax or fee not authorized by law.

2. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations.

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

153.522 Special Use Permit

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

B. Applicability

1. A special use permit shall be required for all special uses as set forth in the Table of Permitted Uses (Section 153.208).

C. Action by the Administrator

1. Upon submission of a completed application, the Administrator shall schedule the site plan for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter.

2. Upon completion of the review, the Administrator shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the appropriate reviewing body.

D. Review Process

1. Board Hearing and Decision

a. The Board of Aldermen or the Board of Adjustment shall hold an evidentiary hearing in accordance with G.S. 160D-406. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. Upon reviewing all of the pertinent information, the Board may approve, deny or approve the Special Use Permit with conditions by a majority vote.

2. **Conditions**

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

3. **Findings of Fact**

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

   b. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of the landscaping on the site.

   c. The proposed use will not cause undue traffic congestion or create a traffic hazard.

   d. Adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use.

   e. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

   f. The establishment of the proposed use shall not impede the orderly development and improvement of the surrounding property.

   g. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

   h. The proposed use will not substantially injure the value of adjoining or abutting property. or, in the alternative, the use is a public necessity.

   i. The proposed use is consistent with the officially adopted plans and policies of the town, including any specific use standards, specifications, and other requirements of this Unified Development Ordinances.

E. Effect of Decision

1. If the Town Board of Aldermen or the Board of Adjustment votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until twelve (12) months have elapsed from the date of denial. If the Town Board of Aldermen votes to approve an application, the permit shall be recorded in the County Register of Deeds office.

2. The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town Board of Aldermen or Board of Adjustment may be appealed within thirty (30) days of the decision in accordance with G.S. § 160D-405.

153.523 Variance

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

B. Application Procedure

1. An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such an application. Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator or designated staff shall schedule the matter for consideration at a meeting of the Board of Adjustment. The Administrator or designee shall prepare a staff report regarding the submitted variance application.

C. Review Process

1. Upon receipt of the request for a variance from the Administrator or designee, the Board of Adjustment shall hold a public, evidentiary hearing on the request.

2. After conducting the hearing, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with additional conditions. A concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance.

3. In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The Board of Adjustment may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this ordinance. Such conditions and safeguards must be reasonably related to the condition or circumstance that gives rise to the need for a variance.

4. Any approval or denial of the request shall be accompanied by written findings of fact supporting the conclusion that the variance meets or does not meet each of the standards set forth below in Subsection D.

D. Required Findings

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

   a. Carrying out the strict letter of the ordinance would result in unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

   b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

   c. The hardship did not result from actions taken by the applicant of the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

   d. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.

153.524 Administrative Appeals

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

B. Application Procedure

1. An appeal of an administrative decision may be taken by any person who has standing under G.S. 160D-1402(c) or by the Town, to the Board of Adjustment. Such an appeal shall be made within thirty (30) days of the receipt of the written notice of decision from the Administrator or designee, or of the filing of the written notice with the Town Clerk. If notice is sent via first-class mail, it is deemed received on the third business day following the deposit of the notice, for mailing with the United States Postal Service. A complete application, in accordance with Section 153.510, is required for an Appeal.

C. Stay of Proceedings

1. The filing of an appeal shall stay enforcement of the action appealed from and accrual of any fines assessed during the length time of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the length of time of any civil proceeding authorized by law or appeals therefrom unless the Administrator or designee certifies that, in their opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order or preliminary injunction granted by the Superior Court of Swain County in accordance with Rule 65 of the North Carolina Rules of Civil Procedure.

D. Required Appeal Application Information

1. Upon submission of a complete application, containing such relevant information as may reasonably allow the Board of Adjustment to understand the basis for the applicant's appeal, the Administrator or designee shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.

E. Review Process

1. Upon receiving the application and being deemed complete, the Administrator or designated staff for the Board of Adjustment shall schedule a public,

evidentiary hearing on the appeal. The applicant, the local government, and any person who would have the standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing.

2. After conducting the public hearing, the Board of Adjustment shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision, or determination in question. It shall take a simple majority vote of the Board of Adjustment to reverse or modify the contested action.

3. The Board of Adjustment, in making its ruling, shall have all the powers of the Administrator or designee from whom the appeal is taken, and may issue or direct the issuance of a permit.

4. The decision of the Board of Adjustment must be in writing and permanently filed in the minutes as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board of Adjustment, which must be delivered to parties of interest by certified mail.

153.525 Voluntary Annexation

A. A petition for annexation filed with the Town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160D-102.

B. The statement shall declare that no zoning vested right has been established under G.S. §160D-102, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

C. Applicants may prepare a site plan or subdivision plan in addition to the annexation and rezoning petitions required for voluntary annexation. Such plans can be reviewed simultaneously.

153.526 Modification to Development Approvals

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

B. Major Modifications

1. Major Modifications are considered significant and require an amendment. Amendments shall be reviewed and considered in accordance with the procedures and standards established for the original approval.

    a. Any change in land use.

    b. Any increase in density.

    c. Any decrease in the amount of open space

    d. When there is the introduction of a new vehicular access point to an existing street, road, or thoroughfare not previously designated for access.

    e. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area last approved by the Board of Aldermen.

    f. A change in the type of proposed dwelling unit (e.g., Single-family detached to Townhouse).

    g. Change in location of any public easement.

    h. When the number of existing trees to be preserved decreased more than ten percent (10%) beyond the number of trees shown on the approved plans.

    i. Any change that would increase traffic beyond the levels projected in the approved Transportation Impact Analysis (TIA).

    j. Any increase in the stormwater impact beyond what was identified in the approved stormwater analysis for the project.

    k. Any change which alters the basic development concept of the approval.

    l. Any net reduction in the area of a buffer or a reduction in the width of more than twenty-five percent (25%) of the approved width.

    m. A change in the number of approved phases of any development, or any change in the phasing of proposed improvements, such as utilities, roadways, open space, etc.

    n. For developer agreements, any change in deadlines or completion dates in excess of three (3) months.

C. Minor Modifications

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

2. **General Limitations**

   a. The minor modification shall meet the following:

      (1) Does not involve a change in the uses permitted or the density of overall development permitted.

      (2) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval;

      (3) Does not qualify as a major modification; and,

      (4) Is in compliance with all other ordinance requirements.

3. **Site Design**

   a. Site design minor modifications are limited adjustments to the terms of the design of an approved development plan or plat, including a site plan attached as a condition to conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:

      (1) Comply with underlying zoning standards and other applicable conditions of the approval; and

      (2) Be limited to a minor change such as, without limitation:

         (a) Changes to the location of or the rearrangement of internal streets, turn lanes, drives, or access restrictions;

         (b) Changes to the configuration of parking areas, but not the number of parking spaces, unless permitted by Subsection 3.a, below;

         (c) Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is not decreased;

(d) Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements remain;

(e) Changes to proposed building elevations or facades, including materials, provided that the change retains the same general architectural character and provided the development still complies with the applicable design requirements;

(f) Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

D. Dimensional Standards

1. Dimensional standard minor modifications are adjustments to the dimensional standards of the Unified Development Code. Dimensional standards may only be modified upon a finding by the Administrator or designee, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval. In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:

   a. An adjustment to parking requirements up to the greater of five (5) spaces or ten percent (10%).

   b. An adjustment to setback requirements up to greater than five (5) feet or twenty-five percent (25%) of the standard setback.

   c. An adjustment to landscape standards up to twenty percent (20%) of required landscaping.

E. Procedure for Minor Modifications

1. Preliminary Plat or Site Plan

a. When minor revisions are proposed to an approved preliminary plat or site plans, the applicant shall submit a written request to the Administrator with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.

(1) The Administrator shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.

(2) The Administrator shall distribute copies of the revised plat to the appropriate agencies.

2. **Final Plat**

a. When minor revisions are proposed to an approved final plat, the applicant shall submit a written request to the Administrator with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.

b. If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Administrator signature, and date of signing.

c. If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.

d. In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Administrator for processing and rerecording the revised plat.

e. The Administrator shall distribute copies of the recorded final plat to the appropriate agencies.

F. **Appeals and Variances**

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

G. **Individual Parcels within a Conditional Zoning District**

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

153.527 Permit Choice and Vested Rights

A. The review procedures for Permit Choice and Vested Rights shall be in accordance with G.S. 160D-108.

153.528 Nonconformities

A. Purpose and Intent

1. Within the provisions established by this Ordinance, there exist uses of land, structures, lots, and signs that were lawfully established before this Ordinance was adopted or amended, that now do not conform to the terms and requirements of this Ordinance. The purpose and intent of this Section is to regulate and limit the continued existence of those uses, structures, improvements, lots, and signs that do not conform to the provisions of this Ordinance or any amendments thereto and help bring them completely or substantially closer into compliance with this Ordinance.

2. It is not the intent of this section to encourage the continuance of nonconformities that are out of character with the standards of the zoning district. It is the intent of this section, however, to allow certain nonconforming situations to continue as legal exceptions to this Ordinance.

B. Nonconformities Defined

1. A nonconformity shall be any use, lot, improvement, or structure that, because of amendments to this Ordinance or a preexisting condition, does not meet the current standards of the Ordinance.

a. Nonconforming Use

(1) A nonconforming use shall be any land use that was legally established but has become a prohibited use in the district in which it exists.

b. Nonconforming Lot

(1) A nonconforming lot shall be any legally established parcel that does not conform to the current area or dimensional requirements of the zoning district in which it is located.

c. Nonconforming Improvement or Structure

(1) A nonconforming improvement or structure shall be any legally established improvement, building or structure that fails to meet current Ordinance standards for setback, height, or similar factors. Signs are a specific type of “improvement” and are specially considered herein.

C. Nonconforming Uses

1. Nonconforming uses of land are declared incompatible with this Ordinance. Nonconforming uses of land may continue in accordance with the provisions of this Section except that:

   a. Only that portion of the land in actual use may be so continued, and the nonconforming use may not be enlarged or extended, nor may any additional structures be added to be occupied by the nonconforming use, unless by special use permit, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming.

   b. Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use.

   c. A nonconforming use that is damaged by fire, explosion, flood, or other calamity to the extent of more than fifty percent (50%) of its current equalized value, shall not be restored unless it complies with the use provisions of this chapter, except as follows:

   d. A single-family residential nonconforming use may be reestablished or restored regardless of the percentage of damage after such an event provided the use is not enlarged or expanded.

2. A nonconforming use shall be considered abandoned and will not be permitted to be re-established if it meets any of the following:

   a. A use that utilizes a structure and is abandoned for a period of at least 180 days, as evidenced by some action or occurrence that the Administrator or their designee deems an indication of abandonment. Such action or occurrence may include, but is not limited to:

      (1) Termination of utilities;

      (2) Declaration of inhabitability; or

      (3) Written notice declaring the intent to abandon

   b. A use that is conducted outside of a structure and is abandoned for a period of at least thirty (30) days as evidenced by removal of equipment or other action that the Administrator or their designee deems an indication of abandonment.

3. A nonconforming use may not be moved off the lot or lots on which it is located, unless, when relocated, it complies with the regulations for the district in which it is located. Once a nonconforming use has been relocated and removed, the new use on that original lot must comply with the Ordinance, except that manufactured homes may be replaced on original lots that previously housed a nonconforming manufactured home use within twelve (12) months of its removal.

D. Nonconforming Lots

1. Where the owner of a lot at the time of the original adoption of this chapter, or any successor in title does not own sufficient land to conform to the lot area or lot width requirements of this chapter, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than twenty percent (20%) below the minimum specified in this chapter, and further provided that the Swain County Health Department approves the reduction if on-site water or wastewater facilities are involved.

2. In cases where the lot area and lot width are more than twenty percent (20%) below the minimum specified in this Section, or other requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions specified in this Section. In addition, nonresidential uses of land permitted in the applicable nonresidential zoning district may be granted a variance for development on a substandard lot, subject to approval by the Board of Adjustment.

E. Nonconforming Signs

1. Nonconforming signs shall be determined in accordance with Section 153.409.D.

F. Nonconforming Structures

1. This section shall govern expansion and improvements to nonconforming buildings; expansion, changes, or enhancements to improvements that are not buildings; and building, improvements, and reconstruction on development projects governed by site plans or plats that are completed but which do not meet the requirements of this Ordinance.

2. No enlargement or reconstruction shall have the effect of increasing the degree or extent of a nonconforming feature.

a. Additions that are proposed between the minimum yard requirement and the existing building line, or are consistent with the existing height, shall not be considered to increase the degree or extent of the nonconformity.

b. An addition shall be considered to increase the nonconformity if it extends further into required yards than the existing encroachment.

3. No enlargement or reconstruction shall create new nonconformities or encroachments, unless a variance is approved pursuant to §153.523, Variance.

4. Special provisions apply to nonconforming structures as set forth in this section.

a. The conforming use of a structure existing at the time of the adoption of this Section, may be continued, although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this Section.

b. Nonconforming structures which are damaged or destroyed by fire, explosion, flood, or other calamity to the extent of more than fifty percent (50%) of the value of the structure, as determined by the Town, may be reconstructed and shall comply with the applicable provisions of this chapter for the district in which such structure is located, unless the structure is situated on a nonconforming lot of record, in which case the provisions concerning nonconforming lots of record shall apply.

c. A nonconforming structure, including a mobile home, may not be moved off the lot or lots on which it is located, unless when relocated within the jurisdiction of the Town, it complies with the regulations for the district in which it is located. Further, any subsequent reuse of the lot or lots from which the nonconforming structure has been moved must comply with the regulations of the district in which it is located.

d. A nonconforming structure may be enlarged or expanded, provided that any expansion meets all the requirements for the zoning district, including, but not limited to the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this Section.

5. **Reconstruction of Nonconforming Structures**

a. Single-family or duplex structures, and associated accessory structures, can be re-built within the original building footprints if a Certificate of Compliance for the new structure is issued within thirty-six (36) months of the date of demolition or destruction of the original structure. Otherwise, current Ordinance requirements shall be met. The Administrator can issue an

extension for up to six (6) months, if documentation is provided that demonstrates due diligence has been made to re-build the structure.

153.529 Enforcement

A. Enforcement of Provisions

1. The Administrator shall be charged with the enforcement of the provisions of this chapter. If the Administrator finds that any of the provisions of this chapter are being violated, they shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct it. They shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

B. Notice to Comply

1. Inspections

a. Town staff, under the direction of the Administrator or designee, may inspect work undertaken pursuant to a development approval to ensure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, the staff is authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

2. Complaints Regarding Violations

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

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

3. Notice of Violation

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

(1) That the lot, building, structure, sign, or use is in violation of this ordinance.

(2) A description of the violation and citation of the relevant Sections of the Unified Development Ordinance;

(3) Specific measures necessary to remedy the violation;

(4) The time within which the violation shall be corrected.

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

4. Responsible Party

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

C. Stop Work Orders

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

a. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed.

b. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop-work order shall certify to the local government that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.

c. Appeals and Violations of Stop Works Orders. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop-work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop-work order pending a ruling on the appeal. Violation of a stop-work order shall constitute a Class 1 misdemeanor.

D. Revocation of Permits

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

E. Remedies

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

Section 153.600: Definitions

153.601 Word Usage

A. Words used in the present tense include the future tense.

B. Words used in the singular number include the plural, and words used in the plural include the singular.

C. The word “person” or “applicant” includes firms, associations, organizations, partnerships, corporations, trusts, trustees, estates, individuals, companies, and other similar entities.

D. The word “structure” includes the word “building”.

E. The words “shall” or “must” are always mandatory and not merely directory.

F. The word “used”, as applied to any land or building, shall be construed to include the words “intended”, “arranged”, or “designed to be used”.

G. “Zoning map” shall mean the official Zoning Map of the Town of Bryson City, North Carolina.

H. The words “Town Board of Aldermen”, shall refer to the Town Board of Aldermen of the Town of Bryson City, North Carolina.

I. The words “Planning Board” shall refer to the Planning Board of the Town of Bryson City, North Carolina.

J. The words “Board of Adjustment” shall refer to the Board of Adjustment of the Town of Bryson City, North Carolina.

K. The words “day” or “days” shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.

L. Any term not herein defined shall be as defined elsewhere in the Unified Development Ordinance or, if not defined elsewhere in the Unified Development Ordinance, as defined in Webster's New International Dictionary, most recent edition.

M. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

153.602 Abbreviations

A. BMP: Best Management Practices

B. BOA: Board of Adjustment

C. dbh. Diameter at Breast Height

D. ETJ. Extra-territorial Jurisdiction

E. GFA. Gross Floor Area

F. FAA: Federal Aviation Administration

G. FCC: Federal Communications Commission

H. NCDOT: North Carolina Department of Transportation

I. PB: Planning Board

J. PW: Public Works Director

K. TBOA: Town Board of Aldermen

L. TIA. Traffic Impact Analysis.

M. TRC: Technical Review Committee

N. UDO: Unified Development Ordinance

O. USGS. United States Geologic Survey

153.603 General Terms

Abandon: To cease, either intentionally or unintentionally, from actively using land, structures, or any premises for the intended or previous use, but excluding temporary periods of inactivity due to remodeling, maintaining, or otherwise improving a facility. Abandonment is often referenced to a specified time period. This definition includes “abandonment” and any other tense or version of the word “abandon.”

Access: A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

Adjacent: One (1) or more lots or tracts that abut or touch and have a boundary, or portion thereof, which is contiguous to the lot in question. Such determination shall be made by extending the exterior lot lines of the lot in question to adjacent lots and/or adjacent roads, streams, easements, or rights-of-way. The term “adjacent” or “adjacent property” shall also mean "contiguous” or “contiguous property”, “abutting" or “abutting property”, "adjacent or adjacent property”.

Administrative Decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative Modification: A change to a development approval on the finding(s) that the modification falls within the specific, neutral, and objective criteria outlined in this ordinance for an Administrative Modification. Administrative Modification may not be exercised for a change in use nor density.

Alley: A travel way that affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alteration: Any change, addition, or modification in construction or occupancy of an existing structure proposed by the property owner and/or Applicant.

Approval Authority: The Town Board of Aldermen, Board of Adjustment, or other board or official designated by the General Statutes or this Ordinance as being authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.

Bedroom: A fully enclosed interior room, intended for sleeping, as shown on the building plan for the structure having, as a minimum, a doorway, window, and closet.

Best Management Practices (BMP): For purposes of this ordinance, a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Board of Aldermen or Town Board: The governing body of the Town of Bryson City, North Carolina.

Buffer: An area of natural or planted vegetation or an area of such vegetation in combination with berms, fences, and/or walls serving as a separation between two areas or land uses; and, an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of

pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Buffer, Perimeter: A specified land area, located along the perimeter of a lot and extending a specific width to the lot line, generally containing existing or newly planted vegetation to act as a screen.

Buffer, Street: A vegetated planting strip installed along a road frontage to filter the view, enhance the streetscape, and lessen the overall impacts of the new development of the subject lot.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Footprint: The outline of the total area of a lot or site that is surrounded by the exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

Building Height: The vertical distance measured from the mean elevation of the finished floor at the front of the building to: (A) the highest point of the roof surface on a flat roof; (B) the deck line of a mansard roof; or (C) the mean height level between eaves and ridge for a gable, hip, or gambrel roof; and (D) For other building types, the vertical distance to the highest point of the structure.

Building Separation: The required separation between any two buildings located on the same lot or parcel of land.

Caliper: The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.

Collocation: The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.

Construction: On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

County: Swain County, North Carolina

County Health Department: The Swain County Health Department.

Crosswalk: A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Cul-de-sac: A local street of relatively short length with one end open to traffic and the other end permanently terminating in a vehicular turnaround.

Dedication: The transfer without payment of ownership or other interest in real property from a private entity to a public agency.

Density: Measured as the number of dwelling units per acre(s) of land.

Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.

Development: The subdivision of land into two or more parcels, the construction or reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining excavation, landfill, land disturbance; and any use or extension of the use of land.

Development, Existing: Those developments as of the effective date of this subchapter that are built, or those developments having an outstanding valid building permit or a site-specific development plan as authorized by G. S. §160D-102 or having an approved site-specific or phased development plan in compliance with G.S. §160D-102 and having expended substantial resources (time, labor, money), or meeting the court-created common law or constitutional standards of a substantial expenditure of resources (time, labor, or money) based on a good faith reliance upon having received a valid local government approval to proceed with the project.

District: A standardized area or zone established by this ordinance that contains uniform regulations and requirements for the use of land.

Driveway: An access roadway or point of ingress and egress between a street and a parking space, structure(s) or lot(s).

Dwelling: Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of Article 12 of N.C.G.S 160D, it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

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

Easement: A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

Evidentiary Hearing: A legal court proceeding that involves eyewitness testimony, given under oath, that is relevant to the case.

Extraterritorial Jurisdiction: That portion of the Town's planning area located outside the corporate boundaries of the Town.

Family: One or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding five, living together as a single housekeeping unit, though not related by blood, adoption, or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the state.

Fence: Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Flood Fringe Area: That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

Floodplain: Any normally dry land area that is susceptible to being inundated by waters of the 1% annual chance flood, that is the 100-year flood.

Floodway: The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the velocity waters of the regulatory flood.

Frontage: The length along the street right-of-way line of a single property tract or roadside development area between the edges of the property lines. Property at a street intersection (i.e., corner lot) has a separate frontage along each street.

Governor: The Governor of North Carolina.

Ground Cover: Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Habitable: Space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage and utility spaces and similar areas are not considered habitable spaces.

Household: One or more people occupy a single dwelling unit.

Impervious Surface: Areas developed and/or whose surface is treated or covered by impenetrable materials to prevent or limit the infiltration of rainwater. Examples of development and surface treatments that render a surface impervious include:

- Buildings (green roofs shall not count as impervious surfaces)
- Asphalt, BST, and other pavement materials
- Concrete and cement
- Stone, brick, concrete block, and similar materials
- Grave
- Compacted soil

Improvement: Any building, structure, bridge, area, parking facility, public facility, utility, fence, gate, wall, landscaping, paving, or other object constituting a physical addition to real property, or any part of such addition.

Improvement, Nonconforming: A legally established improvement, building, or structure that fails to meet current Code standards for setback, height, or similar factors.

Junk: Dilapidated scrap or abandoned metal, paper, building materials and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, or parts thereof.

Land Disturbing Activity: Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

Landscape Plan: A plan submitted in conjunction with a site plan that is prepared by a registered architect and which shows landscaping, buffer, and other vegetative details as required by this ordinance.

Landscaping: Any live plant material such as trees, shrubs, ground cover, ornamental rocks, and grass used in spaces void of any impervious material or building structures, areas left in their natural state or areas where mulch is used as a ground cover.

Legislative Hearing: A hearing to solicit public comment on a proposed legislative decision.

Livestock: All animals kept or raised on a farm, except however, that necessary working animals and pets are not included.

Loading Zone: A completely off-street space on the same lot for the loading or unloading of freight carriers with ingress and egress to a street or alley.

Local Street Network: System of local streets that include local streets, cul-de-sacs, and alleys.

Lot: A parcel of land recorded with Johnston County, or a parcel described by metes and bounds, the description of which has been so recorded.

Lot Area: Lot area shall be that area included in a single, undivided piece of land.

Lot, Corner: A lot that occupies the interior angle at the intersection of two or more right-of-way lines. A lot abutting on the right-of-way of a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, Double-Frontage: A continuous or through lot of the same depth as the width of a block, and which and which has street frontage along two or more property lines. Also known as a “Through Lot”.

Lot, Flag: An irregularly shaped lot which has an appendage or extension which does not meet lot width requirements of the district at the street.

Lot, Interior: A lot which contains only one property line fronting onto the street, with all other property lines being shared by lots.

Lot Line: The most outer perimeter of a lot or parcel as recorded on a plat. Also referred to as a property line.

Lot of Record; A lot which is part of a subdivision recorded in the Office of the Register of Deeds of Johnston County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width: The width of any lot as measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

May: The act referred to is permissive.

Month: A calendar month.

Net Acreage: A measure of the area of a piece of land area which excludes the land area of certain elements from its calculation, such as area occupied by streets,

rights-of-way, and easements. Also referred to as **Net Land Area** or **Net Square Footage of Land Area.**

Nonconformity: A lawful preexisting use, structure, or lot that does not meet the requirements of this this ordinance.

Nonconforming Lot: A lot described by a plat or a deed that was recorded prior to the effective date of these watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

Open Space: Lands retained for use as active or passive recreation areas and for resource protection.

Outparcel: Individual retail sites in a retail center that, when combined, are less than the square footage of the attached retail spaces which form the majority of the square footage of the center.

Owner: Applied to a property, shall include and part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of that property.

Parcel: A continuous quantity of land in the possession of or owned by or recorded as property of the same person or persons. A parcel may contain or may be planned to contain multiple buildings or uses.

Parking Area: An area not within a building, where motor vehicles may be stored for the purpose of temporary, daily, or overnight off-street parking.

Parking Space: A designated off-street area designed to accommodate the parking of one vehicle.

Permit: A document issued by the proper authority authorizing the applicant to undertake certain activities.

Permit Choice: Pursuant to NCGS 160D-108, if an applicant submits a development permit application, and a land development regulation is amended after the application was submitted but before the permit is approved, the applicant may choose which adopted version of the rule or ordinance will apply to the permit.

Pervious Surface: Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

Planning Area: The land located within the corporate limits of the Town and the land located within the territorial jurisdiction established by the Town Board.

Planting Area: Areas of a site where groupings (more than one) of trees, shrubs and/or ground cover are proposed and are defined within a bed of mulch.

Plat: A map or plan of a parcel of land which is to be or which has been subdivided.

Plat, Final: The final map of all or a portion of a subdivision or site plan that is presented for final approval and recorded with the County.

Plat, Preliminary: A map of a subdivision with associated information required for major subdivision development.

Principal Building, Use, or Structure: The main use of a lot, or the building or structure in or on which the main use of the lot takes place.

Prohibited Sign: A sign that is expressly prohibited within all zoning districts of the Town of Bryson City.

Protected Area: The area adjoining and upstream of the critical area in which protection measures are required. The boundaries of the protected area are defined as extending ten miles upstream and draining to water supply or to the ridge line of the watershed, whichever comes first.

Public Street: A dedicated and accepted public right-of-way for vehicular traffic.

Public Sewer: Any sewerage system serving ten or more customers.

Public Water Supply: Any water supply furnishing potable water to ten or more customers.

Quasi-Judicial Decision: A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation.

Right-of-Way: An area or strip of land, either public or private, on which an irrevocable right-of- passage has been recorded for the use of vehicles or pedestrians or both.

Roadway: A paved right-of-way or portion thereof for use by vehicular traffic that provides either public or private access to property.

Roof Line: The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including equipment structures.

Screening: The method by which a view of one site from another abutting site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Setback: The distance by which any building or structure is separated from the associated, parallel lot line. Usually conveyed as the minimum distance permitted.

Setback, Front: The minimum allowable distance measured perpendicular from the front lot line to the nearest point of the principal building. The front setback is equal to the width of the required street yard.

Setback, Rear: The minimum allowable distance measured perpendicularly from the rear lot line to the nearest point of the principal building. The rear setback is equal to the required rear yard.

Setback, Side: The minimum allowable distance from the side lot line to the nearest point of the principal building measured perpendicular to the side lot line. The side setback is equal to the required side yard.

Setback Line: A line designating the distance which buildings must be set back from an existing or proposed lot line.

Shall: The act referred to is mandatory.

Sidewalk: Any portion of a street between the curb line and the adjacent property line intended for the use of the pedestrian.

Sign: Any device or visual communicator that is used for the purpose of bringing the subject thereof to the attention of the public

Sign, Banner: A non-permanent strip of cloth or other material on which a sign is drawn, written, painted, or otherwise applied.

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

Sign. Feather Flag: A vertical sign that contains a pole driven into the ground for support or which is supported by means of an individual stand and which includes a vertically-elongated attached pennant. This definition includes banner flag, swooper flag, flutter flag, blade flag, sail flag, bow flag, teardrop flag, tall flag, and quill flag signs. This definition does not include pole banner signs.

Sign, Freestanding Shopping Center: A free-standing sign used to advertise businesses that occupy a shopping center or complex of two (2) or more tenants.

Sign, Hanging: A sign which is hanging from a canopy or recessed building entrance.

Sign, Inflatable: Three-dimensional objects, filled with air or gas, and located in a manner that attracts attention.

Sign, Off-Premises: A sign that draws attention to or communicates information about a business, service, commodity, that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located.

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

Sign, Outdoor Advertising: Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.

Sign, Pole: A freestanding sign that is permanently supported by a structure of one or more poles, posts, uprights, or braces from the ground.

Sign, Political: A sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.

Sign, Projecting: An on-premises sign that is attached to an exterior building wall that extends more than twelve (12) inches. A Projecting Sign intersects the building on which it is located at a right angle.

Sign, Roof: Any sign attached to the roof of a building.

Sign, Sandwich board: An upright A-frame structure used for displaying promotional information to the public.

Sign, Snipe: A sign of any material that is attached in any way to a communication tower, utility pole, fence post, tree, or a similar object located or situated on public or private property.

Sign, Wall: An on-premises sign that is directly attached to an exterior building wall and projects no further than twelve (12) inches from said building wall.

Sign, Window: An on-premises sign attached flat but parallel to the inside of a window, does not include wall/fascia signs.

Site: A continuous quantity of land to be developed as a single project. A site may contain multiple parcels or lots.

Site Area: Site area shall be the total land area of the proposed development.

Site Plan: A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of the site and the location of all buildings, streets, uses, and principal site development features proposed for a specific parcel of land.

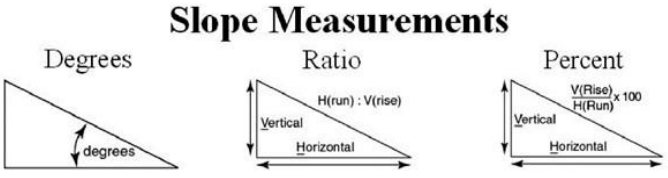
Site Plan, Major: Any site plan for development that contains 20,000 square feet or more in total building area, any development that requires a TIA, any development that contains forty (40) or more multi-family units, and/or development that does not qualify as a Minor Site Plan.

Site Plan, Minor: Any site plan for development under 20,000 square feet of building area, a development that does not require a traffic impact analysis, less than forty (40) multi-family units, and/or a special use permit.

Site Specific Development Plan: A plan of land development submitted to the Town for purpose of obtaining one of the following zoning or land use permits or approvals: subdivision plat, site plan, special use permit, conditional zoning, or variance; provided, notwithstanding the foregoing that neither a variance, a plat nor any other document that fails to describe with reasonable certainty that type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

Sleeping Unit: A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Slope: The extent to which a landform deviates from the perfectly horizontal as expressed in percent, degree, or ratio. To ensure consistent conversion between these separate methods of expressing the extent of the slope, the following explanatory table is provided as part of this definition.



Degree	Ratio	Percent
45°	1H:1V	100%
39°	1.25H:1V	80%
34°	1.5H:1V	67%
30°	1:75H:1V	57%
27°	2H:1V	50%
22°	2.5H:1V	40%
18°	3H:1V	33%
14°	4H:1V	25%
8.5°	6.7H:1V	15%

Special Use Permit: A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

State: The State of North Carolina.

Stream, Intermittent: A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps;

Stream, Perennial: A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

Street: Any public way, road, highway, street, avenue, boulevard, parkway, dedicated alley, lane, viaduct, bridge and the approaches thereto within the town, and shall mean the entire width of the right-of-way between abutting property lines.

Subdivision: The division of land for the purpose of sale or development.

Subdivision, Exempt: A subdivision defined by NCGS 160D-802 which only requires a plat for recordation for the division of the parcel, barring specific criteria is met.

Subdivision, Expedited: A subdivision of land meeting the following requirements:

1. The tract or parcel to be divided is not exempted by the division of land into parcels greater than 10 acres with no street right-of-way dedication.

2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.

3. The entire area of the tract or parcel to be divided is greater than 5 acres.

4. After division, no more than three lots result from the division.

5. After division, all resultant lots comply with all of the following:

    a. All lot dimension size requirements of the applicable land-use regulations

    b. The use of the lots is in conformity with the applicable zoning requirements.

    c. A permanent means of ingress and egress is recorded for each lot.

Subdivision, Major: All other divisions of land not considered as an exempted subdivision, an expedited subdivision, or a minor subdivision shall be considered a major subdivision.

Subdivision, Minor: A minor subdivision is a subdivision that does not involve any of the following:

1. Creation of a total of more than five lots;
2. A Traffic Impact Analysis (TIA)
3. Creation of any new public streets;
4. Extension of any water or sewer lines; or
5. Installation of drainage improvements through one or more lots to serve one or more other lots.

Telecommunications: The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Telecommunications Structure: A structure used in the provision of services described in the definition of wireless telecommunications facilities.

Town: The Town of Bryson City, North Carolina.

Variance: A grant of relief from the requirements of this Ordinance, including requirements adopted by the State of North Carolina that are incorporated into this Ordinance.

Vested Rights: A right pursuant to G.S. §160D-102 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development.

Watershed: The entire land area contributing surface drainage to a specific point (i.e., the water supply intake).

Yard: The unoccupied, open space, at grade, on a lot extending from the lot line to the building on the lot. Usually conveyed as the minimum width permitted.

Zero Lot Line: A design option for single-family, detached units where only a single side yard shall be provided at a width equivalent of two minimum side yards of a conventional detached unit in the zoning district in which the unit is located. The building is constructed on the lot line where a side yard is not provided.

Zoning District: The division of Town land into a category that regulates the use and development patterns.

153.604 Use Definitions

Accessory Dwellings: A self-contained home that is located on the same lot as a principal dwelling. Accessory dwellings may be detached, attached, or internal to the primary dwelling. Accessory dwellings may also be located above a garage or in a basement.

Adult Establishments: A principal or accessory structure or use of land which meets the definition of adult establishment as set forth in G.S. 14-202.10 et. seq. and the Bryson City code of Ordinances.

Animal Services (with outdoor and/or overnight component): A facility used for the purpose providing boarding, medical treatment, grooming or selling of pet supplies

for animals or pets and which includes outdoor kennel areas for temporary animal boarding.

Animal Services (without outdoor and/or overnight component): A facility used for the purpose providing boarding, medical treatment, grooming or selling of pet supplies for animals or pets but which does not include outdoor kennel areas for temporary animal boarding.

Art/Dance/Music Studio: A working place or place of study for a painter, sculptor, photographer, dancer, musician or person engaged in a similar artistic pursuit.

Automotive/Boat Sales: An establishment where automobiles, boats, or other motor vehicles are stored and/or displayed for the purpose of sale or lease as an entire or complete unit.

Automotive/Boat Services: An establishment engaged in providing mechanical automotive maintenance, bodywork, painting, and repair, such as engine repair, exhaust system replacement and transmission repair, and/or providing other related services, such as upholstery or glass replacement.

Bar/Tavern: An establishment where the principal use is to serve spirituous liquors, beer, and/or wine to be consumed on the premises. Usually furnished with counters and stools. Food may or may not be served.

Bed & Breakfast: An owner-occupied residential building providing rooms for temporary overnight lodging and breakfast for more than three (3) but not more than eight (8) guests on a paying basis.

Boarding Houses: A residential dwelling, or part thereof, in which lodging is provided to more than three (3) but not more than eight (8) paying guests on a weekly or longer basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

Brewery/Winery: An establishment primarily engaged in the wholesale production and distribution of wine, beer, ale, porter and other fermented malt beverages. Areas for demonstration, education or tasting are included in this definition and are incidental to the primary use of producing beverages in accordance with state ABC permits.

Campground: A plot, parcel, or tract of land upon which two (2) or more Campsites are located, established, or maintained for occupancy by Camping Units as temporary living quarters for recreation, education, or vacation purposes. A Campground includes any Summer Camp or any other land area which is consistent with this definition.

Car Wash: An attended or u attended facility wherein the customer pays for the labor, materials, and/or equipment necessary to wash or otherwise clean an automobile, small recreational vehicle, or light truck. This type of car wash may or may not be partially automated.

Cemeteries: Land and facilities, including any burial grounds, mausoleums, columbariums, offices, and chapels, used for the burial of the dead.

Commercial Agriculture: Land used primarily for the growing of crops, produce, and/or flowers for commercial purposes.

Cryptocurrency Mining: An establishment in which cryptocurrency transactions are verified and added to the public ledger, known as the blockchain, through the use of server farms employing data processing equipment. A server farm shall be considered three (3) or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated processing.

Daycare Centers: An institution and arrangement, where at any time, there are three (3) or more preschool-aged children, or nine (9) or more school-aged children receiving childcare.

Duplex: A building designed with accommodations for occupancy exclusively by two families living independently of each other.

Entertainment Uses (indoor): A facility for recreation conducted within an enclosed building including, but not limited to, movie theaters, arcades, bowling alleys, skating centers, escape room/physical adventure game facilities, and pool halls.

Entertainment Uses (outdoor): A facility for recreation that is conducted outdoors or with partially enclosed structures, such as miniature golf courses, batting cages, and driving ranges.

Essential Services: Associated infrastructure for Town utilities and services including electrical, natural gas, and water distribution lines, pumping stations, lift stations, treatment plants, substations, or other similar facilities in connection to public utilities.

Family Care Homes: A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six (6) resident persons with disabilities.

Farmer's Market: Seasonal selling or offering for sale at retail of farm products, occurring in a pre-designated area, where the vendors are generally individuals who have produced the farm products.

Gas Station: A building used for the sale of gasoline products that may also offer for sales prepackaged or prepared food items and tangible consumer goods, primarily for self- service by the consumer.

Government Buildings: A building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

Grocery Store: A retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Gymnasium: A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

Healthcare Facilities: An institution providing human health services primarily for in-patient medical and surgical care for the physically or mentally sick and injured and including related support facilities such as laboratories, out-patient departments, staff offices, and other supporting services.

Heavy Equipment Sales: Sales of large-scale commercial or industrial products and vehicles. Examples include the sale agricultural equipment, trucks, construction tools, and forklifts.

Heavy Equipment Services: Service of large-scale commercial or industrial products and vehicles. Examples include the servicing of agricultural equipment, trucks, construction tools, and forklifts.

Home Occupations: An occupation customarily conducted on the same site as, and by members of the family residing in, the primary dwelling. The use is clearly incidental and secondary to that of the residential dwelling and does not change the residential character of the structure or neighborhood.

Homeless Shelter: A facility providing temporary housing to indigent, needy, homeless, or transient persons.

Hotel/Motel: An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

Manufactured Home Parks: A development site containing spaces leased or intended to be leased for occupancy by manufactured homes used as residential dwellings regardless of whether such homes are provided as part of the lease and including all uses accessory to the residential use. This definition shall not include

manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

Manufactured Homes: A manufactured home is a single-family dwelling, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. Manufactured homes must have a permanent label affixed to each transportable section certifying that the manufactured home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards and the North Carolina Manufactured/Mobile Home Regulations. A recreational vehicle (RV) shall not be considered manufactured housing.

Manufacturing: A manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components. Because of the nature of its operations and products, Manufacturing A produces little or no noise, odor, vibration, glare, and/or air and water pollution, and, therefore, has minimal impact on surrounding properties.

Multi-Family Residential: A building which contains five (5) or more dwelling units. This definition also includes townhomes, condominiums, apartment complexes.

Nightclubs: A place of entertainment generally open in the evening offering entertainment such as music, space for dancing and/or a stage area; and usually serving alcoholic beverages and food for consumption on the premises.

Nurseries: Establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which are grown at the establishment.

Office Uses (greater than 10,000 sq. ft.): A room or group of rooms used for the conduct of a business, profession, service, industry or government where retail trade is not conducted. These uses are defined as being greater than 10,000 square feet.

Office Uses (less than 10,000 sq. ft.): A room or group of rooms used for the conduct of a business, profession, service, industry or government where retail trade is not conducted. These uses are defined as being less than 10,000 square feet.

Outdoor Sales: A business that sells merchandise (other than automobiles, trucks, boats, motorcycles, manufactured homes or recreational vehicles) and stores or displays the merchandise outdoors on a regular basis.

Outdoor Storage: An area which contains trash collection areas or dumpsters, open air docks, outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations, but excluding temporary construction and related activities and closed bay docks.

Place of Worship: A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

Quadplex: A building designed with accommodations for occupancy exclusively by four families living independently of each other.

Recreational Facilities (public/private): An area or facility designed to meet the demand for active recreation, including play fields, ball diamonds, parks with picnic and playground equipment, golf courses, tennis courts, swimming pools, tot lots and similar uses, available to the public or private members.

Residential Care Facilities: A facility that provides primarily nonmedical resident services to individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or persons employed as facility staff, on a 24-hour-a-day basis.

Restaurants (with drive-through): An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

Restaurants (without drive-through): An establishment that serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas.

Retail Uses (less than 10,000 sq. ft.): An establishment primarily engaged in selling goods to the public. Examples include clothing stores, pharmacies, and similar commercial uses in which the building occupies less than 10,000 square feet of area.

Retail Uses (more than 10,000 sq. ft.): A single retail use which occupies more than 10,000 square feet of gross floor area and typically has a regional sales market. Such stores include but are not limited to department stores and big box facilities.

RV Park/Park Models: Any lot or parcel of land used or intended to be used for the accommodation of two or more recreational vehicles (RV's) for transient dwelling purposes.

Schools (public/private): A public or private institution offering a curriculum of education authorized by the State of North Carolina giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. This definition does not include day care facilities, individual instruction, or classes in a specialized subject.

Scrap Yard: Any place where junk and/or damaged, inoperable, or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled, or handled.

Shopping Center: A group of two (2) of more retail establishments constructed and developed in one (1) or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one (1) or more lots, may contain one or more outparcels, and may include one (1) or more principal buildings.

Short-Term Rentals: A dwelling unit, or portion thereof, that is used for the accommodations or lodging of a guest or guests, paying a fee or other compensation, for less than thirty (30) days. Commonly referred to as an Airbnb, VRBO, or similar service.

Single-Family Residential Detached: A residential dwelling unit, other than a manufactured home, designed for, and occupied by one (1) family which is surrounded by a yard or other open space and located on its own lot.

Sweepstake Games: Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, whether connected to the internet or not, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. Electronic gaming operations including, but not limited to, internet cafes, internet sweepstakes, business centers, electronic gaming machines/operations, video sweepstakes, cybercafes, or by whatever other terminology such establishment might be known. This does not include any lottery approved by the State of North Carolina.

Tattoo/Piercing Services: An establishment whose principal business activity is placing ink under the skin using needles that result in the coloration of the skin or for piercing of the body.

Tiny Home (Permanent): A small, single-family residential detached structure on a permanent foundation which complies with all North Carolina Residential and Electrical codes.

Tiny Home (Non-permanent): A movable home which lacks a permanent foundation and may only be used as a temporary (no more than 180 days) living quarters. Non-permanent tiny homes shall be subject to any applicable NC Electrical Code requirements.

Train Depot: A station operated as part of rail system, which shall include facilities to load and unload passengers upon a train.

Triplex: A building designed with accommodations for occupancy exclusively by three families living independently of each other.

Vertical Mixed-Use: A combination of both residential uses above commercial uses within a single building.

Warehousing: Establishments primarily engaged in the storage of general merchandise, refrigerated goods, and farm products.

Wholesale Trade: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wireless Telecommunication Towers: Includes a “telecommunications tower” and “tower” and “telecommunications site” and “personal wireless facility.” A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site.