

**ZONING ORDINANCE
OF THE TOWN OF DILLSBORO, NORTH CAROLINA**

ARTICLE 1 AUTHORITY AND GENERAL REGULATIONS

Section 1.1 Authority and Enactment Clause

The Legislature of the State of North Carolina has in Chapter 160A, Article 8, Section 174, General Ordinance Authority, and Section 175, Enforcement; Article 19, Part 1, General Provisions and Part 3, Zoning, delegated the responsibility of adopting regulations to promote the public health, safety and general welfare of its citizenry to local government. The Board of Aldermen of the Town of Dillsboro does hereby ordain and enact into law the following sections as the Zoning Ordinance of the Town of Dillsboro, North Carolina.

Section 1.2 Purpose

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

Section 1.3 Jurisdiction

The provisions of this ordinance shall apply within the entire corporate limits of the Town of Dillsboro ("the Town") and the entire extraterritorial area as may hereafter be brought within the purview of this article pursuant to law, which shall be defined and established on the map entitled, "Zoning Map of the Town of Dillsboro, North Carolina" ("the Zoning Map"), which is adopted simultaneously herewith. The Zoning Map and all explanatory matter thereon accompanies and is hereby made a part of this ordinance and, together with a copy of this ordinance, shall be permanently kept on file in the office of the Town Clerk.

ARTICLE 2: DEFINITIONS

Section 2.1 General

2.1.1 Except as specifically defined within this section or elsewhere within this ordinance, all words shall be construed to have their customary dictionary definitions.

2.1.2 Words used in the present tense shall include, where appropriate, the past and future tense. Where appropriate, words in the singular shall include the plural, and words used in the plural shall conversely include the singular.

2.1.3 The word "shall" is always mandatory; the word "may" is permissive.

2.1.4 The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Section 2.2 Individual Words or Terms

For the purposes of this ordinance, certain words or terms used herein are defined as follows:

Bed and Breakfast Inn: A dwelling unit converted or used in total or part to provide for occasional transient paying guests on a daily basis and providing 5 or fewer rooms

Billboard: A standard structural poster panel or painted free-standing sign that is rented for purposes of conveying commercial information, knowledge or ideas to the public about a subject unrelated to the premises on which it is located.

Building: Any structure built for the support, shelter or enclosure of persons, animals or property of any kind, including sheds, carports, garages, guest cottages and other outbuildings, and also including any extension and extrusion of the building structure such as balconies, decks and porches. Satellite dish antennas shall be considered buildings insofar as they shall be required to meet the requirement of the zoning district in which they are located.

Convenience store: A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items. It is designed to attract and depends upon a large volume of 'stop and go' traffic. It may or may not include gasoline sales.

County recycling center: An area where recycling materials are transported from collection facilities for sorting and ultimate disposal.

Customary home occupation: Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided

further that no mechanical equipment is installed or used except as is normally used for domestic purposes, and that no over 25% of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

Day care center: A child day care facility as defined in NCGS 110-86(3) as well as a center providing day care on a regular basis for more than two hours per day for adults. An institution for the care or instruction of six or more unrelated children, but excluding family day care homes operated as a customary home occupation, keeping less than six unrelated children.

Drive-through facility: A customer service facility located either within the principal structure or within an accessory structure, which is intended to enable the motorist to transact business with a customer service person located within the principal structure (or with an automated service machine) without exiting the motor vehicle. It is presumed that the motorist exits the premises immediately upon the transaction of business.

Dwelling, duplex: A building arranged to be occupied by two families living independently of each other, the structure having two dwelling units.

Dwelling, multi-family: A building or portion thereof arranged to be occupied by three or more families living independently of each other.

Dwelling, single-family: A dwelling designed for and occupied by not more than one family.

Dwelling unit: A single residential unit where complete, independent living facilities, including provisions for living, sleeping, eating, cooking and sanitation, are provided on a permanent basis.

Family Care Home: An adult care home with support and supervisory personnel that provides room and board, personal care and habitation services in a family environment for not more than six resident handicapped persons.

Free-standing sign: A sign that is not attached to or supported by any building or structure. Such signs shall include ground signs and signs mounted on poles or other supports.

Gross floor space: The entire area of a building, including storage areas, garages, closets, hallways and restrooms, but excluding basement or attic storage areas.

Hotel/motel: An establishment that provides lodging for travelers on a temporary basis.

Indirectly illuminated sign: A sign that is illuminated by a white light source that is shielded and directed solely at the sign face.

Lot: A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.

Manufactured home: A dwelling unit that is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one- and two-family dwellings; is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and exceeds 40 feet in length and 8 feet in width.

Mini-warehouse: A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

Mobile home: A manufactured home.

Modular home: A dwelling unit constructed in accordance with the construction standards of the North Carolina Uniform Residential Building Code for one- and two-family dwellings, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly and placement on a permanent foundation. Without limiting the generality of the foregoing, a modular home may consist of two or more sections transported to the site each on each's its own chassis or steel frame, or a series of panels or room sections transported to the site on a truck and erected, assembled or joined there.

Motel: See Bed and Breakfast Inn.

Municipal recycling collection facility: An area where town residents and businesses may place recycling materials in approved containers where the materials will be picked up and moved to a county or regional center.

Person: An individual, corporation, partnership, firm, association, trust and any other legally recognized entity.

Political sign: A sign attracting attention to political candidates or political issues or any lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale.

Residential apartment: A dwelling unit located within and occupying a portion of an existing single-family dwelling.

Right-of-way: An area owned or maintained by the Town of Dillsboro or the North Carolina Department of Transportation for the placement of roads or utilities.

Setback: The minimum required horizontal distance between a structure or activity and the property line or the street right-of-way line.

Shopping center: A single building or a group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas. For the purposes of this ordinance, this definition includes multiple buildings with one or more tenants as well as one building with one or more tenants.

Sight distance: That area immediately adjacent to a street intersection encompassed by a triangle 10 feet back from the intersection on one street and 35 feet back along the perpendicular street.

Sign: Any visual display including the display of merchandise on the exterior of a building and any surface, fabric, material or structure designed to promote or attract attention to an individual, business, association, profession, commodity, product, etc. This definition shall not include the flag, badge or insignia of any nation, state, county or town.

Storage container: A structure towed or transported by vehicle and used for the storage of goods. The removal of the structure's wheels, if any, or any other alteration to the structure shall not eliminate or change any requirement pertaining to storage containers. For the purposes of this Ordinance, a storage container is considered to be a temporary use.

Structure: A building.

Surface area: The entire display area of a sign, including any border or accessory area, but excluding any base supports, posts, roofs or other structural elements provided they do not serve primarily to attract attention. In the case of three dimensional letters or letters painted directly on the wall surface, the surface area shall be defined as the total of the areas within the perimeter of each letter.

Warehouse: A building used primarily for the storage of goods and materials.

ARTICLE 3: GENERAL REGULATIONS

Section 3.1 Exemptions to Applicability

3.1.1 Other Laws and Ordinances. Nothing contained herein shall repeal, modify or amend any Federal or State law or regulation, or any county ordinance or regulation pertaining thereto; nor shall any provision of this ordinance amend, modify or restrict any provisions of the Code of Ordinances of the Town of Dillsboro, North Carolina; however, the adoption of this ordinance shall and does amend by substitution all previously enacted zoning ordinances for the Town and any amendments made thereto; and any and all ordinances, resolutions and regulations in effect in the Town as of the time of the adoption of this ordinance that may be construed to impair or reduce the effectiveness of this ordinance or to conflict with its provisions.

3.1.2 Easements or Other Agreements. It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if this ordinance imposes greater restrictions or higher standards for the use of a building or land, then the provisions of this ordinance shall control.

3.1.3 Construction of Buildings. These regulations shall not prevent the construction of any structure for which a building permit has been secured prior to the effective date of this ordinance or any amendment thereto, so long as the building permit has not been revoked or allowed to expire. However, once constructed, any structure so erected will be subject to any and all regulations set forth in this ordinance.

Section 3.2 Non-conforming Lots, Uses, Buildings, Premises and Manufactured Homes

3.2.1 Non-conforming Lots. Any single lot that does not meet the minimum density or dimensional requirements may nevertheless be used as a building site provided that the lot was in existence at the time of the adoption of this ordinance, or, alternatively, complied with the single-family site density requirements of this ordinance in effect at the time it was recorded, as evidenced by a recorded plat or as described in a conveyance recorded among the public records of Jackson County.

3.2.2 Non-conforming Uses. The lawful use of any building or premises at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, may be continued even though the use does not conform with the provisions of this ordinance, as amended. However, the non-conforming use shall not be enlarged, changed to another non-conforming use or reestablished after its discontinuance for a period of six consecutive months.

3.2.3 Non-conforming Buildings and Premises. Buildings and premises (including parking areas and other parts thereof) which existed at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith, except in the following cases:

- 3.2.3.1 Additions. If an addition is made to any existing building or premises, such addition shall comply with the current provisions of this ordinance.
- 3.2.3.2 Alterations or repairs. If alterations or repairs costing in excess of 50 percent of the physical value of an existing building are made to that building within any 12 month period, such building and premises shall be made to conform to the current requirements of this ordinance.
- 3.2.3.3 Change of use. If the use of a building changes so that the requirements for the new use are in any way more stringent than the requirements for the previous use of the building, such building and premises shall be made to conform to the current requirements of this ordinance.
- 3.2.3.4 Discontinuance of use in a non-conforming building. If the conforming use of any building or premises has been discontinued for a period of six consecutive months, the use shall not be reestablished until said building and premises is made to conform as much as possible to the current requirements of this ordinance.

3.2.4 Non-conforming Manufactured Homes. Manufactured homes which existed at the time of the enactment of this ordinance (November 3, 1986), or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith.

3.2.5 Non-conforming Signs - see Section 6.8.

Section 3.3 Designated Planning Agency

The Planning Board as established in “An Ordinance to Establish a Planning Board for the Town of Dillsboro, North Carolina” shall serve as the planning agency under G.S. 160A-387.

Section 3.4 Application of Regulations

The regulations set forth in this Ordinance affect all land, every building, and every use of land and/or building.

3.4.1 Conformity With Regulations. No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance for the district in which it is located.

3.4.2 One Principal Building per Lot. Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except for shopping centers as defined in this ordinance.

3.4.3 Frontage Requirements for Lots. All lots shall front on a public street.

3.4.4 Uses Not Listed are Prohibited. Uses not designated as permitted or special shall be prohibited. Permitted uses subject to special requirements and special uses shall be permitted only according to the additional regulations imposed. Permits for a special use shall be approved or disapproved by the Board of Adjustment.

3.4.5 Regulations are General Requirements. Regulations set forth by this Ordinance shall be general requirements applicable to all uses in all district classifications, unless other regulations are more restrictive or establish a higher standard.

ARTICLE 4: DISTRICT REGULATIONS

Section 4.1 Use Districts

For the purpose of this ordinance, the Town of Dillsboro is hereby divided into the following use districts:

| | |
|------|-------------------------------|
| R-1 | Residential District |
| R-2 | Residential District |
| R-3 | Residential District |
| TD-1 | Traditional Downtown District |
| TD-2 | Traditional Downtown District |
| C-1 | General Business District |
| C-2 | Commercial Use District |
| I-1 | Industrial District |

Where uncertainty exists with respect to the boundaries of any district shown on the zoning map, the following shall apply:

4.1.1 Boundaries Following Center Lines. Boundaries indicated as approximately following the center lines of streets, highways, railroad rights-of-way, alleys, streams, rivers or other bodies of water, shall be construed to follow such lines.

4.1.2 Boundaries Following Lot Lines. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

4.1.3 Boundaries Following Town Limit Lines. Boundaries indicated as approximately following town limit lines shall be construed as following such town limit lines.

4.1.4 Parallel Boundaries. Where district boundaries are indicated to be approximately parallel to the center lines of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

4.1.5 Lots Divided by District Boundary Lines. Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such lot more than 35 feet beyond the district boundary lines.

4.1.6 Other Circumstances. Where physical features existing on the ground differ from those shown on the official zoning map, or in other circumstances are not covered by Section 4.1.1 – 4.1.5 above, the Planning staff shall interpret the district boundaries.

Section 4.2 R-1 Residential District

The R-1 Residential District is established as a single-family residential district. Within this District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

4.2.1 Permitted Uses. Single-family dwellings, including the following:

4.2.1.1 Homes built to conform to NC Residential Building Code standards

4.2.1.2 Any customary accessory outbuildings appurtenant to single-family dwellings, including private garages and non-commercial structures such as greenhouses and workshops. In addition, camping trailers, motor homes or similar recreational vehicles may be parked on the owner's property provided that it is not occupied, not connected to any water, sewerage or power supply and is parked within applicable setback lines of the side or rear yard of the residence. Accessory structures shall not be located in any required front yard or any required front or side yard of a corner lot. In all other cases, the accessory structure shall meet the setback requirements for the zoning district in which it is located.

4.2.1.3 Customary home occupations, provided the only external evidence of the occupation is a sign complying with Section 6.6.3.2.

4.2.1.4 Family care homes

4.2.2 Parks and playgrounds.

4.2.3 Churches and places of public worship.

4.2.4 Bed and Breakfast Inns, provided the owner or manager of the Inn lives on the premises.

4.2.5 Residential apartments, provided that such an apartment shall not occupy more than 40 percent of the total heated floor space in the building, shall not be smaller than 350 square feet, and shall only be permitted in dwelling units meeting NC Residential Building Code standards.

Section 4.3 R-2 Residential District

The R-2 Residential District is established for single and multi-family residential uses. Within the R-2 Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

4.3.1 Permitted Uses

- 4.3.1.1 All uses permitted in the R-1 district.
- 4.3.1.2 Duplex and multi-family dwellings not to exceed four units; shall meet the requirements for lot size and setbacks as specified in Table 1.
- 4.3.1.3 Accessory uses and home occupations described in Sections 4.2.1.2 and 4.2.1.3.

Section 4.4 R-3 Residential District

The R-3 District is established for single-family residential uses, including manufactured homes, and multi-family residential uses. Within the R-3 District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

4.4.1 Permitted Uses

- 4.4.1.1 All uses permitted in the R-2 District.
- 4.4.1.2 Manufactured homes, provided they were constructed after July 1, 1983, and all of the following conditions are met:
 - 4.4.1.2.1 The tongue, axles, removable towing apparatus and transporting lights are removed after final placement on the site;
 - 4.4.1.2.2 A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and covered access, is installed under the unit;
 - 4.4.1.2.3 The finished width of the base unit is not less than 24 feet and has a minimum floor area of 1,120 square feet;
 - 4.4.1.2.4 The pitch of the roof has a minimum vertical rise of one foot for each four feet of horizontal rise (1:4), is projected not less than 6 inches and is finished with a Class C or better roofing material;
 - 4.4.1.2.5 The power meter is permanently affixed to the structure and not to a free standing power pole;
 - 4.4.1.2.6 The exterior siding is comparable to that used in standard residential construction in terms of composition, appearance and durability;

4.4.1.2.7 The unit is served by public water and sewer.

Section 4.5 C-1 General Business District and C-2 Commercial Use District

The C-1 General Business District is a commercial district. The district regulations are designed to promote convenient pedestrian shopping and retail development. Within the C-1 General Business District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

4.5.1 Permitted Uses

- 4.5.1.1 All uses permitted in the R-2 Residential District. New construction of dwelling units shall meet all requirements in the R-2 District including minimum lot size, lot width, and setbacks.
- 4.5.1.2 Government and public buildings and facilities such as municipal recycling collection facilities.
- 4.5.1.3 Hotels and motels.
- 4.5.1.4 Professional offices or studios, including those of accountants, architects, artists, crafters, attorneys, contractors, dentists, engineers, investment/insurance agents, land surveyors, musicians, photographers, physicians, banks without drive-through facilities, and real estate.
- 4.5.1.5 Train transport systems, signals and accessory buildings.
- 4.5.1.6 Restaurants.
- 4.5.1.7 Outdoor storage yards containing materials for sale for businesses such as building supply centers, lumber yards and hardware stores, provided the following conditions are met:
 - 4.5.1.7.1 Only new materials for retail sale shall be placed in an outdoor storage yard;
 - 4.5.1.7.2 All such storage shall be to the rear of the back line of the rear of a commercial business;
 - 4.5.1.7.3 All materials in an outdoor storage yard which adjoin or are visible from a public road shall be enclosed within a fence in accordance with Section Article 8.

4.5.1.8 Retail or wholesale businesses provided that each business shall have at least 250 square feet of enclosed floor space within a primary structure. Accessory buildings shall not be used as vending stands or as sale areas.

4.5.1.9 Stands or areas designated for assembly and/or dispatch of taxicabs, shuttle busses or tourist carriages.

4.5.2 Special Uses

The following uses shall be permitted in the C-1 General Business District only upon issuance of a special use permit pursuant to Article 5 and shall be subject to special requirements contained in Article 5 below:

4.5.2.1 All establishments with drive-through facilities, including but not limited to restaurants, banks, pharmacies and dry cleaning businesses.

4.5.2.2 Licensed day care and state-certified adult day care centers.

4.5.2.3 State-registered private schools.

Refer to Article 8 for screening requirements for both permitted and special uses.

4.5.3 C-2 Commercial Use District

The C-2 Commercial Use District is a commercial use area intended to allow for commercial development apart from the downtown area. This area will allow for uses as outlined in the C-1 General Business District with additional setback requirements as set forth in Table 1 below.

Section 4.6 I-1 Industrial District

The I-1 Industrial District is intended to provide sites for limited commercial, manufacturing and industrial uses. Only those uses which meet all applicable local, state and federal environmental standards and which do not create injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards or other objectionable conditions which would be detrimental to the public health, safety and general welfare of the community will be allowed in the I-1 District. Within the I-1 Industrial District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes and provided they meet all applicable regulations in Article 5:

4.6.1 Special Uses

4.6.1.1 County Recycling Centers

4.6.1.2 Warehouse, Mini-warehouse and Industrial uses provided they meet all conditions in Section 5.13.

4.6.1.3 Shopping centers over 20,000 square feet in area.

4.6.1.4 Gasoline service stations.

4.6.1.5 Convenience stores

Section 4.7 Minimum Residential and Commercial Standards

Refer to Table 1 below for information regarding minimum lot size, width, setbacks and lot area.

**Table 1:
Dimensional Requirements**

| District | Minimum Lot Size in Sq. Ft. | Lot Area Per Dwelling Unit in Sq. Ft. | Min. Lot Width at Building Line in Ft. | Minimum Yard Requirements in Ft. | | | Maximum Height in Ft. |
|-------------------------------------|-----------------------------|---------------------------------------|--|----------------------------------|------|------|-----------------------|
| | | | | Front | Side | Rear | |
| R-1 Residential | 32,670 | 32,670 | 70 | 25 | 10 | 30 | 35 |
| R-2 Residential: | | | | | | | |
| SF | 21,780 | 21,780 | 70 | 25 | 8 | 30 | 35 |
| Duplex | 35,000 | 17,500 | 100 | 25 | 25 | 70 | 35 |
| Three Unit | 46,000 | 15,333 | 100 | 25 | 25 | 70 | 35 |
| Four Unit | 60,000 | 15,000 | 100 | 25 | 35 | 100 | 35 |
| R-3 Residential: | | | | | | | |
| SF | 10,890 | 10,890 | 70 | 25 | 8 | 30 | 35 |
| Duplex | 14,000 | 7,000 | 70 | 25 | 20 | 70 | 35 |
| Three Unit | 35,000 | 11,666 | 70 | 25 | 20 | 70 | 35 |
| Four Unit | 43,560 | 10,890 | 70 | 25 | 20 | 70 | 35 |
| C-1 General Business, business uses | None | Not Applicable | 20 | None | None | None | 35 |
| | | | | | | | |

| | | | | | | | |
|--------------------------|-----------------------------------|----------------------------|-----|----|----|----|-----------------|
| C-2 Commercial Use | 43,560 (1 acre) | Same as R-3 District | 70 | 25 | 20 | 20 | 35 ¹ |
| I-1 Industrial | See Special Uses Section | Not Applicable | 100 | 30 | 15 | 15 | 35 |

¹Structures may exceed this height provided that for every one foot in height above 35 feet the structure shall be set back an additional one foot from all property lines, with a 75 feet cap on all buildings.

Section 4.8 Setbacks

4.8.1 Residential.

No structure shall be erected within 25 feet of the right-of-way line of any public or private road, or if no right-of-way line is defined among the public records of Jackson County, within 40 feet of the road centerline.

4.8.2 Method of Measurement.

Where adjacent to a road right-of-way, setback distances shall be measured horizontally from the right-of-way line, or road centerline if no right-of-way line is defined_ to the nearest projection of the structure, including any eave, dormer, deck or other part attached thereto, and any portion of the building located below grade. However, doors, windows, canopies and awnings shall be permitted to encroach on the setback area.

4.8.3 Not Included in Minimum Lot Size.

Road right-of-way area shall not be included in calculating the minimum lot size of any parcel.

Section 4.9 Structure Height

No structure shall have more than three habitable stories nor shall the height of the structure exceed 35 feet. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

Section 4.10 Sign Regulations

The sign regulations set forth in Article 6 shall apply to all Districts.

Section 4.11 Off-Street Parking

The minimum requirements for off-street parking are set forth in Article 7. These requirements shall apply to all new buildings and uses and to additions to existing buildings and uses.

Section 4.12 Yards and Other Spaces

4.12.1 Combined Setbacks Prohibited.

No part of a yard, open space or off-street parking space required in connection with any building, structure or use shall be considered to be part of a required yard, open space or off-street parking space for any other building, structure or use.

4.12.2 Outdoor Sales.

Businesses shall not establish outside or open air areas for sales or other business activities, except where permitted in Sections 4.5.1.7 and 6.6.5.4.

Section 4.13 Vision Clearance

Driveways shall be located so that vehicle drivers can see far enough in both directions to be able to safely enter the public roadway. No fences, walls, shrubs, signs or other obstructions to vision shall be permitted within 10 feet of a driveway. No driveway shall be permitted within 20 feet of an intersection.

Section 4.14 Satellite Dish Antennas

Satellite dish antennas greater than one meter in diameter shall be installed on the ground and in the rear yard but only to the extent feasible.

Section 4.15 Municipal Corporation and Public Utilities Companies

4.15.1 Construction Permitted.

In addition to each District's permitted uses, the construction, installation or operation of facilities necessary to furnish public utility services or municipal services by the Town or by any public utility company serving or franchised to serve the community shall be permitted in all Districts.

4.15.2 Equipment Permitted

Radio, microwave and television transmitting facilities, towers and similar equipment shall be permitted, provided the use is franchised or explicitly approved by the Board of Aldermen.

Section 4.16 Temporary Use Structure

4.16.1 Non-Residential Structures.

Temporary non-residential structures such as real estate and construction field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Planning staff through the issuance of a Temporary Certificate of Compliance consistent with Section 10.3.

4.16.2 Location Requirements.

Temporary use structures shall be located on the same lot or tract of land being used or developed for a directly related permanent use.

4.16.3 *Off-Street Parking and Loading Requirements.* Off-street parking and loading requirements shall be required consistent with Article 7.

4.16.4 *Height and Yard Requirements.* Temporary use structures shall comply with height and yard requirements.

4.16.5 *Storage Container Requirements.* Storage containers shall be permitted only on a construction site, and the location and length of time shall be specified in the special use permit.

Section 4.17 Dimensional Requirements

4.17.1 Limitations.

No building shall hereafter be erected or altered so as to exceed the dimensional or area requirements as shown in Section 4.6.1, Table 1.

4.17.2 Lot Reduction Restrictions.

No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit, or other requirements of this ordinance 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.

4.17.3 Combinations Prohibited.

No yard, open space, off-street parking or loading space required in connection with any building for the purpose of complying with this ordinance, shall be included as a part of a yard, open space, off-street parking or loading space similarly required for any other building or use.

4.17.4 Identify Front of Lot.

In the event that a lot abuts a street at both the front and rear of the lot, the owner shall be required to specify the front of the lot when requesting a Zoning Certificate.

4.17.5 Use of Average Setbacks.

The front yard setback requirements for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within 100 feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback may be less than the required setback, but not less than the average of the setback of the aforementioned existing buildings.

4.17.6 Structures Not Included in Height Limitations.

The height limitations indicated in Section 4.6.1, Table 1 shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, water towers, chimneys and flag poles.

4.17.7 Side Yard Requirements.

Where a side yard abuts a street, said side yard requirements shall be the same as the lots fronting on the side street. In no case, however, shall said side yard requirements be less than those specified in Section 4.6.1, Table 1.

4.17.8 Yard Unobstructed Exceptions

Every part of a required yard shall be open from its lowest point to the sky unobstructed, except as follows:

4.17.8.1 The ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves, provided, however, that none of the above shall project into a minimum side yard more than 24 inches;

4.17.8.2 Open or enclosed fire escapes, fireproof outside stairways and balconies projecting into a minimum yard not more than three and one-half feet, and the ordinary projections of chimneys and flues may be permitted by the Planning staff where same are so placed as not to obstruct light and ventilation.

4.17.9 Rights-of-Way Restrictions

Street and highway rights-of-way shall not constitute a part of a lot or any required yard or open space.

Section 4.18 TD-1 Traditional Downtown District

The TD-1 Traditional Downtown District is the heart of Dillsboro's commercial activity. Achieving the standards outlined in this Section will require a cooperative effort between the public, private and nonprofit sectors of the community. The TD-1 District is primarily a "walking district" for specialized retail uses, offices, limited services and incidental apartments. The standards are designed to create a successful and prosperous commercial atmosphere. Business and property owners are not required to provide parking. Signs are small and designed to be read by pedestrians and slow-moving traffic. This District stresses the need for maintenance and upkeep of commercial property.

The TD-1 Traditional Downtown District must:

- Consist of areas which are deemed to be of special significance in terms of the city's history, prehistory, architecture, and/or culture;
- Possess integrity of design, setting, materials, feeling, and association;
- Protect and enhance the attractiveness of the city to home buyers, tourists, visitors and shoppers, thereby supporting and promoting business, commerce, industry, and providing economic benefit to the city;
- Foster and encourage preservation, restoration and rehabilitation of structures, land areas and neighborhoods, thereby preventing future urban blight;
- Include ease of access between businesses, sharing of parking, sensitivity to and accommodation for pedestrians, and provisions for adequate and safe vehicular access; and
- Maintain the traditional scale of development in the downtown district of the city

4.18.1 Permitted, Special, and Prohibited Use.

- 4.18.1.1 Within the TD-1 Traditional Downtown District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes indicated in the following Table 2:

Table 2:

Table of Permitted and Special Uses in the TD-1 Traditional Downtown District

| <i>Permitted and Special Uses</i> | <i>On-Site</i> | <i>Commercial Building Street Access</i> | <i>Commercial Building Second Story</i> | <i>Commercial Building Third Story</i> |
|--|----------------|--|---|--|
| Accessory Buildings, Residential | P | - | - | |
| Accessory Buildings, Commercial | S | - | - | |
| Apartments (as secondary use) | - | - | P | P |
| Banks & Financial Institutions | P | P | P | P |
| Bed & Breakfast Inns | P | - | - | |
| Blueprinters & Drafting Services | P | P | P | P |
| Churches | P | P | P | P |
| Graphic Arts & Photography Studio | P | P | P | P |
| Graphic Arts Photography Galleries & Museums | P | P | P | P |
| Government Facilities | P | P | P | P |
| Hotels | P | P | P | P |
| Hobby classes & “Do It Yourself” instruction | P | - | P | P |
| Parking lots & decks | P | - | - | |
| Professional Offices | P | P | P | P |
| Restaurants without outside seating | P | P | - | |
| Restaurants with outside seating | P | P | - | |
| Retail Specialty Businesses | P | P | P | P |
| Retail Service Businesses | P | P | P | P |
| Train transport systems, signals and accessory buildings | P | - | - | |

NOTES:

The first column in this table indicates permitted and conditional uses. The second column indicates if the use, identified in column one, is permitted (P) or requires a Special Use Permit (S) in accordance with Article 5. The last three columns indicate permitted and special uses by floors in commercial buildings. The first floor is that with direct street access to either Front Street or Haywood Road.

- 1) *Accessory buildings* shall not be used as vending stands or sales areas
- 2) *Professional offices* includes those of accountants, appraisers, architects, attorneys, auctioneers, detectives, development contractors, engineers, insurance agents, land surveyors, news media, real estate brokers, sales and management representatives, non-profit and philanthropic organizations, government licensed physical and mental health practitioners.

- 3) *Professional offices* are encouraged not to occupy the first third of the street level floor space of commercial buildings that is immediately adjacent to the street.
- 4) *Retail Specialty Businesses* include those for clothing and personal attire; home and office furnishings and decorations including florists; crafts, hobbies and collectors; pharmacies and health related equipment such as eyeglasses; health and beauty supply stores; pet shops (not including veterinarians, kennels or animal shelters); radio, electronic and computer supply; video rental; convenience and food stores including food markets, bakeries, sweet shops and delicatessens; books, cards, magazines, stationary and paper products; children's toys; sports including equipment, climbing facilities, instruction; hardware; gifts.
- 5) *Retail Specialty Businesses* may offer on-site repair services, tailoring, finishing or arranging, provided said area occupies less than 50 percent of the gross floor space of that business located on the first floor, i.e. the floor with direct street access.
- 6) *Retail Service Businesses* include barber and beauty shops; pet grooming; shoe repair; photocopying; catering businesses that are secondary to an established restaurant, food market, bakery or delicatessen; picture framing; travel agencies.
- 7) *Restaurants* shall not provide drive through services within the TD-1 Traditional Downtown District. Restaurants may provide entertainment as a secondary use.

4.18.1.2 Uses not specifically enumerated in Table 2 above but nonetheless consistent with the general types of businesses so enumerated may be eligible for special use permits when authorized under Article 5 of this ordinance.

4.18.1.3 Any use not specifically listed as a permitted use, a use by right subject to special requirements, or a special use in the TD-1 Traditional Downtown District is prohibited.

4.18.2 *General Standards.*

4.18.2.1 **Setbacks.** Buildings within the TD-1 Traditional Downtown District are not required to be set back from the right-of-way line of any public or private road, and, in addition, doors, windows, marquees, awnings and projection signs shall be permitted to encroach on public property in this District in accordance with Section 2601 of the North Carolina State Building Code.

4.18.2.2 Requirement to Construct Sidewalk. Sidewalks shall be constructed the full length of a parcel that is developed for or changed to commercial use, along public thoroughfares. Where more than one public thoroughfare is involved, the Planning staff shall determine which thoroughfare a sidewalk shall be constructed along. Sidewalks shall meet minimum design standards set forth by NC DOT Traditional Neighborhood Development standards adopted by the Board of Aldermen.

4.18.2.3 Window Displays. Window displays shall not contain:

4.18.2.3.1 Merchandise, products or materials that are faded due to exposure to the sun;

4.18.2.3.2 Refuse, debris, scraps, stored materials, dust, dirt, withered plant material, etc. that are not currently promoting commercial or public activity and interests.

4.18.2.4 Facade maintenance. Building facades, including windows, doors, glass, awnings, siding, rails, steps, fixtures, signs, etc. shall be maintained as follows:

4.18.2.4.1 Paint and material finishes shall be periodically applied to replace checked, cracked, peeled or weathered surfaces.

4.18.2.4.2 All windows shall be clean, broken glass replaced and obstructions removed that are not part of a current window display or sign. This shall not apply to devices designed to facilitate the passage of air or light.

4.18.2.4.3 All exterior building parts shall be maintained in a safe and secure condition and all exterior parts that show signs of deterioration, obsolescence or disrepair shall be removed, replaced or renovated.

4.18.2.5 Vacant Store Fronts. Store fronts with display windows that are visible by pedestrian traffic at street level and that are vacant for more than 14 calendar days shall provide either a window screen that obscures the view of vacant space from pedestrians or a window display that shows arts, crafts, merchandise from surrounding businesses or objects/information of general interest. In multi-story buildings, some form or type of window treatment shall be provided to obscure contents at all levels above grade.

- 4.18.2.6 Commercial Activity, Enclosed. With the exception of restaurants, recreation facilities, electronic banking services and coin operated or free newspaper stands, all commercial activity, including the display of merchandise, shall be conducted within the enclosed confines of a building. However, commercial activity, including the display of merchandise, may be conducted on the sidewalk and/or street only during special events that are recognized as allowing such activity by the Town Board. Commercial activity may be restricted at said events in order to protect the public health, safety and welfare.
- 4.18.2.7 Planters, Gardens and Green Spaces. All planters, gardens, green areas, etc. shall be kept free of weeds, litter and plant material that is dead, dying, diseased or infested by insects. Overgrown plants shall be trimmed and kept within a designed planting area. At the end of the growing season, not later than December 1st of each year, a continuous layer of shredded bark or pine needle mulch (2—3" deep) shall be applied to soil surfaces that are not planted with a ground cover.
- 4.18.2.8 Sidewalk Vending Machines. No vending machines shall be placed on any sidewalk within the TD-1 Traditional Downtown District except at designated kiosks and require a special use vending permit approved by the Board of Alderman. Newspaper and Real Estate dispensing machines are exempt from this provision.
- 4.18.2.9 Residential Apartments in Commercial Buildings. Each residential apartment shall be provided with at least two means of escape in the event of fire or other emergency.

4.18.3: Design Guidelines

- 4.18.3.1 Structure Height. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.
- 4.18.3.1.1 No structure within the TD-1 Traditional Downtown District shall have more than three habitable stories, exclusive of basement, nor shall the height of any primary structure exceed 35 feet or 25 feet for an accessory structure.
- 4.18.3.1.2 The following shall not be considered obstructions and may therefore exceed the maximum height provision otherwise applicable within the district:

- 4.18.3.1.2.1 Chimneys or flues are allowed to extend 10 feet above the roof's highest point per the North Carolina Building Code.
- 4.18.3.1.2.2 Elevator or stair bulkheads may extend up to 10 feet above the roof's highest point. In such cases, an elevator bulkhead shall be either located such that it is not visible from adjacent public streets, or shielded from view with a parapet or other architectural feature such that it is not visible from adjacent public streets, or constructed with the same exterior building materials, or be architecturally integrated into the building's design so as to conceal the elevator bulkhead.
- 4.18.3.1.2.3 Architectural elements such as church towers, spires, belfries, and similar features may exceed the maximum height of the applicable character area by no more than 25 percent of the applicable maximum height.
- 4.18.3.1.2.4 Roof-mounted mechanical equipment such as utility boxes, telecommunication devices, cables, conduits, vents, chillers and fans, may extend up to 10 feet above the roof's highest point. In such cases, roof-mounted equipment shall be:
- 4.18.3.1.2.4.1 Located such that it is not visible from adjacent public streets, or
 - 4.18.3.1.2.4.2 Shielded from view so that it is not visible from adjacent public or private streets, parking lots, sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement.
 - 4.18.3.1.2.4.3 Acceptable architectural features for screening rooftop equipment include a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and

design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide

4.18.3.1.3 The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in an historic district.

4.18.3.2 Building Materials.

4.18.3.2.1 All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, or other high quality masonry material that reflects the surrounding natural environment and town character. Fiber cement siding and shingle siding shall not account for more than 80 percent of the façade material used on the building. No building shall be covered with sheet or corrugated aluminum. Fiber cement siding, wood siding, and shingle siding shall be the only painted façade materials allowed on the building.

4.18.3.2.2 Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacture specifications.

4.18.3.2.3 Cornices or architectural accent materials located above the roof line shall be constructed of brick, stone, wood, or other high quality, natural, long-lasting material.

4.18.3.2.4 For publicly visible roof surfaces, allowed materials include standing seam metal, asphalt shingles, shakes, tiles, or manufactured shingles which give an appearance of shingles, shakes, or other simulated natural material. Sheet materials other than those listed in this section are subject to staff review for use on publicly visible roofs.

4.18.3.3 Building Color.

4.18.3.3.1 Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to

each other, and be used to enhance the architectural form of the building.

4.18.3.3.2 Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding landscape and buildings to minimize contrast between the structure, the natural environment, and the original buildings within the district. It is strongly encouraged that neutral or earth-tone colors be used to make the building or structure less conspicuous as seen from off site.

4.18.3.3.3 All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

4.18.3.3.4 Intense bright, black, or florescent colors shall only be used as accents; such colors shall not be used as the predominant color on any wall or roof of any building.

4.18.3.4 Roof Form and Articulation.

4.18.3.4.1 The roof of any building shall complement the character of other buildings included on the same lot or parcel and shall conform to the character of other buildings within the district.

4.18.3.4.2 The minimum slope of a pitched roof shall be 4 feet (v):12 feet (h).

4.18.3.4.3 The roof of any building with a flat roof shall include pitched roof features, parapets, or a mixture thereof to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required by Section 4.18.3.1 of this ordinance, and such parapets shall not at any point exceed one-third of the height of the supporting wall.

4.18.3.4.4 Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall. See Figure 1 below.

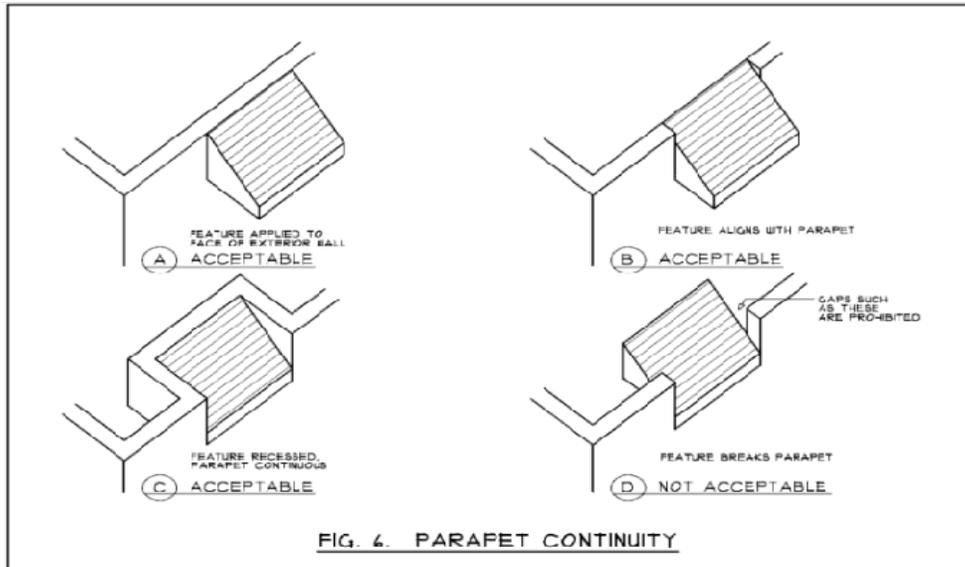


Figure 1. Acceptable Parapet Designs

4.18.3.5 Visibility.

4.18.3.5.1 Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.

4.18.3.6 Building Scale. For any building containing non-residential uses, regardless of whether the building also contains residential uses, the horizontal length of a building façade shall be offset by a change in wall plane such as projections or recesses as follows:

4.18.3.6.1 The distance between required offsets shall be related to the height of the building wall on a 2:1 basis. For example, a building that is 20 feet tall may have no more than 40 feet of façade wall between offsets. A building façade that is less than or equal to the height of the building shall not require an offset.

4.18.3.6.2 The height of a façade wall shall be measured in conformance with 4.18.3.1 of this ordinance, except that the top of the façade wall shall stop at the soffit, or, if there is no soffit, at the parapet of the building.

4.18.3.6.3 The depth or projection of the offset shall be at least one-tenth (1/10) of the length of the longest adjacent façade wall; provided, however, the minimum offset depth shall be at least one foot. For example, a building

with a twenty (20) foot façade wall shall have at least two foot offset adjacent to the façade walls.

4.18.3.6.4 The change in wall plane (i.e. offset) shall extend at least 20 percent of the length of the façade wall.

4.18.3.7 Minimum Wall Articulation.

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

- change in texture or masonry pattern
- change in color
- windows
- dormers
- trellises with vegetation
- covered porch
- balconies

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

4.18.3.7.3 All customer entranceways shall be clearly defined, highly visible, and feature no less than three of the following:

- canopies or porticos;
- overhangs;
- recesses or projections
- arcades
- arches
- outdoor patios
- windows
- awnings
- architectural features that are integrated into the building structure or design; or

- planters or wing walls that incorporate landscaped areas or places for sitting

4.18.3.8 Structure Size and Orientation.

4.18.3.8.1 Building orientation shall be parallel to street frontage and the primary façade and main building entry shall face the public right-of-way. The main building entrance, shall face the primary public right-of-way and provide a safe and convenient access for pedestrians from the main building entrance to the primary public right-of-way.

4.18.3.8.2 Ground-floor windows or window displays shall be provided along at least 30 percent of the building's (ground floor) street-facing elevation(s).

4.18.3.8.3 New structures in the TD-1 District shall not exceed a footprint of 2,500 square feet unless approved as a special use in accordance with Article 5.

4.18.3.8.4 Buildings with a footprint of more than 2,500 square feet and considered a special use include two or more commercial units or buildings, whether attached or detached, which have a total footprint of more than 2,500 square feet, are located on a single parcel of property or on contiguous parcels owned by the same owner, and are developed over a period of two years.

4.18.3.8.5 There is no minimum lot size or width in the TD-1 District.

4.18.3.9 Sign Regulations. The sign regulations set forth in Article 6 shall apply to the TD-1 District. Additionally, signs shall be designed, placed, illuminated and landscaped in harmony with the adjoining properties.

4.18.3.10 Off-street Parking and Loading.

4.18.3.10.1 Except for incidental apartments, no uses within the TD-1 District shall be subject to off-street parking and loading requirements. Incidental apartments shall provide parking in accordance with Article 7.

4.18.3.10.2 Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully displayed upon said vehicle, shall be screened from

view along any public street or walkway, unless a special permit is issued by the Town and the vehicles are used in the regular course of business by the applicant.

4.18.3.11 Environmental Standards.

4.18.3.11.1 The maximum impervious surface coverage for any lot in the TD-1 District shall be 80 percent.

4.18.3.11.2 A stream buffer of 30 feet is required for developments adjacent to bodies of water.

4.18.3.11.3 If a development contains or will contain 1,000 to 5,000 square feet of impervious surfaces, stormwater management plan concepts are required in the site plan. If a development contains or will contain more than 5,000 square feet of impervious surfaces, a stormwater management plan is required.

4.18.3.11.4 Street trees are required along street frontage.

4.18.3.11.5 Parking lot/vehicle use area landscaping is required.

4.18.3.11.6 Dumpsters must be screened.

4.18.3.11.7 Adequate landscaping must be maintained along all public roads, adequate stormwater drainage must be provided, and adequate vegetative or structural buffers between residential users and all other users must be provided.

4.18.3.12 Franchise Architecture. To maintain the unique character of the TD-1 District, buildings shall not be constructed or renovated using franchise architecture. Franchise or national chains may be permitted in the TD-1 District, but must follow the standards of this Ordinance to create a building that is compatible with the TD-1 District.

4.18.3.13 Overall Structure Design Standards. All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials. Additionally, the design of the proposed building and its use shall be consistent with the surrounding character of the neighborhood and purpose of the traditional downtown zoning district.

Section 4.19 TD-2 Traditional Downtown District

The TD-2 Traditional Downtown District, similar to the TD-1 District, is primarily a "walking district" for specialized retail uses, offices, limited services and incidental apartments. However, in this district, business and property owners are required to provide parking and landscaping, and they are subject to different design guidelines than within the TD-1 district. The TD-2 district provides a wider range of uses than the TD-1 district. Signs are small and designed to be read by pedestrians and slow-moving traffic. This District stresses the need for maintenance and upkeep of commercial property.

The TD-2 Traditional Downtown District must:

- Consist of areas which are deemed to be of special significance in terms of the city’s history, prehistory, architecture, and/or culture;
- Possess integrity of design, setting, materials, feeling, and association;
- Protect and enhance the attractiveness of the city to home buyers, tourists, visitors and shoppers, thereby supporting and promoting business, commerce, industry, and providing economic benefit to the town;
- Foster and encourage preservation, restoration and rehabilitation of structures, land areas and neighborhoods, thereby preventing future urban blight;
- Include ease of access between businesses, sharing of parking, sensitivity to and accommodation for pedestrians, and provisions for adequate and safe vehicular access; and
- Maintain the traditional scale of development in the downtown district of the town and contribute to the character of the TD-1 district.

4.19.1 Permitted, Special, and Prohibited Uses:

4.19.1.1 All uses permitted by right in the TD-1 District shall be permitted in the TD-2 District.

4.19.1.2 Within the TD-2 District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed, or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes indicated in the following Table 3:

Table 3:

Table of Permitted and Special Uses in the TD-2 Traditional Downtown District

| <i>Permitted and Special Uses</i> | <i>On-Site</i> | <i>Commercial Building Street Access</i> | <i>Commercial Building Second Story</i> | <i>Commercial Building Third Story</i> |
|-----------------------------------|----------------|--|---|--|
| Accessory Buildings, Residential | P | - | - | |
| Accessory Buildings, Commercial | S | - | - | |

| | | | | |
|--|---|---|---|---|
| Apartments (as secondary use) | - | - | P | P |
| Banks & Financial Institutions | P | P | P | P |
| Bed & Breakfast Inns | P | - | - | |
| Blueprinters & Drafting Services | P | P | P | P |
| Churches | P | P | P | P |
| Fitness & Dance Centers | P | - | P | P |
| Funeral Parlors | P | - | - | - |
| Graphic Arts & Photography Studio | P | P | P | P |
| Graphic Arts Photography Galleries & Museums | P | P | P | P |
| Government Facilities | P | P | P | P |
| Hotels | P | P | P | P |
| Hobby classes & “Do It Yourself” instruction | P | - | P | P |
| Laundry and Dry Cleaning | P | P | - | - |
| Libraries (Public) | P | - | - | - |
| News & Telecommunication Services | P | - | P | P |
| Parking lots & decks | P | - | - | |
| Professional Offices | P | P | P | P |
| Restaurants without outside seating | P | P | - | |
| Restaurants with outside seating | P | P | - | |
| Retail Specialty Businesses | P | P | P | P |
| Retail Service Businesses | P | P | P | P |
| Train transport systems, signals and accessory buildings | P | - | - | |
| Parks and/or playgrounds | S | - | - | - |
| Residential, Single Family | P | | | |

NOTES:

The first column in this table indicates permitted and conditional uses. The second column indicates if the use, identified in column one, is permitted (P) or requires a Special Use Permit (S) in accordance with Article 3. The last three columns indicate permitted and special uses by floors in commercial buildings. The first floor is that with direct street access to North River Road, Webster Street, Dills Street, Depot Street, or East Haywood Road.

4.19.1.2.1 Accessory buildings shall not be used as vending stands or sales areas

4.19.1.2.2 News and Telecommunications Services include radio stations, newspaper offices, internet and computer service providers, teleconferencing and electronic message and answering services.

4.19.1.2.3 Professional offices includes those of accountants, appraisers, architects, attorneys, auctioneers, detectives, development contractors, engineers, insurance agents, land surveyors, news

media, real estate brokers, sales and management representatives, non-profit and philanthropic organizations, government licensed physical and mental health practitioners.

4.19.1.2.4 *Professional offices* are encouraged not to occupy the first third of the street level floor space of commercial buildings that is immediately adjacent to the street.

4.19.1.2.5 *Retail Specialty Businesses* include those for clothing and personal attire; home and office furnishings and decorations including florists; crafts, hobbies and collectors; pharmacies and health related equipment such as eyeglasses; health and beauty supply stores; pet shops (not including veterinaries, kennels or animal shelters); radio, electronic and computer supply; video rental; convenience and food stores including food markets, bakeries, sweet shops and delicatessens; books, cards, magazines, stationary and paper products; children's toys; sports including equipment, climbing facilities, instruction; hardware; gifts.

4.19.1.2.6 *Retail Specialty Businesses* may offer on-site repair services, tailoring, finishing or arranging, provided said area occupies less than 50 percent of the gross floor space of that business located on the first floor, i.e. the floor with direct street access.

4.19.1.2.7 *Retail Service Businesses* include barber and beauty shops; pet grooming; shoe repair; photocopying; catering businesses that are secondary to an established restaurant, food market, bakery or delicatessen; picture framing; travel agencies.

4.19.1.2.8 *Restaurants* shall not provide drive through services within the TD-2 Traditional Downtown District. Restaurants may provide entertainment as a secondary use.

4.19.1.3 Uses not specifically enumerated in Table 3 above but nonetheless consistent with the general types of businesses so enumerated may be eligible for special use permits when authorized under Article 5 of the Dillsboro Zoning Ordinance.

4.19.1.4 Any use not specifically listed as a permitted use, a use by right subject to special requirements, or a special use in the TD-2 Traditional Downtown District is prohibited.

4.19.2 *General Standards*

4.19.2.1 *Setbacks*. Buildings within the TD-2 District shall be set back at least 10 feet from the right-of-way line of any public or private road, nor shall buildings be

located within 10 feet of any property line of adjoining parcels. In the event that no right-of-way line is defined among the public records of Jackson County, no building shall be erected within 30 feet of a road centerline. However, no setback shall be required along dead-end or service drives or alleyways serving commercial businesses for loading and employee parking. No parking shall be permitted within the 10-foot setback. The 10 foot setback shall meet landscape requirements as set forth in paragraph 4.19.2.3 of this section. Except for the uses listed in this section, no structure shall be placed within any road right-of-way or building setback as defined in this Article. The following structures shall be permitted in the setback:

- Mail boxes and paper tubes
- Fences
- Landscaping
- Utility equipment and related housing
- Private driveways, drainage structures, retaining walls, and lighting for security and safety purposes
- Benches, gazebos not exceeding 100 square feet and wildlife feeders and nesting boxes.
- Statues and other artwork provided it is unrelated to a home occupation or commercial promotion
- Signs, as permitted in each District

4.19.2.2 Requirement to Construct Sidewalk. Sidewalks shall be constructed the full length of a parcel, that is developed for or changed to commercial use, along public thoroughfares. Where more than one public thoroughfare is involved, the Planning staff shall determine which thoroughfare a sidewalk shall be constructed along. Sidewalks shall meet minimum design standards set forth by NCDOT Traditional Neighborhood Development standards adopted by the Board of Commissioners.

4.19.2.3 Landscape Buffer. In addition to the landscape areas or strips required for parking lots according to 4.20, a minimum ten-foot wide landscaping buffer shall be provided along the property line of adjoining parcels. Also, a minimum 10-foot-wide landscaping buffer that shall be provided between any new building, constructed parking area or an existing building converted to a commercial use, and the right-of-way line of a public thoroughfare. Landscape shall meet the standards set forth in Article 8 of this ordinance. All unpaved surfaces shall be covered with permanent plant or mulch material. Landscape plans for the buffers mentioned, as well as parking lots and vehicle use areas, are required and shall be approved by the Planning staff.

4.19.2.4 Landscape Buffer Maintenance. New plantings in landscaped buffers shall be kept free of weeds and litter. In the event a planted tree or shrub dies or significantly withers it shall be replaced.

4.19.2.5 Window Displays. Window displays shall not contain:

4.19.2.5.1 Merchandise, products or materials that are faded due to exposure to the sun;

4.19.2.5.2 Refuse, debris, scraps, stored materials, dust, dirt, withered plant material, etc. that are not currently promoting commercial or public activity and interests.

4.19.2.6 Facade Maintenance. Building facades, including windows, doors, glass, awnings, siding, rails, steps, fixtures, signs, etc. shall be maintained as follows:

4.19.2.6.1 Paint and material finishes shall be periodically applied to replace checked, cracked, peeled or weathered surfaces.

4.19.2.6.2 All windows shall be clean, broken glass replaced and obstructions removed that are not part of a current window display or sign. This shall not apply to devices designed to facilitate the passage of air or light.

4.19.2.6.3 All exterior building parts shall be maintained in a safe and secure condition and all exterior parts that show signs of deterioration, obsolescence or disrepair shall be removed, replaced or renovated.

4.19.2.7 Vacant Store Fronts. Store fronts with display windows that are visible by pedestrian traffic at street level and that are vacant for more than 14 calendar days shall provide either a window screen that obscures the view of vacant space from pedestrians or a window display that shows arts, crafts, merchandise from surrounding businesses or objects/information of general interest. In multi-story buildings, some form or type of window treatment shall be provided to obscure contents at all levels above grade.

4.19.2.8 Commercial Activity, Enclosed. With the exception of restaurants, recreation facilities, electronic banking services and coin operated or free newspaper stands, all commercial activity, including the display of merchandise, shall be conducted within the enclosed confines of a building. However, commercial activity, including the display of merchandise, may be conducted on the sidewalk and/or street only during special events that are recognized as allowing such activity by the

Town Board. Commercial activity may be restricted at said events in order to protect the public health, safety and welfare.

- 4.19.2.9 Planters, Gardens and Green Spaces. All planters, gardens, green areas, etc. shall be kept free of weeds, litter and plant material that is dead, dying, diseased or infested by insects. Overgrown plants shall be trimmed and kept within a designed planting area. At the end of the growing season, not later than December 1st of each year, a continuous layer of shredded bark or pine needle mulch (2—3" deep) shall be applied to soil surfaces that are not planted with a ground cover.
- 4.19.2.10 Sidewalk Vending Machines. No vending machines shall be placed on any sidewalk within the TD-2 Traditional Downtown District except at designated kiosks and require a special use vending permit approved by the Board of Alderman.
- 4.19.2.11 Residential Apartments in Commercial Buildings. Each residential apartment shall be provided with at least two means of escape in the event of fire or other emergency.
- 4.19.2.12 Environmental Standards.
- 4.19.2.12.1* The maximum impervious surface coverage for any lot in the TD-2 District shall be 70 percent. Any type of green roof, rooftop garden, or rain garden may count as a portion of the pervious surface on a lot depending on the size and type of such garden or roof.
- 4.19.2.12.2* A stream buffer of 30 feet is required for developments adjacent to bodies of water.
- 4.19.2.12.3* If a development contains or will contain 1,000 to 5,000 square feet of impervious surfaces, stormwater management plan concepts are required in the site plan. If a development contains or will contain more than 5,000 square feet of impervious surfaces, a stormwater management plan is required. Storm water facilities shall be designed by a licensed engineer and constructed to prevent on-site and downstream erosion and sedimentation and where feasible, designed to follow existing natural drainage. The facilities shall be designed to prevent flooding or conditions that create standing water. Unless otherwise approved, storm water discharge points shall be located within the site and where feasible, discharged through vegetated areas into existing natural drainage. Where proposed storm water drainage cannot be designed to follow natural drainage, new or

alternate systems shall be designed and constructed to minimize the erosion and sedimentation problems within the proposed development and on adjacent properties. New storm water drainage facilities shall be designed, constructed and maintained to discharge storm water from the site in manner that does not exceed the predevelopment storm water discharge. Where retention or detention facilities are used, a landscaping plan for screening these facilities shall be submitted. Storm water drainage facilities shall factor all development phases and the entire project site.

4.19.2.12.4 Dumpsters must be screened with opaque fencing six feet in height or dense landscaping.

4.19.2.12.5 If a non-residential use is created that abuts a lot in any Residential District, a buffer strip at least 10 feet wide in area must be planted and maintained in accordance with Article 8 of this ordinance.

4.19.2.12.6 Prior to any regulated land disturbing activities on a site, a soil and sedimentation control plan shall have been submitted to and approved by either the N. C. Department of Environment and Natural Resources or the Jackson County Sediment Control Office for the phase or portion of the site to be disturbed.

4.19.2.12.7 Ten percent of the lot or parcel square footage shall be dedicated to recreational or open space. Sidewalk and walkway square footage may be included as part of the total open space.

4.19.2.13 Sign Regulations. The sign regulations set forth in Article 6 of the Dillsboro Zoning Ordinance shall apply to the TD-2. Additionally, signs shall be designed, placed, illuminated and landscaped in harmony with the adjoining properties.

4.19.2.14 Off-street Parking and Loading.

4.19.2.14.1 Except for single-family home sites, all uses within the TD-2 District shall be subject to off-street parking and loading requirements in accordance with Article 7 of the Dillsboro Zoning Ordinance.

4.19.2.14.2 Any motorized vehicle or the parts thereof that do not display a current State-issued license plate, lawfully displayed upon said vehicle, shall be screened from view along any public street or walkway, unless a special permit is issued by the

Town and the vehicles are used in the regular course of business by the applicant.

4.19.2.15 Lighting. Street and parking areas for commercial development require lighting for the security and safety of pedestrians, residences and businesses. For all development on an existing grade of 15 percent or greater, low-intrusion lighting of a pedestrian scale eight feet with a maximum of 100 watts and 50 foot spacing shall be used for residential and non-residential developments. All lighting shall comply with the Jackson County Lighting Ordinance.

4.19.3: Design Guidelines

4.19.3.1 Structure Height. For the purpose of this provision, the height of the structure shall be the vertical distance from the established grade elevation at the center of the front of the structure to the highest point of the roof or parapet of the structure.

4.19.3.1.1 No structure within the TD-2 District shall have more than three habitable stories, exclusive of basement, nor shall the height of any primary structure exceed 35 feet or 25 feet for an accessory structure.

4.19.3.1.2 The following shall not be considered obstructions and may therefore exceed the maximum height provision otherwise applicable within the district:

4.19.3.1.2.1 Chimneys or flues are allowed to extend ten feet above the roof's highest point per the North Carolina Building Code.

4.19.3.1.2.2 Elevator or stair bulkheads may extend up to ten feet above the roof's highest point. In such cases, an elevator bulkhead shall be either located such that it is not visible from adjacent public streets, or shielded from view with a parapet or other architectural feature such that it is not visible from adjacent public streets, or constructed with the same exterior building materials, or be architecturally integrated into the building's design so as to conceal the elevator bulkhead.

4.19.3.1.2.3 Architectural elements such as church towers, spires, belfries, and similar features may exceed the maximum height of the applicable character area by

no more than 25 percent of the applicable maximum height

4.19.3.1.2.4 Roof-mounted mechanical equipment such as utility boxes, telecommunication devices, cables, conduits, vents, chillers and fans, may extend up to 10 feet above the roof's highest point. In such cases, roof-mounted equipment shall be:

4.19.3.1.2.4.1 Located such that it is not visible from adjacent public streets, or

4.19.3.1.2.4.2 Shielded from view so that it is not visible from adjacent public or private streets, parking lots, sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement

4.19.3.1.2.4.3 Acceptable architectural features for screening rooftop equipment include a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide

4.19.3.1.3 The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in an historic district.

4.19.3.2 Building Materials

4.19.3.2.1 All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, or other high quality masonry material that reflects the surrounding natural environment and town character. No building shall be covered with vinyl siding, or sheet or corrugated aluminum. Fiber cement siding, wood siding, and shingle siding shall be the only painted façade materials allowed on the building.

4.19.3.2.2 Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacture specifications.

4.19.3.2.3 Cornices or architectural accent materials located above the roof line shall be constructed of brick, stone, wood, or other high quality, natural, long-lasting material.

4.19.3.2.4 For publicly visible roof surfaces, allowed materials include standing seam metal, asphalt shingles, shakes, tiles, or manufactured shingles which give an appearance of shingles, shakes, or other simulated natural material. Sheet materials other than those listed in this section are subject to staff review for use on publicly visible roofs.

4.19.3.3 Building Color

4.19.3.3.1 Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.

4.19.3.3.2 Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding landscape and buildings to minimize contrast between the structure, the natural environment, and the original buildings within the district. It is strongly encouraged that light neutral or earth-tone colors be used to make the building or structure less conspicuous as seen from off site.

4.19.3.3.3 All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

4.19.3.3.4 Intense bright, black, or florescent colors shall only be used as accents; such colors shall not be used as the predominant color on any wall or roof of any building.

4.19.3.4 Roof Form and Articulation

4.19.3.4.1 The roof of any building shall complement the character of other buildings included on the same lot or parcel and shall conform to the character of other buildings within the district.

4.19.3.4.2 The minimum slope of a pitched roof shall be 4 feet (v):12 feet (h).

4.19.3.4.3 The roof of any building with a flat roof shall include pitched roof features, parapets, or a mixture thereof to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required for in Section 4.19.3.1, and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall.

4.19.3.4.4 Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall. See Figure 1 below.

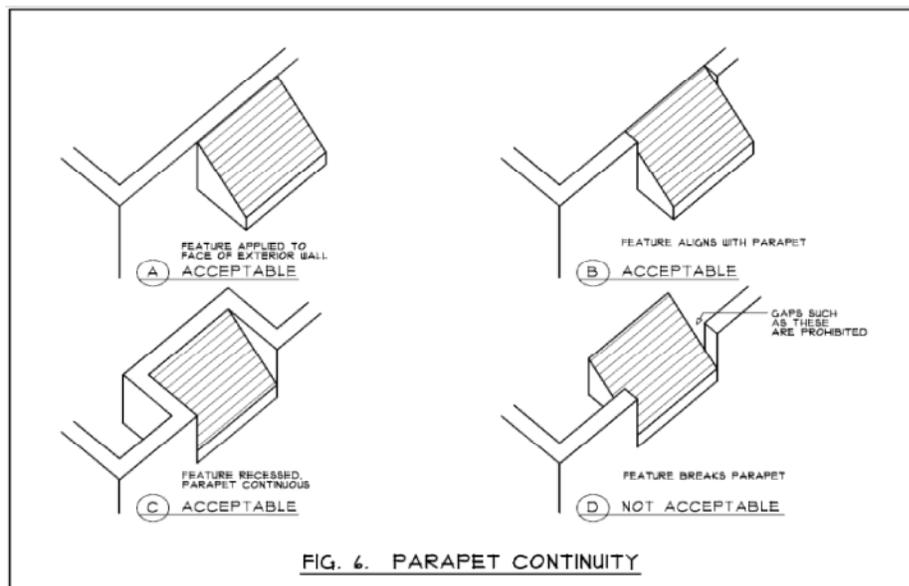


Figure 1. Acceptable Parapet Designs

4.19.3.5 Visibility

4.19.4.5.1 Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.

4.19.3.5.2 Retaining walls visible from the valley floor shall not exceed 10 feet in height as measured from grade at face to top of wall. Multiple “stepped” retaining walls whose total height exceeds 10 feet must each be offset by at least six horizontal feet.

Visible walls shall be colored and textured to complement the surrounding buildings and the background land and vegetation.

4.19.3.6 Building Scale. For any building containing non-residential uses, regardless of whether the building also contains residential uses, the horizontal length of a building façade shall be offset by a change in wall plane such as projections or recesses as follows:

4.19.3.6.1 The distance between required offsets shall be related to the height of the building wall on a 2:1 basis. For example, a building that is twenty (20) feet tall may have no more than forty (40) feet of façade wall between offsets. A building façade that is less than or equal to the height of the building shall not require an offset.

4.19.3.6.2 The height of a façade wall shall be measured in conformance with 4.19.3.1 of this ordinance, except that the top of the façade wall shall stop at the soffit, or, if there is no soffit, at the parapet of the building.

4.19.3.6.3 The depth or projection of the offset shall be at least one-tenth, or 0.10 of the length of the longest adjacent façade wall; provided, however, the minimum offset depth shall be at least one foot. For example, a building with a 20 foot façade wall shall have at least two foot offset adjacent to the façade walls.

4.19.3.6.4 The change in wall plane (i.e. offset) shall extend at least 20 percent of the length of the façade wall.

4.19.3.7 Minimum Wall Articulation.

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

- change in texture or masonry pattern
- change in color
- windows
- dormers
- trellises with vegetation
- covered porch
- balconies

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

4.19.3.7.3 All customer entranceways shall be clearly defined, highly visible, and feature no less than three of the following:

- canopies or porticos;
- overhangs;
- recesses or projections
- arcades
- arches
- outdoor patios
- windows
- awnings
- architectural features that are integrated into the building structure or design; or
- planters or wing walls that incorporate landscaped areas or places for sitting

4.19.3.8 Structure Size and Orientation

4.19.3.8.1 Building orientation shall be parallel to street frontage and the primary façade and main building entry shall face the public right-of-way. The main building entrance, when not facing the public right-of-way, shall provide a safe and convenient access for pedestrians from the main building entrance to the primary public right-of-way.

4.19.3.8.2 Ground-floor windows or window displays shall be provided along at least 20 percent of the building's (ground floor) street-facing elevation(s).

4.19.3.8.3 New structures in the TD-2 District shall not exceed a footprint of 2,500 square feet unless approved as a special use in accordance with Article 5.

4.19.3.8.4 Buildings with a footprint of more than 2,500 square feet and considered a special use, include two or more commercial units or buildings, whether attached or detached, which have a total footprint of more than 2,500 square feet, are located on a single

parcel of property or on contiguous parcels owned by the same owner, and are developed over a period of two years.

4.19.3.8.5 There is no minimum lot size or width in the TD-2 District.

4.19.3.9 Franchise Architecture. To maintain the unique character of the TD-2 District buildings shall not be constructed or renovated using franchise architecture. Franchise or national chains may be permitted in the TD-2 District, but must follow the standards of this Ordinance to create a building that is compatible with the TD-2 District

4.19.3.10 Overall Structure Design Standards. All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials. Additionally, the design of the proposed building and its use shall be consistent with the surrounding character of the neighborhood and purpose of the traditional downtown zoning district.

Section 4.20 Parking Lots and Driveway Entrances

4.20.1 *Surface.* All new parking areas for commercial buildings shall be paved with a hard surface such as asphalt, concrete, paving brick or other surface as described in Section 4.20.4 below. The pavement shall be kept in good repair and reasonably free from potholes or other deterioration of the surface.

4.20.2 *Delineation of Spaces.* Paved parking spaces shall be clearly marked by a single stripe 4 inches to 6 inches wide. Such stripes shall be re-painted within a reasonable time whenever they become faded or deteriorated.

4.20.3 *Handicapped Spaces.* In each new parking lot, at least one parking space per 25 spaces shall be ADA compliant. Such spaces shall be marked with an ADA approved sign, and shall be located no further than 200 feet from the main public entrance. Refer to Volume 1-C of the North Carolina State Building Code for additional information.

4.20.4 *Alternative Surfaces.* Unpaved parking areas shall be permitted as an alternative to pavement under the following conditions:

4.20.4.1 The unpaved areas shall be constructed of a uniform surface of gravel over a base of coarse or crusher-run gravel, and shall be adequate for the specific sub-soil type and site conditions. The design of the parking area, together with stormwater drains as needed, shall be approved by the Planning staff. The finish surface at all times be kept free from ruts, potholes, or other irregularities by periodic scraping and addition of gravel.

4.20.4.2 The driveway entrance between the thoroughfare and the parking area shall be paved with a hard surface such as asphalt, concrete or paving brick.

4.20.4.3 No portion of an unpaved parking area shall exceed a grade of seven percent.

4.20.4.4 Parking stalls in unpaved areas shall be delineated with concrete curb stops, railroad ties, or other suitable means approved by the Planning staff. In addition, the dimensions of all unpaved parking spaces and access aisles shall be 10 percent greater than that of a paved parking spaces and access aisles.

4.20.5 *Driveways.* Driveways serving parking lots shall be so located that drivers of exiting vehicles can see far enough in both directions to be able to safely enter the roadway. No obstruction to vision, such as, fences, walls, shrubs, or signs shall be permitted within 10 feet of the driveway, nor shall a driveway be permitted within 20 feet of an intersection. Driveways shall not exceed 14 degrees in slope, and shall be at least 12 feet in width for one-way traffic and at least 20 feet for two-way traffic. One-way driveways shall be clearly marked with ENTER and EXIT signs consistent with Article 6 of the Dillsboro Zoning Ordinance. A culvert of adequate size shall be installed whenever a driveway crosses a drainage ditch.

4.20.6 *Responsibility to Construct Sidewalk.* When a commercial parking lot is constructed adjoining a public thoroughfare, and there is a public sidewalk along such a thoroughfare on either side of the commercial property, or immediately opposite across a perpendicular thoroughfare if the property is located on a corner, then it shall be the responsibility of the owner of the property to extend the sidewalk along the entire length of their property. The sidewalk shall be of the same type and width as the adjoining sidewalk, and curb cuts for handicap access shall be placed at the driveway to the parking lot. All sidewalks constructed within the public right-of-way shall meet comply with minimum NCDOT standards for sidewalks and curb cuts.

4.20.7 *Landscape Areas.* All landscape areas and landscape striping shall comply with Article 8 of this ordinance.

ARTICLE 5: SPECIAL USES.

Section 5.1 General Applicability

A special use permit shall be required for each of the following uses:

- 5.1.1 A Permit establishing a Vested Development Right
- 5.1.2 County recycling centers
- 5.1.3 Gasoline service stations
- 5.1.4 Convenience stores
- 5.1.5 Any commercial business with drive-through facilities, including but not limited to restaurants, banks, pharmacies, and dry cleaning establishments.
- 5.1.6 Licensed day care and registered adult day centers
- 5.1.7 Shopping centers greater than 20,000 square feet (including parking and loading areas)
- 5.1.8 Warehouse, mini-warehouse, manufacturing and industrial uses
- 5.1.9 Planned Residential Community
- 5.1.10 Registered private schools

Section 5.2 Application Procedure

5.2.1 All applications for a special use permit shall be addressed and submitted to the Zoning Board of Adjustment and shall be delivered to the office of the Planning staff. Applications for a special use permit shall be made on the proper form obtainable from the Planning staff and shall include the following information:

- 5.2.1.1 A site plan, drawn to a scale of at least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; the identity of neighboring properties; any adjacent streets, designated as public or private; any existing or proposed structures, showing setbacks to rights-of-way and property lines; parking areas showing the number and arrangement of parking spaces and driveway entrances; utilities and surface water drainage; and significant natural features. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing and an accurate record of any later revisions.

5.2.1.2 Elevations including flood elevations if the site is located in the floodplain and a floor plan, indicating dimensions of the building, gross floor space and any other applicable information.

5.2.1.3 A complete and detailed description of the use proposed, together with any other pertinent information which the applicant feels would be helpful to the Zoning Board in considering the application.

5.2.1.4 A plan showing the size, type and location of any signs proposed to be erected in conjunction with the use.

Some of these requirements may be waived as may be applicable, such as for changes of use in existing buildings involving no expansions in building or parking areas, etc.

5.2.2 Refer to Article 9 for regulations related to quasi-judicial hearing procedures that shall be followed during hearings to decide special use permits.

5.2.3 The Zoning Board of Adjustment shall grant and issue the special use permit if and only if it finds the following:

5.2.3.1 The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

5.2.3.2 The use meets all required conditions and specifications;

5.2.3.3 The use will not substantially injure the value of adjoining or abutting property or, in the alternative, the use is a public necessity; and

5.2.3.4 The location and character of the use, as developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town and its environs.

If, in the opinion of the Zoning Board of Adjustment, any one of the above conditions shall not be met, the Board shall deny the application.

5.2.4 *Notification.* Notification of the decision shall be provided as required in Section 9.3.4.

Section 5.3 Additional Conditions as to Use

In addition to any other requirements provided by this Ordinance, the Zoning Board of Adjustment may designate additional conditions and requirements in connection with the application as well, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this

Ordinance. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the special use permit (or on the plans submitted therewith). All conditions so imposed shall run with the land and shall be binding upon the original applicant, as well as the applicant's heirs, successors or assigns, during the continuation of the use conditionally permitted or any similar use.

Section 5.4 Sanctions

In the event of failure to comply strictly with the plans, documents and other assurances submitted and approved with the application or in the event of failure to comply with any conditions imposed upon the special use permit, the permit shall thereupon immediately become void. No zoning certificate for further construction or certificate of compliance under the special use permit shall be issued, and all improvements to the land which were the subject of the application shall thereupon be regarded as non-conforming and shall be subject to sanctions.

Section 5.5 Expiration of Special Use Permits

A special use permit shall expire if a zoning certificate or Certificate of Compliance for such use is not obtained by the applicant within six months from the date of the decision. If, after commencing work under a Special Use Permit and prior to completion of the entire project, work is discontinued for a period of 12 months, the Special Use Permit shall become void and no work may be performed until a new Special Use Permit has been issued. If, after issuance of a Certificate of Compliance for a Special Use Permit, that use is discontinued for a period of 12 consecutive months, the Special Use Permit shall become void and the use may not be re-established until a new Special Use Permit has been issued. When a Special Use Permit expires, the Zoning Board of Adjustment shall treat re-application for a new Special Use Permit in the same manner as any other application and the provisions of this Ordinance currently in effect shall be applicable.

Section 5.6 Establishment of a Vested Right

5.6.1 An applicant for a Special Use Permit may also apply to establish a "vested right" in accordance with G. S. 160A-385.1. Such vested right shall confer upon the property owner the right to undertake and complete the development and use of the property under the terms and conditions of the Special Use Permit issued in conjunction therewith, and shall preclude any zoning action of the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in said Permit. The establishment of a vested right shall not preclude the application of ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the Town, such as the North Carolina State Building Code. Otherwise, any applicable new or amended regulation shall become effective with respect to property for which a vested right has

been established only upon the expiration or termination of the vested right in accordance with Subsection 5.6.3 below of this Section.

5.6.2 In order to establish a vested right, an applicant shall submit a "site specific plan" as defined by G. S. 160A-385.1(b). Such a plan is hereby defined as the information required by Section 5.2.1 of this Ordinance and here none of these requirements may be waived. Each map, plat, site plan or other document submitted evidencing a site specific plan shall contain the following notation: "APPROVAL OF THIS PLAN ESTABLISHES A VESTED RIGHT UNDER G.S. 160A-385.1. UNLESS TERMINATED AT AN EARLIER DATE, THE ZONING VESTED RIGHT SHALL BE VALID UNTIL (DATE) ."

5.6.3 A right which has been vested shall remain vested for a period of two years and shall not be extended by any amendment or modification of the site specific plan approved by the Board. A right which has been vested, together with the Special Use Permit which has been issued in conjunction therewith, shall expire or terminate as follows:

5.6.3.1 At the end of the applicable vesting period with respect to buildings and uses for which no valid zoning certificate applications have been filed;

5.6.3.2 With the written consent of the affected property owner;

5.6.3.3 Upon findings, by Ordinance and after notice and a public hearing, that the property owner or representative intentionally supplied inaccurate information or made material misrepresentations which affected the approval by the Zoning Board of said Permit;

5.6.4 In all other respects, the provisions of this Ordinance governing application for a Special Use Permit shall apply to the establishment of a vested right. Specifically, no vested right may be established except upon the calling of a public hearing and giving of notice. The Zoning Board of Adjustment may also, in conjunction with the Special Use Permit issued together with the vested right, designate additional conditions and requirements in connection with the application. Nothing in this Section shall exempt the site specific plan from subsequent review by the Zoning Board of Adjustment to ensure compliance with the terms and conditions of the original approval, provided that such review is not inconsistent with the original approval. Nothing in this chapter shall prohibit the revocation of the original approval, nor exempt the property owner from penalties and sanctions.

Section 5.7 County Recycling Center

5.7.1 Definition. See Article 2 for the definition.

5.7.2 Applicability and Location. A special use permit shall be required for the erection or conversion of building(s) to be used as a recycling center or accessory use building(s) thereof. Recycling centers shall only be permitted in the Industrial District.

5.7.3 Use Requirements.

5.7.3.1 Adequate parking shall be required consistent with Article 7 and vehicular traffic shall be managed to minimize its impact on any public thoroughfare.

5.7.3.2 Where the Recycling Center abuts property in residential use, buffering as required in Article 8 shall be provided.

5.7.3.3 All operation noise shall be minimized and limited to reasonable hours of operation.

5.7.3.4 The use shall not cause or create any obnoxious odors in any residential or commercial area.

5.7.3.5 The storage of any substance shall not endanger the health or safety of any residential or commercial property.

5.7.3.6 The activity shall not endanger, damage or have any other undesirable effects upon nearby residential or commercial development by reason of its existence and/or operation.

5.7.4 Minimum Lot Size. The minimum lot size is 40,000 square feet.

Section 5.8 Gasoline Service Stations

5.8.1 Applicability and Location. A special use permit shall be required for the erection or conversion of building(s) to be used as a gasoline service station or accessory use building(s) thereof. Gasoline service stations shall only be permitted in the I-1 District as a special use.

5.8.2 Use Requirements.

5.8.2.1 Adequate parking shall be required consistent with Article 7 and vehicular traffic shall be managed to minimize its impact on any public thoroughfare.

5.8.2.2 Where the gasoline service station abuts property in residential use, buffering as required in Article 8 shall be provided.

5.8.2.3 Reasonable hours of operation shall be established after which lighting shall be minimized and shielded from residential areas.

5.8.2.4 The activity shall not endanger, damage or have any other undesirable effects upon nearby residential or commercial development by reason of its existence and/or operation.

5.8.2.5 There shall be no outside storage of any tires, tools, parts or associated materials after business hours.

5.8.3 *Minimum Lot Size.* The minimum lot size is 20,000 square feet.

Section 5.9 Convenience Stores

5.9.1 *Applicability and Location.* A special use permit shall be required for the erection or conversion of building(s) to be used as a Convenience Store or accessory use building(s) thereof. Convenience Stores shall only be permitted in the I-1 District as a special use.

5.9.2 *Use Requirements.*

5.9.2.1 No outside storage of material shall be permitted.

5.9.2.2 If gasoline sales are provided, then stacking for four vehicles at each pump island shall be provided in addition to one parking space per 200 square feet of gross floor area.

5.9.2.3 A maximum of 3,000 square feet of gross floor area shall be permitted per establishment.

5.9.2.4 Reasonable hours of operation shall be established, after which lighting shall be minimized and shielded from neighboring properties.

5.9.2.5 Adequate parking shall be required consistent with Article 300 and vehicular traffic shall be managed to minimize its impact on any public thoroughfare.

5.9.2.6 Where the convenience store abuts property in residential use, buffering as required in Article 8 shall be provided.

Section 5.10 Commercial Businesses with Drive-Through Facilities

5.10.1 Applicability and Location. A special use permit shall be required for the erection or conversion of building(s) to be used as a business with a drive-through window.

5.10.2 Use Requirements.

5.10.2.1 Stacking for four vehicles shall be provided at each bay, window, lane, ordering station or machine.

5.10.2.2 Special attention shall be paid to noise generated by intercom or other systems so the sound is not audible beyond property lines.

5.10.3 Minimum Lot Size. The minimum lot size is 22,000 square feet.

Section 5.11 Licensed Day Care and Registered Adult Day Centers

5.11.1 Applicability and Location. A special use permit shall be required for the erection or conversion of building(s) to be used as a day care center. Day care centers shall only be permitted as a special use in the C-1 District.

5.11.2 Use Requirements for Child Day Care Facilities. Any required outdoor play/activity space shall be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for play/activity space and may not be in the required setback. The fence shall be located outside of the street setback.

Section 5.12 Shopping Centers Greater than 20,000 Square Feet in Area

5.12.1 Applicability and Location. A special use permit shall be required for the erection or conversion of building(s) to be used as a shopping center greater than 20,000 square feet in area. Shopping centers greater than 20,000 square feet in area shall only be permitted as a special use in the I-1 District.

5.12.2 Use Requirements.

5.12.2.1 Access shall be from a street that has the capacity to accommodate the additional traffic projected to be generated by the shopping center.

5.12.2.2 Exterior building materials, signs and outdoor lighting used in a shopping center development, including outparcels, shall be coordinated so as to provide a uniform design scheme for the entire development. The uniform design plan shall be submitted for review at the time of application. The

uniform design shall include drawings, specifications, dimensions, and maps.

5.12.2.3 Where a shopping center greater than 20,000 square feet in area abuts property in residential use, buffering as required in Article 8 shall be provided.

Section 5.13 Warehouse, Mini-warehouse, Manufacturing and Industrial Uses

5.13.1 Applicability and Location. A special use permit shall be required for the erection or conversion of building(s) to be used as a Warehouse, Mini-warehouse, Manufacturing and Industrial Use or accessory use building(s) thereof. Warehouse, Mini-warehouse, Manufacturing and Industrial Uses shall only be permitted in the Industrial District.

5.13.2 Use Requirements.

5.13.2.1 Adequate parking shall be required consistent with Article 7 and vehicular traffic shall be managed to minimize its impact on any public thoroughfare.

5.13.2.2 Where the warehouse, mini-warehouse, manufacturing or industrial use abuts property in residential use, buffering as required in Article 8 shall be provided.

5.13.2.3 That all operation noise be minimized and limited to reasonable hours of operation.

5.13.2.4 That the use shall not cause or create any obnoxious odors or visually detectable air pollution in any residential or commercial area.

5.13.2.5 All above ground storage tanks and loading facilities shall be at least 100 feet from the boundary line of any residential district.

5.13.2.6 The storage of any substance shall not endanger the health or safety of any residential or commercial property

5.13.2.7 The activity shall not endanger, damage or have any other undesirable effects upon nearby residential or commercial development by reason of its existence and/or operation.

5.13.2.8 For mini-warehouses:

5.13.2.8.1 One-way interior travel lanes shall have a minimum width of 15 feet in addition to a 10-foot wide parking lane. All two-way

interior travel lanes serving storage units shall have two 12-foot wide travel lanes and be provided with a 10-foot wide parking lane. All portions of the site shall be readily accessible by police and fire equipment and personnel. All travel surfaces shall be paved.

5.13.2.8.2 Storage units shall be designed for individual storage. They shall contain no facilities for utility service. They shall not be used for sales or service or for habitation by humans or animals.

5.13.2.8.3 The height of mini-warehouses is limited to one story.

5.13.2.8.4 Neighboring properties and roads shall be protected from the glare of any lights on the mini-warehouse property.

5.13.2.8.5 Outdoor storage of items such as cars, trucks boats and RV's, is permitted so long as they are not visible from any public right-of-way.

5.13.3 *Minimum Lot Size.* The minimum lot size is 22,000 square feet.

Section 5.14 Planned Residential Community

5.14.1 *Applicability and Location.* A special use permit shall be required for Planned Residential Communities described herein. The requirements established in this section allow flexibility in site design, types of residential dwellings and architectural styles, while providing for the installation of adequate vehicular parking, utilities, landscaping, screening, and other facilities.

5.14.2 *Uses Permitted.* Within a Planned Residential Community, a building or land shall be used only for the following uses:

5.14.2.1 Detached single family residential uses, excluding manufactured homes.

5.14.2.2 Multi-family duplexes, condominiums, townhouses, or garden apartments.

5.14.2.3 Assisted living facilities and related administrative offices.

5.14.2.4 Residential accessory uses and structures.

5.14.2.5 A restaurant or food service facility exclusively serving the needs or residents and guests of the development. Said facility shall not exceed 20 square feet of floor space per four residents, not including the kitchen area.

5.14.2.6 A convenience store exclusively serving the needs of the residents of the development.

5.14.2.7 Open space, including recreational uses.

5.14.3 Minimum Size. A Planned Residential Community shall have a minimum area of eight contiguous acres.

5.14.4 Design Requirements.

5.14.4.1 Development Density. The total residential density of the Planned Residential Community shall not exceed 354 people per acre.

5.14.4.2 Dimensional Requirements. All buildings and structures shall provide a setback equal to twice the rear setback required for the district in which the development is proposed to be located along the exterior boundaries of the project property. Setbacks from internal streets and other internal yard requirements with the Planned Residential Community are waived. The maximum building height of all structures in the Planned Residential Community shall not exceed three stories.

5.14.4.3 Water and Sewer Service. A Planned Residential Community shall have water and sewer service provided by the Tuckaseegee Water and Sewer Authority.

5.14.4.4 Soil Erosion and Sedimentation Control Plan. Prior to any regulated land-disturbing activities on a site proposed for a Planned Residential Community, a soil and sedimentation control plan shall have been submitted to and approved by either the N. C. Department of Environment and Natural Resources or the Jackson County Sediment Control Office for the phase or portion of the site to be disturbed.

5.14.4.5 Storm Water Drainage. Storm water facilities shall be designed by a licensed engineer and constructed to prevent on-site and downstream erosion and sedimentation and where feasible, designed to follow existing natural drainage. The facilities shall be designed to prevent flooding or conditions that create standing water. Unless otherwise approved, storm water discharge points shall be located within the site and where feasible, discharged through vegetated areas into existing natural drainage. Where proposed storm water drainage cannot be designed to follow natural drainage, new or alternate systems shall be designed and constructed to minimize the erosion and sedimentation problems within the proposed development and on adjacent properties. New storm water drainage facilities shall be designed, constructed and maintained to discharge storm water from the site in manner that does not exceed the predevelopment

storm water discharge. Where retention or detention facilities are used, a landscaping plan for screening these facilities shall be submitted. Storm water drainage facilities shall factor all development phases and the entire project site.

5.14.4.6 Streets. All streets shall be constructed to N. C. Department of Transportation secondary road standards and offered to the town for dedication. All streets approved for private use shall submit proposed design standards and agreements for ownership and maintenance of said private streets.

5.14.4.7 Parking. Off-street parking shall be provided for all uses.

5.14.4.8 Lighting and Signage. Any outdoor lighting shall be designed and so located so as to prevent light from shining directly on adjoining property. The Planned Residential Community may place a subdivision sign consistent with Article 6 of the Sign Regulations. Exterior lights for a convenience store, food service facility or restaurant located within the Planned Residential Community are prohibited. All other signage shall be consistent with Article 6 of the Sign Regulations.

5.14.4.9 Landscape Planting. All unpaved surfaces shall be covered with permanent plant or mulch material. Street trees shall be incorporated in the landscaping abutting street rights-of-way. The landscaping shall be maintained and all dead materials shall be replaced by the next growing season.

5.14.4.10 Buffering. A vegetative buffer shall be established where the development adjoins an R-1 Residential District. Buffering as required in Article 8 shall be provided. In addition to vegetative buffering, the Zoning Board of Adjustment may require that fencing be installed depending on the topography of the property as well as other factors.

5.14.5 Conveyance of Common Areas and Facilities. All areas and facilities, including, but not limited to, roads, parking areas, open space, recreational facilities, landscaping, common areas, lighting, signage, waste storage and pick-up facilities, within and a part of the development proposed for common ownership shall be guaranteed by covenants running with the land which describe the areas and facilities and their maintenance and improvement.

5.14.6 Maintenance of Common Areas and Facilities. Prior to approval of the site plans, the applicant shall submit the legally enforceable instrument or instruments that set forth the means for permanent maintenance of all common areas and facilities in the development, including, but not limited to, roads, parking areas, open space, recreational facilities, landscaping, common areas, lighting, signage, waste storage and pick-up facilities. The applicant shall create an owner's association and submit

copies of the by-laws, rules and regulations. The instrument shall contain the following provisions:

- 5.14.6.1 The association shall be established prior to the sale of lots or units.
- 5.14.6.2 Open space areas shall be reserved in perpetuity.
- 5.14.6.3 The association shall be responsible of liability insurance, local taxes, and the maintenance of all designated common facilities which may include streets, open space and recreational facilities, pedestrian facilities, stormwater facilities, and easements.
- 5.14.6.4 The association shall provide for payment of member dues for the pro rata share of the cost. The assessment levied by the association may become a lien on the property.
- 5.14.6.5 The association shall have the right to periodically adjust the assessment to meet the changing needs of the development.
- 5.14.6.6 In the event the association dissolves for any reason including bankruptcy, the title for all open space areas shall pass to the Town of Dillsboro.

Section 5.15 State-Registered Private Schools

5.15.1 Applicability and Location. A special use permit shall be required for the establishment of a state-registered private school, whether it is in an existing or newly-constructed building. Registered private schools shall be permitted as a special use only in the C-1 District.

5.15.2 Use Requirements

- 5.15.2.1 Traffic circulation shall be carefully considered. Adequate facilities for students to be dropped off picked up shall be provided so traffic on adjoining streets will not be disrupted. Adequate parking shall be provided on site so parking on neighboring streets will not be necessary.
- 5.15.2.2 Any outdoor playgrounds shall be fenced or enclosed in a manner that will provide safety for the children.

ARTICLE 6: SIGN REGULATIONS

Section 6.1 Purpose

The purpose of this article is to regulate signs throughout all current zoning districts within the incorporated limits of the Town of Dillsboro and environs including extra-territorial jurisdictions; to protect and stabilize property values; to preserve the scenic natural environment and the historic character of the town by allowing signs which are consistent with an attractive town appearance; to promote public health, prosperity, safety and welfare; and to establish procedures through which these purposes can be achieved. The following statements elaborate on this purpose:

- To provide opportunities for neighborhoods and commercial endeavors to be identified in an effective and equitable fashion.
- To promote public safety by reducing hazards associated with distracting or excessive signage.
- To establish and promote enhanced community character through signage that is reflective of the historic nature of the Town and its scale of development.
- To promote the integration of signage with the architectural characteristics and aesthetic quality of the Town's development.
- To provide for flexibility in amount, type and scale of signage depending on the context of the development and the surrounding area.
- To facilitate efficient, thorough, consistent and effective enforcement of the sign regulations.

Section 6.2 Definitions

See definitions in Article 2 of this Ordinance.

Section 6.3 Applicability

Except as specifically exempted in this ordinance, no sign shall be erected, altered or displayed without a sign permit issued by the Planning staff confirming compliance with the provisions of this ordinance. Signs made to be nonconforming by this ordinance shall be grandfathered until altered, abandoned, relocated, or removed.

Section 6.4 Exempt Signs

6.4.1 Signs Exempt From Regulation. Unless otherwise prohibited in this or other applicable regulations, the following signs are exempt from regulation under this ordinance.

6.4.1.1 Signs that are not designed to be visible beyond the boundaries of the property upon which they are located and/or from any public thoroughfare or right-of-way, except as such signs may be regulated hereafter.

- 6.4.1.2 All classes of government signs including, but not limited to, traffic, health, and public safety; crime control and prevention; official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs and signs posted under governmental authority that note the donation of buildings, structures, or streetscape materials (such as, but not limited to, benches, trash cans, lampposts, and park facilities); the location of underground utilities; historical markers or monuments; and any other community service sign approved by the Town of Dillsboro.
- 6.4.1.3 Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday/celebration, provided such signs or displays are removed within 30 days after the holiday/celebration has passed.
- 6.4.1.4 Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables and gas lines, and similar devices and signs providing direction around such conditions.
- 6.4.1.5 Signs posted on private property related to trespassing or public safety, such as danger from animals. However, said signs shall not exceed three square feet in size and not more than two signs shall be placed on any parcel of land.
- 6.4.1.6 Merchandise, pictures, or models of products or services that are incorporated as an integral part of a window display.
- 6.4.1.7 Signs displayed on the inside of a structure that are not visible from any public street or walkway.
- 6.4.1.8 Signs displayed on trucks, buses, trailers, or other vehicles that are being operated in the normal course of a business, such as signs indicating the name of the owner or business and that are affixed or painted onto moving vans, delivery trucks, contractor's vehicles and equipment and the like, are exempt from regulation provided that, when not being operated, the vehicles are parked or stored in areas appropriate for their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent possible. All such vehicles must have current and valid registration and inspection.
- 6.4.1.9 Trademarks or product names that are displayed as part of vending machines, dispensing machines, and gasoline pumps. Trademarks or signs denoting a product being sold out of vending machines, dispensing machines, or gasoline pumps cannot be larger than the machine. Vending

machines, dispensing machines, and gasoline pumps are not allowed in the TD-1 or TD-2 Districts with the exception of newspaper and real estate periodicals.

6.4.1.10 Signs required for or specifically authorized for a public purpose by any law, statute, or ordinance. These signs may be of any type, number, and area, height above grade, location, or illumination authorized by law, statute, or ordinance under which such signs are required or authorized.

6.4.1.11 Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular property and that are located on the property to which the information pertains. No advertising may be affixed to such a sign.

6.4.1.12 Signs affixed to the windows of vehicles displaying the terms of sale of the vehicle. The vehicle for sale must be parked on private property and only 1 vehicle for sale may be displayed at a time.

6.4.1.13 Names and lettering on mail boxes and newspaper tubes.

6.4.1.14 Private commercial signs indicating charge card information or general instructions, restrictions, etc. thereof.

6.4.1.15 Signs displayed in commercial zones that are sponsored by municipal, school, civic, and other non-profit organizations.

6.4.2 Permitted Signs That Must Follow Requirements. The following signs are permitted in any location and do not require a sign permit. However, the signs must conform to the requirements set forth below as well as to other applicable requirements of this ordinance.

6.4.2.1 Temporary signs.

6.4.2.1.1 Real estate signs. Temporary signs advertising the sale, rental, or lease of the property on which the sign is located, provided the signs are not illuminated and do not exceed two signs per lot, do not exceed four feet in height, and do not exceed three square feet per face for residential property, or do not exceed eight feet in height and 16 square feet per face for commercial property. All such signs shall be removed within seven days after the closing of the sale, rental, or lease of the property. No off-premise “pointer” signs are permitted within the Town of Dillsboro or its jurisdiction.

6.4.2.1.2 Temporary signs for church functions, not exceeding 32 square feet in surface area per sign face and located on church property

(1 sign per property, per event). Temporary Church signs are allowed to be displayed 14 days prior to the event and must be removed within 48 hours at the event's conclusion.

6.4.2.1.3 Commercial signs on the interior or exterior of glass. Lettering and logos are permitted on the window areas provided they do not exceed 35% of the area of the interior or exterior of any given window or glass door, and are not illuminated except by normal interior business lighting or by soft indirect lighting of an entire window unit. Displays of merchandise in windows and photographs of homes or other properties in the windows of real estate offices may be placed in commercial windows in addition to the 35% area restriction.

6.4.2.1.4 Directional signage for temporary uses. Temporary uses may provide directional signs to provide directions to the temporary use or event. Such signs may be placed off the site of the proposed event. Directional signage for temporary uses shall not exceed 4 square feet per face, 2 faces per sign, and shall not exceed 3 feet in height if freestanding. Directional signs shall not be located on the roof of any structure. Directional signs shall be in place not more than one (1) day prior to the use or event and shall be removed within one (1) day following the cessation of the use or event. The maximum number of directional signs permitted shall be 4 per use or event.

6.4.2.1.5 Accent Lighting. Any illuminated tubing or string of lights outlining property lines or open sales areas, roof lines, doors, windows, or wall edges of any building, except for customary holiday decorations described in Section 6.4.1.3, shall be limited to three building or property features per business or property as approved by the Planning staff. Lighting must be either warm white LED lights or C7 clear lamps on SPT1 or SPT2 wiring. C7 lights are defined as traditional larger lights burning at five watts each and LED lights are defined as lights which use a light emitting diode for illumination, rather than a traditional filament. Lamps/lights must be located every six inches on either green or white wiring. High intensity LED or flashing lights are not allowed. All accent lighting must be turned off as soon as the operating hours of the business have ended.

6.4.2.1.6 Produce Signs. Signs advertising the sale of produce out of a home garden on the premises where the produce is being sold, not to exceed 2 non-illuminated signs per premises, provided that such signs do not exceed 3 square feet in surface area per sign face, are not placed within the public right-of-way or within 15

feet of any road wear surface if no right-of-way is defined, and shall be displayed only during the months of March through October.

6.4.2.1.7 Yard/Garage Sale Signs. Yard/garage sale signs for one/two day residential use, provided they are put in place no sooner than 48 hours prior to the event and are removed immediately following the close of the event. Such signs may not exceed 2 non-illuminated signs per premise and may not exceed 3 square feet in surface area per sign face.

6.4.2.1.8 Political signs. Signs of candidates for election or for issues on a ballot shall be allowed provided such signs are not illuminated, are not placed within the public right-of-way or within 15 feet of any road wear surface if no right-of-way is defined, do not constitute a hazard to pedestrian or vehicular traffic, and do not exceed 4 square feet in surface area per sign face in the TD-1, TD-2, and all residential districts, and 32 square feet in surface area per sign face in the C-1, C-2, and I-1 districts. All such signs must be removed within 4 days after the election or referendum to which the sign applies. The property owner and the political candidate shall be equally responsible for the removal of the sign.

6.4.2.1.9 Construction signs. Signs used prior to and during construction to identify the name of a new project and/or the principal contractor or developer, provided they meet the following requirements:

6.4.2.1.9.1 Each project site shall have no more than one identification sign with two sign faces.

6.4.2.1.9.2 Identification signs shall not exceed eight square feet in surface area per face and eight feet in height in the TD-1, TD-2, and residential zoning districts, and 32 square feet in C-1, C-2, or I-1 zoning districts.

6.4.2.1.9.3 Construction signs shall be removed within 14 days of the issuance of a certificate of occupancy for the construction project.

6.4.2.1.9.4 Identification signs shall be either attached to the building under construction or affixed to a secure temporary post, and located out of the public right-of-way or 15 feet beyond the road wear surface if no right-of-way is defined.

6.4.2.1.10 Properly displayed American Flag, Flags of the United States Armed Services, the State of North Carolina, Jackson County, any religious, fraternal, or civic organization, any educational or cultural facility, Decorative/Incidental Flags or flags identifying that the business establishment is open provided that any flag does not exceed 3' x 5' or 15 square feet in area, that they are displayed on properly lit flagpoles, not exceeding 25 feet in height, that no more than two flagpoles are located on a lot of less than one acre and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be wall-mounted provided the size, height, and setback requirements as established in this exemption are met. There is no size restriction on the United States or North Carolina flags. The limit of two flags may consist of a combination of those flag types described in this section.

6.4.2.1.11 Temporary signs/banners providing information in conjunction with a community festival, school or civic event, or special holidays, subject to the following: Banners are limited to 32 square feet; may not contain commercial advertisement; may be strung across public rights-of-way provided the location, height, and size are approved by the NCDOT; banners are permitted 14 days prior to the event and must be removed within five business days of the close of the event.

6.4.2.2 Permanent Signs

6.4.2.2.1 Commemorative signs. Commemorative signs that do not exceed eight square feet per face in area and eight feet in height.

6.4.2.2.2 Directional signs. Private, on-premise, commercial traffic signs indicating directions, entrances, or exits, which may also include the name and/or logo of the business. Directional signs shall not exceed four square feet per face, two faces per sign, and shall not exceed 42 inches in height if freestanding. Directional signs shall not be located on the roof of any structure, within three feet of the wear surface of any thoroughfare, or within the sight distance triangle. The maximum number of directional signs permitted per lot shall be four.

6.4.2.2.3 Incidental signs. Signs containing information necessary or convenient for persons coming onto a property shall be located on the premises to which the information pertains such as "open" and "closed". No advertising may be contained on the sign and the signs shall be single faced only and wholly attached to a building (including the windows or doors). If advertising (name

or logo) is used on these signs it shall be considered as part of the total allowable signage for the property. The number of incidental signs per property shall be limited to two and shall include flags as described in 6.4.2.1.10 above.

6.4.2.2.4 Automatic teller machine signs. Signs contained on automatic teller machines that do not exceed 15 square feet in area per machine.

6.4.2.2.5 One permanent sign for churches, not exceeding 32 square feet per sign face nor more than 10 feet in height. Church signs may be of a message-board type that uses changeable lettering.

6.4.2.2.6 Signs for service stations, or any businesses selling gasoline, in addition to signs allowed in Section 6.7, as follows:

6.4.2.2.6.1 Gasoline price signs located and secured to each pump island, not exceeding four square feet per sign face and eight square feet per pump island;

6.4.2.2.6.2 Signs located at each pump indicating self-service and full-service operation, not exceeding two square feet per sign face;

6.4.2.2.6.3 North Carolina inspection signs at any location on the business premises, not exceeding four square feet per sign face.



Example of Incidental Signs



Example of Machine Signs



Example of Construction Signs

Section 6.5 Prohibited Signs

The following signs and/or sign features shall not be erected or maintained within the zoning jurisdiction of the Town of Dillsboro.

6.5.1 Signs on Roadside Appurtenances. Except for governmental signs described in Section 6.4.1.2, residential signs described in Sections 6.4 and 6.6, and commemorative signs, any on or off-premise signs posted on roadside appurtenances including, but not limited to, utility poles, planters, trees, and refuse containers that are within the public right-of-way, or within 15 feet of the edge of the wear surface of any public thoroughfare.

6.5.2 Signs Located in Public Road Rights-of-way. Except for governmental signs described in Section 6.4.1.2, residential signs described in Sections 6.4 and 6.6, and real estate signs described in Section 6.4.2.1.1, any sign, whether temporary or permanent, placed within any public road right-of-way, unless an encroachment for the sign has been approved by the NCDOT and a sign permit issued by the Planning staff shall be prohibited. Any unauthorized sign placed within NCDOT right-of-way by a private organization or individual is prohibited as outlined in the North Carolina Administrative Code 19A NCAC 2E.0415 (Advertising Signs Within Right-of-Way). Any signs placed in the railroad right-of-way must have the permission of the railroad agency. In the event a right-of-way is not defined among the public records of Jackson County, this prohibition shall apply to an area within 15 feet of the edge of the wear surface of any public thoroughfare.

6.5.3 Signs on Vehicles. Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign are prohibited. Any such vehicle must have current and valid registration and inspection. The vehicle must be parked so as to minimize its visibility from the street to the greatest extent possible.

6.5.4 Roof Signs. Any sign which is erected on a roof or which extends in height above the parapet or roof line of the building on which the sign is erected.

- 6.5.5 *Wind Signs.* Except for flags described in Section 6.4.2.1.10, any moving sign or device, permanent or semi-permanent, designed to attract attention, all or any part of which moves by any means, including fluttering, rotating, or otherwise moving devices set in motion by the atmosphere, or by mechanical means, such as pennants, flags, propellers or discs, whether or not any said device has a written message. Traditional barber poles located at barber shops, however, shall not be prohibited.
- 6.5.6 *Off-premise Signs.* Off-premise signs are prohibited. This includes all billboards, or signs that are used to attract attention to an object, person, product, institution, organization, business, service event, or location. This does not include governmental traffic, directional or regulatory signs or notices, or street banners authorized by the Town Board.
- 6.5.7 *Signs of Illusion.* Signs with optical illusion of movement by means of a design that represents a pattern capable of reversible perspective, giving the illusion of movement are prohibited in the TD-1, TD-2, R-1, R-2, and R-3 districts. However, digital signs are allowed in the C-1 and C-2 districts.
- 6.5.8 *Signs Resembling Traffic Signals.* Any sign which may be confused with or which obstructs the view of any authorized traffic signal or traffic sign, extends into the public right-of-way, obstructs the sight distance triangle, as determined by the North Carolina Department of Transportation, at any street intersection, or in any way constitutes a hazard to traffic.
- 6.5.9 *Animated Signs and Flashing Lights.* Any sign or device displaying flashing lights, intermittent lights or lights of changing degrees of intensity is prohibited in the TD-1, TD-2 and residential districts but allowed in the C-1 and C-2 districts. Neon lighting or high intensity LED lights used to display words or logos related to commercial business shall be limited to 1 per business and only illuminated during hours of operation of the business and shall be limited to two square feet in size. Time and/or temperature signs, (also prohibited in the TD-1, TD-2, and residential districts) are allowed in the C-1 and C-2 districts provided that time and temperature displays alternate on no less than a five-second cycle and meet all other requirements for location, size and height described in this ordinance.
- 6.5.10 *Portable or Moveable Display Signs.* Any sign that is designed to be moved on its own chassis or that is not permanently affixed to a building, stationary structure, the ground or that is not designed to be permanently affixed to a building, structure or the ground.
- 6.5.11 *Signs Obstructing Access.* Any sign that obstructs or substantially interferes with free access to or from any door, window, fire escape, stairway, ladder, or other opening intended to provide light, air, ingress, or egress for any building.

6.5.12 *Illuminated Signs in Proximity to Residential Zoning Districts.* Illumination of any signs with the exception of those allowed for subdivisions or multi-family developments described in Section 6.6.3, shall be prohibited between the hours of 12:00 midnight and 6:00 a.m. if located within 300 feet of a residential zoning district, or between the hours of 8:00 p.m. and 7:00 a.m. if located within 100 feet of a residential zoning district.

Section 6.6 Permanent Signs Requiring a Permit

Signs described in this Section are allowed, subject to the issuance of a permit by the Planning staff. Applications for Sign Permits shall be made on the proper form and can be obtained at the Town Office. Applications shall include the name and mailing address of the owner of the sign, a drawing of the sign indicating its size and height, a site plan indicating its location on the premises and relation to any adjacent rights-of-way, method of illumination and whatever other information the Planning staff deems necessary to ensure compliance with these regulations. An administration fee shall be applied to any sign that requires a permit regardless of size.

- Except for temporary signs, permits shall be valid so long as the sign remains in use, is adequately maintained and advertises an on-going business or commodity for sale.
- Fees for signs requiring a permit shall be set at the discretion of the Board of Aldermen.
- Any substantial change in the copy of a sign, such as a change of the name of a business, shall require application for a new Sign Permit. No permit shall be issued in the event of such a change in copy unless the sign complies with the current provisions of this Article.
- Prior to the issuance of a Sign Permit, all applications for a sign shall be reviewed by the Planning staff.

6.6.1 Traditional Downtown District Signs

6.6.1.1 Each single business in the TD-1 and TD-2 Traditional Downtown Districts, not located in a shopping center, is allowed two of the following signs:

6.6.1.1.1 No more than two wall signs provided that the total area for all signs does not exceed a ratio of one square foot for each linear foot of building frontage. Consistent with Section 6.5.4, no wall sign shall project above the roof line or parapet, or project more than 12 inches from the building wall at the base of the sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable sign square footage and shall be permitted.

- 6.6.1.1.2 One hanging sign below a canopy or awning provided a clearance of at least 7 feet, 5 inches is established between the bottom of the sign and any pedestrian walking surface. Such sign may extend no more than 4 feet over a pedestrian surface, and may not exceed 10 square feet in surface area per sign face.
 - 6.6.1.1.3 One hanging sign above a canopy or awning provided the sign does not exceed 16 square feet.
 - 6.6.1.1.4 One free-standing sign not exceeding 24 square feet of surface area for each of the 2 sides of the sign and not exceeding 6' in height.
 - 6.6.1.1.5 Consistent with the 1 sf per 1 lf limitation, restaurants may display one menu board (wall sign) at each entrance not to exceed 6 square feet in surface area for each entrance sign.
 - 6.6.1.1.6 Lettering and logos on building awnings shall be permitted and count toward the overall allowable sign area for the respective frontage. Lettering and logos on free standing canopies shall be permitted based on the formula of one square foot of lettering/logo area per one linear foot of canopy frontage.
- 6.6.1.2 Each Multi-tenant building development in the TD-1 and TD-2 Traditional Downtown Districts shall be allowed one wall sign or one freestanding sign, not exceeding 12 feet in height, at the main entrance, provided it does not exceed 16 square feet in total surface area. Such sign may also contain the names of the individual businesses in the development, provided each business's identification name plate sign on the freestanding sign does not exceed two square feet of surface area for each of the two sides of the sign with a maximum of four square feet of total surface area for each nameplate.
- 6.6.1.3 Each individual business located in a multi-tenant development in the TD-1 and TD-2 Traditional Downtown Districts shall be allowed two of the following:
- 6.6.1.3.1 No more than two wall signs per frontage provided that the total area for all signs does not exceed a ratio of one square foot for each linear foot of building frontage (occupied by the business). Consistent with Section 6.5.4, no wall sign shall project above the roof line or parapet, or project more than 12 inches from the building wall at the base of the sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable sign square footage and shall be permitted. Individual businesses which are not readily visible

from the main thoroughfare on which the development is located may locate any portion of their wall signs on another exterior wall of the shopping center facing the thoroughfare.

6.6.1.3.2 One hanging sign provided a clearance of at least seven feet, six inches is established between the bottom of the sign and any pedestrian walking surface. Such signs may not exceed six square feet in surface area per sign face.

6.6.1.3.3 Consistent with the one sign per one 100 square foot limitation, restaurants may display one menu board (wall sign) at each entrance not to exceed six square feet in surface area for each entrance sign.

6.6.1.3.4 Lettering and logos on building awnings shall be permitted and count toward the overall allowable sign area for the respective frontage. Lettering and logos on free standing canopies shall be permitted based on the formula of one square foot of lettering/logo area per one linear foot of canopy frontage.

6.6.2 *General Commercial (C-1), Commercial Use (C-2,) and Industrial (I-1) District Signs*

6.6.2.1 Each single business in the C-1, C-2, and I-1 districts, not located in a multi-tenant development, is allowed the following signs, up to a maximum number of three:

6.6.2.1.1 One free-standing sign, provided it shall not be located within any public right-of-way, nor within 15 feet of the wear surface of any public thoroughfare if no right-of-way is defined among the public records of Jackson County; shall not exceed 16 feet in height; shall not exceed 24 square feet in surface area per sign face, and shall be located no closer than six feet to any public street or sidewalk pavement. Businesses which adjoin more than one major highway and which are accessed by entrances along said highways, shall be allowed one sign at along each highway frontage.

6.6.2.1.2 No more than three wall signs for each building frontage provided that the total area for all signs does not exceed a ratio of one square foot for each linear foot of building frontage. Consistent with Section 6.5.4, no wall sign shall project above the roof line or parapet, or project more than 12 inches from the building wall at the base of the sign. Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable sign square footage and must be permitted.

- 6.6.2.1.3 One hanging sign provided a clearance of at least 7 feet, six inches is established between the bottom of the sign and any pedestrian walking surface. Such signs may extend no more than 4 feet over a pedestrian surface, and may not exceed six square feet in surface area per sign face.
- 6.6.2.1.4 New car dealerships that hold a franchise to sell new and used cars may have one freestanding sign advertising the new car dealership franchise and a separate freestanding sign advertising used cars. The signs must comply with the size requirements established in Section 6.6.2.1.1 above.
- 6.6.2.1.5 Consistent with the one sign per one lot limitation, restaurants may display one menu board (wall sign) at each entrance not to exceed six square feet in surface area for each entrance sign.
- 6.6.2.1.6 Lettering and logos on building awnings shall be permitted and count toward the overall allowable sign area for the respective frontage. Lettering and logos on free standing canopies shall be permitted based on the formula of one square foot of lettering/logo area per one linear foot of canopy frontage.
- 6.6.2.1.7 If a single business is located on a corner lot, it is allowed one sign for each frontage, provided the sign conforms to the design standards established in paragraphs (a) through (f) above.
- 6.6.2.2 Each Multi-tenant development in the C-1, C-2, and I-1 districts are allowed the following:
- 6.6.2.2.1 One free-standing sign identifying the shopping center at along each street frontage of the development to the shopping center, provided that it shall not be located within any public right-of-way, nor within 15 feet of the wear surface of any public thoroughfare if no right-of-way is defined among the public records of Jackson County; shall not exceed 20 feet in height and 48 square feet in surface area per sign face.
- 6.6.2.2.2 The total sign surface area for a shopping center shall not exceed one square foot per one linear foot of unit frontage.
- 6.6.2.2.3 Individual businesses within the multi-tenant development may be identified with uniform individual signs incorporated within the sign support structure.

- 6.6.2.2.4 All signs, unless otherwise stated or implied, shall have no more than two faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.
- 6.6.2.2.5 Lettering and logos on building canopies shall be permitted and count toward the overall allowable sign area for the respective frontage. Lettering and logos on canopies shall be permitted based on the formula of one square foot of lettering/logo area per one linear foot of canopy frontage.
- 6.6.2.3 Each individual business located in a multi-tenant development in the C-1, C-2, and I-1 districts shall be allowed the following:
- 6.6.2.3.1 No more than two wall signs for each storefront provided that the total area for all signs does not exceed six square feet, or a ratio of one square foot for each linear foot of building frontage, whichever is greater.
- 6.6.2.3.2 Individual buildings or “end” units in a multi-tenant development may install signs to the exterior side walls of the building using one square foot per one linear foot of building or unit wall frontage.
- 6.6.2.3.3 Consistent with Section 6.5.4, no wall sign shall project above the roofline or parapet, or project more than 12 inches from the building wall at the base of the sign.
- 6.6.2.3.4 Wall signs painted, sewn, or otherwise incorporated into an awning cover or façade will be considered in the total allowable square footage and must be permitted.
- 6.6.2.3.5 Lettering and logos on building awnings shall be permitted and count toward the overall allowable sign area for the respective frontage. Lettering and logos on free standing canopies shall be permitted based on the formula of one square foot of lettering/logo area per one linear foot of canopy frontage.
- 6.6.2.3.5 Consistent with the 1 sf per 1 lf limitation, restaurants may display one menu board (wall sign) at each entrance not to exceed six square feet in surface area for each entrance sign.

6.6.3 Residential Signs

6.6.3.1 Each subdivision, multi-family development, or manufactured home park in the R-1, R-2, and R-3 districts is permitted one free-standing or ground sign at each major entrance not to exceed two signs for the entire subdivision, multi-family development, or manufactured home park. Such signs shall be adequately secured; shall not be located within any public right-of-way, nor within 15 feet of the wear surface of any public thoroughfare if no right-of-way is defined among the public records of Jackson County; shall not exceed six feet in height and 24 square feet in surface area per sign face; and may be either non-illuminated or indirectly illuminated by white lighting.

6.6.3.2 Customary home occupations are permitted one sign not exceeding six square feet in total surface area. Said sign may be free-standing, wall or hanging in type and shall not exceed eight feet in height.

6.6.3.3 B&B Inns are allowed up to two signs with the placement, size, illumination, and height determined through the Conditional Use Permit process.

6.6.4 Public Park Signs

Any sign placed in a park owned by the Town of Dillsboro must be approved by the Dillsboro Board of Alderman prior to sign placement.

6.6.5 Temporary Signs

6.6.5.1 Signs/banners advertising the initial opening of a business or change of ownership are permitted. Such signs shall not exceed 32 square feet and only one sign/banner will be permitted per property/business. All temporary signs/banners shall not be displayed longer than 30 days. A temporary sign permit is required and an administration fee shall be applied to any temporary sign regardless of size.

6.6.5.2 Stationary Sandwich Boards. Stationary sandwich boards (“A-frames”) shall be allowed on sidewalks in the TD-1 and TD-2 districts only, with the following requirements:

6.6.5.2.1 Each business is allowed one sandwich board immediately adjacent to their place of business.

6.6.5.2.2 The sandwich boards shall be placed no more than six inches from the adjacent store front, shall not impede the flow of pedestrian traffic, nor impede the sightlines of motor vehicle traffic.

- 6.6.5.2.3 The signage shall not exceed eight square feet per advertising surface area with no more than two surface areas per sandwich board (total of 16 square feet) nor a total height to exceed four feet.
 - 6.6.5.2.4 Signage shall be constructed of materials that will not rapidly deteriorate, easily deface, degrade, or become a hazard to the safety and general welfare of the public in any way.
 - 6.6.5.2.5 Off-premises sandwich board signs shall be allowed if the adjacent business owner provides a written agreement for the placement of the sign or the sign is located on property belonging to the Town of Dillsboro.
 - 6.6.5.2.6 All sandwich boards will require an annual permit. Permits for the placement of sandwich board signage shall be issued by the Planning staff or his/her designee at his/her discretion. There is a fee for the initial permit as well as permit renewal. Applications should be made to the Planning staff.
 - 6.6.5.2.7 Sandwich boards shall be allowed on sidewalks to promote special events for municipal, school, civic, or non-profit organizations. The use of a sandwich board shall be by permit only and placed either on Town of Dillsboro property or by the written agreement of the adjacent business owner. There is no fee charged for non-profit sandwich board signs.
 - 6.6.5.2.8 All sandwich boards must be removed daily at dark.
- 6.6.5.3 Stationary sandwich boards shall be permitted in multi-tenant development in the C-1 and C-2 districts provided they meet the following conditions:
- 6.6.5.3.1 Each business in the multi-tenant development is permitted to have no more than one A-frame sign.
 - 6.6.5.3.2 The sign shall meet the conditions stated in subsections 6.6.5.2.3 through 6.6.5.2.8 above.
 - 6.6.5.3.3 The sign shall be placed adjacent to the place of business, provided it is located no more than eight feet from the storefront and provided the sign does not impede the flow of pedestrian traffic, nor impede the sightlines of motor vehicles.
- 6.6.5.4 Display of merchandise. The display of merchandise on a building porch shall meet the following requirements:

6.6.5.4.1 If merchandise is displayed on the porch of a building, then it shall not impede pedestrian travel or create a safety hazard.

6.6.5.4.2 The merchandise shall not be displayed on any exterior walls, railings, posts or suspended from any porch ceiling.

6.6.6 Non-commercial Messages

Any sign, display or device allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale. Such signs shall not exceed 32 square feet and an administration fee shall be applied regardless of size. Non-commercial messages are limited to three per year per property.

6.6.7: Permitted Commercial Sign Examples



"Hanging or projecting" sign



Wall Sign



Window lettering and logo



Awning lettering and logo



Canopy lettering/logo



Pole or free-standing sign



Community ID Sign



Commercial Plaza with Directory Sign



Directional Signs

Section 6.7 Sign Construction, Design and Maintenance

6.7.1 Construction. All signs, except those protected by glass or other transparent cover, shall be constructed of materials that will not rapidly deteriorate, fade, fall apart or in any way become a hazard to the public health, safety and general welfare. Where signs are placed over one another, the original sign shall be removed or adequately covered so that the original sign cannot be seen.

6.7.2 Code Requirements. All signs shall comply with applicable requirements of the N.C. State Building Code, National Electrical Code, and other applicable federal, state or local codes.

6.7.3 Signs Secured. All signs shall be securely attached to a building, wall, or permanent post and its supports, frames, guys, anchors and electrical equipment shall be secured to withstand adverse weather conditions.

6.7.4 Signs Shall Have No More Than Two Faces. All signs, unless otherwise stated or implied, shall have no more than two faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.

6.7.5 *Maintenance.* All signs shall be kept free from defective or missing parts or peeling paint. The Planning staff shall possess the authority to order the painting, repair or alteration of a sign which constitutes a hazard to the public health, safety or general welfare by reason of inadequate maintenance, dilapidation or obsolescence. Notice of such repair shall be given to the owner by personal service or registered mail, return receipt requested.

6.7.6 *Vegetation Removal.* The immediate premises around a sign shall be kept free from litter and debris and grass/weeds shall be regularly trimmed. However, no person other than persons authorized by the Town shall damage, trim, destroy, or remove trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of increasing or enhancing the visibility of a sign; nor shall such work be performed on 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.

6.7.7 *Light-Reflecting Materials.* Signs shall not use light reflecting materials.

6.7.8 *Calculation of Sign Area.* The square foot area of all signs shall be calculated from the outer most points of the lettering or logo of the sign to form a “square” or “rectangle”; height x length = sign area (sf). The area within the “square” or “rectangle” not used as part of the lettering or logo shall not be credited as unused sign area.

6.7.9 *Materials.* All signs in the TD-1 and TD-2 districts shall be in keeping with the historic atmosphere of Dillsboro and shall be constructed using either:

- Wood with all letters, numbers, words and symbols routed, sandblasted or painted.
- 6mm Trovicel (polypropylene), Nu-Alum or equivalents. Lettering of signs shall be of 2mm in thickness, high performance or highbred grades of vinyl. Illuminated signs shall be by a shielded indirect white or amber light of reasonable intensity and directed solely at the sign face.

6.7.10 *Height Measurement.* The height of a freestanding sign shall be measured from the adjacent finished grade to the uppermost point of the sign or sign structure, whichever is greater.

6.7.11 *Window Coverage.* Window signs or advertising, including stained glass lettering, logos, etc., shall not cover more than 35% of the total window area. Window signs shall not be included in the total area for exterior commercial signs.

6.7.12 *Overhanging Signs.* Signs overhanging any sidewalk shall be placed at least 7feet, 5 inches above the sidewalk and shall not extend over the sidewalk a distance equal to or greater than two-thirds the width of the sidewalk.

6.7.13 *Illuminated Signs.* All illuminated signs must adhere to the following regulations:

6.7.13.1 Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign façade and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.

6.7.13.2 Internally illuminated signs are permitted (C-1, C-2 and I-1 only) so long as the sign is not too bright from the surroundings and does not create a nuisance or hazard to motorists.

6.7.13.3 Lighting fixtures shall be directed downward rather than upward.

Section 6.8 Non-conforming Signs

6.8.1 *Declaration.* Any sign in existence prior to the effective date of this amended ordinance, or any sign erected thereafter, which does not satisfy the requirements of this ordinance is declared non-conforming. The eventual elimination of non-conforming signs is as much a subject of health, safety and welfare as is the regulation of new signs.

6.8.2 *Restrictions.* Non-conforming signs shall not be moved, altered, enlarged or changed in any manner to increase the degree of non-conformity. Change of business name, design of logo or trademark shall require the sign and support structure to be reduced in size and height by 50 percent. If the 50 percent reduction is less than the maximum allowed for the district, then district requirements take precedence. Maintenance, such as re-painting sign support structure and housing or repairing damaged sign structure or display shall be permitted, provided there is no change in copy of the existing display. Billboards may change the advertising copy; however, no billboard structure shall be moved, altered, enlarged or changed in any manner to increase the degree of non-conformity. Such changes shall require the billboard to be removed. Any damage caused to non-conforming signs by acts of God, weather or artificial means will require that the sign and structure to be removed.

Section 6.9 Illegal Signs

6.9.1 *Discontinuance of Use.* Whenever the use of a building or premises is discontinued by a business for reasons other than a normal seasonal shutdown for a period of 30 days, any signs and nonconforming support structure pertaining to that business shall be removed within 30 days of the discontinuance of use. The Planning staff shall notify the property owner at the last known address that said signs are in

violation of this Ordinance and must be removed within 30 days; any signs not removed within that period may be removed by the Town at the owner's expense.

6.9.2 Signs Located Within a Public Right-of-way. Consistent with this article, any sign found located within a public right-of-way shall be removed by its owner within 30 days of written notice thereof. If ownership of a sign cannot be reasonably established, a notice shall be attached to the sign by the Planning staff stating the need to remove it within 30 days, after which, the Town may remove the sign at the owner's expense. Temporary signs shall be removed by the Planning staff upon discovery.

6.9.3 Signs Erected Without a Permit. The owner of any sign erected after the effective date of this Ordinance without a permit shall obtain a permit for the sign and otherwise ensure that it complies with these regulations. Signs that do not comply with this process shall be removed by either the owner or the Town at the owner's expense within 24 hours of notification by the Planning staff.

6.9.4 Signs not Meeting the Requirements Contained in Article 6. Signs shall be either brought into conformance or removed by its owner within 30 days of written notice thereof. If ownership of a sign cannot be reasonably established, a notice shall be attached to the sign by the Planning staff stating the need to bring the sign into compliance or to remove it within 30 days, after which, the Town may remove the sign at the owner's expense.

ARTICLE 7: OFF-STREET PARKING

Section 7.1 Applicability

Off-street automobile storage or parking shall be provided on every parcel for all uses established in Section 7.2.

Section 7.2 Parking Schedule

The number of off-street parking spaces provided shall be at least as great as the number specified in the formula below for various uses. When application of the formula results in a fractional space, the next larger space requirement shall prevail. Conditional use permits may require additional parking spaces.

Table 4
Off-Street Parking Requirements

| Residential and Commercial Uses | Required Parking |
|--|---|
| Any residential use consisting of one or more dwelling units | Two spaces for each dwelling unit |
| Motels and Bed and Breakfast Inns | One space for each accommodation |
| Hotels | One space for each room to be rented |
| Places of worship | One space for each four seats in the principal assembly room |
| Licensed day care and registered adult day care centers | One space for every four pupils or participants and one space for each employee |
| Retail business and professional | One space for each 200 square feet of gross floor area |
| Public buildings | One space for each 200 square feet of gross floor space |
| Home occupations | Two spaces for each dwelling unit plus one space for the business activity |
| Restaurants | One space for each four seats |

*The TD-1 and TD-2 are exempt from off-street parking requirements.

Section 7.3 General Provisions

7.3.1 Adequate Turning Space. Each parcel abutting a thoroughfare maintained by the Town of Dillsboro or the North Carolina Highway Department shall provide adequate

space for turning so that no vehicle is required to exit from the premises by backing into the thoroughfare.

7.3.2 *Size of Parking Space.* Each off-street parking space shall be constructed to be the size of nine feet by 20 feet to accommodate an automobile plus space necessary for ingress and egress.

7.3.3 *No Dual-Purpose Use.* Off-street parking space shall be permanent open space and shall not be used for any other purpose. Off-street customer parking shall be located such that it is accessible to the public via a public street.

7.3.4 *Employee Parking Required.* Unless otherwise stated, additional parking spaces shall be provided for the owner, operator and/or manager. Also, all employees shall have off-street parking provided in addition to the number of spaces specified by this section.

Section 7.4 Warehouse, Manufacturing and Industrial Uses

One parking space shall be required for each employee, owner and/or manager and one space for each vehicle owned and/or operated by the business and used for business purposes.

Section 7.5 Off-Street Loading and Unloading Space.

Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated below for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purposes of this section an off-street loading space shall have a minimum dimension adequate to accommodate the largest vehicles expected to be served and, in any event, no less than 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

Retail operations: One loading space for each 20,000 square feet of gross floor area or fraction thereof.

Wholesale and Industrial Operations:

| | |
|-------------------------------|----------|
| Under 40,000 square feet | 1 space |
| 40,000 – 100,000 square feet | 2 spaces |
| 101,000 – 160,000 square feet | 3 spaces |

*The TD-1 and TD-2 are exempt from off-street loading and unloading space requirements.

ARTICLE 8: LANDSCAPING REGULATIONS

Section 8.1 Purpose

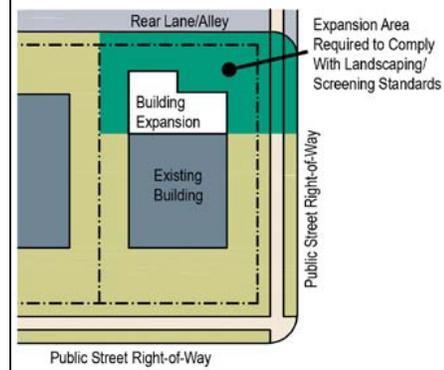
The appropriate use of existing and supplemental landscaping enhances the aesthetic appearance of Dillsboro. This chapter is intended to establish minimum standards for the design of landscapes to enhance Dillsboro's visual and environmental character. The landscaping and buffering standards set forth below require landscaping between dissimilar uses, along streets and roads, and in parking areas in order to:

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

Section 8.2 Applicability

8.2.1 *Matrix.* The standards contained in this chapter shall apply to the following development conditions:

| <i>Development Condition</i> | <i>Applicability</i> |
|---|---|
| New Construction (Except Single-family and Two-Family Dwellings on Previously Platted Lots) | All standards apply |
| Expansion of Parking Areas (Less than 40% of Total Existing Area or less than 12 spaces) | All standards apply only to the parking lot expansion areas. |
| Expansion of Parking Areas (40% or Greater of Total Existing Area or 12 spaces or more) | All new and existing parking area conditions and non-conforming street frontages shall be made conforming. |
| Building Expansion/Reconstruction (Less than 50% of Existing Floor Area) | All standards shall apply only to the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge. (See diagram) |
| Building Expansion/Reconstruction (50% or Greater of Existing Floor Area) | The entire site shall be brought into full compliance with this Chapter. |
| Change of Use (From Residential to Non-Residential) | The entire site shall be brought into full compliance with this Chapter. |



8.2.2 *Landscape Plan Required.* Applicants are encouraged to meet with Planning staff prior to submitting a site plan to discuss applicable landscape requirements, other ordinance requirements, and coordination of plantings with other construction activity. A landscape plan drawn to scale must be submitted with the site plan and prepared in accordance with Site Plan Requirements.

8.2.3 *Revisions to Landscape Plan.* Due to lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to landscape plans may be approved by the Planning staff if:

8.2.3.1 There is no reduction in the quantity of plant material.

8.2.3.2 There is no significant change in size or location of plant materials.

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

8.2.4 *Alternative Compliance.* The landscape requirements are intended to set minimum standards for quality development and environmental protection; they are not intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with the landscape requirements. The Planning staff may alter the landscape and buffering requirements as long as existing or added landscape features of the development site comply with the intent of this chapter. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

8.2.4.1 Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements.

8.2.4.2 Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may justify alternative compliance when changing the use of an existing building in a developed area.

8.2.4.3 An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements, and exhibits superior design quality.

The property owner or developer must submit a plan of the area for which alternative compliance is requested to the Planning staff. The site plan shall show the existing site features and any additional material the property owner or developer will plant or construct to meet the intent of the landscape and buffer requirements of this section. A section drawing may be required if there are grade changes that affect the character of the buffer and landscape requirements. In addition, the applicant must submit a written statement describing the need for alternative compliance. The Planning staff shall render a decision approving, approving with conditions, or denying the request within 10 working days of reviewing the request for alternative compliance.

8.2.5 *Compliance and Maintenance.*

8.2.5.1 Landscaping must be installed prior to the issuance of a final certificate of occupancy. A temporary certificate of occupancy accompanied by a bond as noted in Section 8.2.5.2 below may be granted to permit installation of required landscaping subsequent to occupancy of the building.

8.2.5.2 If the season or weather conditions prohibit planting, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in an amount equal 125 percent of the cost of installing the required landscaping to guarantee the completion of the required planting. The financial surety shall be canceled and/or returned upon completion of the required landscaping.

8.2.5.3 The owner of the property where required landscaping is planted shall be responsible for the maintenance and protection of all plant and screening materials. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall shall constitute a violation of this chapter.

8.2.5.4 If existing vegetation is to be used in complying with any part of this section, a plan for the protection of this vegetation during construction must be submitted to, and approved by the Planning staff.

Section 8.3 General Provisions

8.3.1 Existing Vegetation, Fences, Walls and Berms. The use of existing trees or shrubs to satisfy the landscaping requirements of this Chapter is encouraged. Significant existing vegetation within landscaped areas shall be preserved and credited toward required landscaping. Existing berms, walls, or fences within the landscaped area, but not including chain link fencing, may be used to fulfill the standards for the type of landscaping required, provided that these elements are in good condition. Preserving existing trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved as well as individual trees. Existing trees and shrubs that are preserved may be credited toward required buffer trees, street trees, and parking lot trees as specified in Table 5 below.

8.3.2 Credits and Other Incentives. The preservation of existing trees, where possible is strongly encouraged. In order to encourage such preservation, preserved trees may be credited towards compliance with the requirements of this section at the rate shown in Table 5 below:

Table 5
Tree Preservation Credits

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

In order to receive credit, existing vegetation that is preserved must be in good health and condition. Trees designated to be preserved must be indicated on the landscape plans. Protective barriers must be shown on the landscape and grading plans in accordance with the requirements of subsection 8.3.3 below. If a preserved tree dies within 24 months of completion of the project, it must be replaced with the total number of trees that were credited to the existing one.

8.3.3 Protection of Existing Trees During Construction.

8.3.3.1 No grading or other land-disturbing activity can occur on a site with existing trees that are designated to be preserved in order to meet the landscape requirements until protective barriers are installed by the developer. Trees designated for preservation that are counted toward the landscape requirement must be protected by barriers, while trees designated for protection that do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of existing trees to be preserved and the location of the protective barriers must be shown on the landscape and grading plans, with the dimension between the tree trunk and the barrier indicated.

Barricades or barriers must be placed around the critical root zone of any existing trees to be preserved that are within 50' of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, an eight-inch diameter tree would have a barricade surrounding it located eight feet from the trunk of the tree. All protective barriers must be maintained throughout the building construction process.

Protective barriers shall consist of either:

8.3.3.1.1 A fence that is at least three feet high and constructed in a post and rail configuration; or

8.3.3.1.2 A fence with posts placed no further than 10 feet apart with the perimeter wrapped with orange polyethylene laminar safety fencing.

8.3.3.2 All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area including:

8.3.3.2.1 Grading;

8.3.3.2.2 Filling, unless an aeration system that is certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist is installed to protect the tree from suffocation;

8.3.3.2.3 Parking;

8.3.3.2.4 Storage of debris or material, including topsoil;

8.3.3.2.5 Disposal of hazardous waste or concrete washout;

8.3.3.2.6 Attaching of nails, ropes, cables, signs, or fencing to any tree to be preserved.

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

8.3.4 Restrictions on Landscape Areas:

8.3.4.1 Easements and Right-of-Ways. Nothing shall be planted or installed within an underground utility easement, overhead utility easement or storm drainage easement without the consent of the Planning staff, the easement holder and utility owner at the time of site plan approval.

8.3.4.2 Building setbacks. Required building setbacks shall supersede any landscape yard requirements.

8.3.5 Tree Trimming and Removal.

8.3.5.1 Tree Trimming. Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any

street intersection and so that there shall be a clear space of eight feet above the surface of the sidewalk or parking area and 13 feet above any travel way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Town is authorized to remove and/or trim trees and shrubs from public properties and public rights-of-way. The North Carolina Department of Transportation is authorized to remove and/or trim trees and shrubs in the public rights-of-way owned by the State of North Carolina. Approval from the Planning staff is required to trim a tree in a tree save area, required landscaping area, or buffer yard more than 25 percent of its overall canopy.

8.3.5.2 Trimming and Removal by Utility Companies. Trees to be removed from the public right-of-way by electric utilities and other overhead utilities must be replaced by such entity in equal quantity and minimum caliper size with an approved species.

8.3.5.3 Tree Topping. Tree topping and/or shearing shall be prohibited on all trees on public property, designated rights-of-way, required tree save areas, landscaping, and buffer yards unless otherwise approved by the Planning staff. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the Planning staff.

Section 8.4 Bufferyard Requirements:

8.4.1 *Requirement.* Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. Bufferyards shall be required between a proposed development and a dissimilar existing land use to provide a transition between them. A bufferyard is a strip of land with existing vegetation, planted vegetation, a landscaped earth berm or grade change, a fence, a wall, or a combination of the above. The bufferyard width and number of plantings required will vary based upon the size of the proposed and existing land uses. Information on determining bufferyard width is provided in Section 8.4.6.

8.4.2 *Responsibility for Bufferyard.* The required bufferyard shall be the responsibility of the property owner developing the property or changing the land use. Bufferyards must be located on the property being developed or on which the land use is changing, between the property lines and any vehicle use areas, buildings, storage, service areas, or any other area of activity. The bufferyard shall extend along the entire property line that abuts the incompatible land use up to any required street tree planting strip.

8.4.3 *Setbacks.* If a setback requirement is less than the minimum buffer requirement, the bufferyard width requirement shall override the setback requirement.

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

8.4.4.1 Utility lines should be located to cross perpendicular to a bufferyard, if possible, to minimize the impact.

8.4.4.2 If utility lines must run with a bufferyard, they must be located along the edge of the bufferyard.

8.4.4.3 The developer should minimize the amount of plantings in the utility easement area so that they will not have to be removed or pruned if the utility line needs maintenance. If the developer plans to plant in the utility easement, approval must be obtained from the affected utility companies to ensure that the plantings will not interfere with the installation, operation, or maintenance of the utility lines. Trees and shrubs planted within the utility easement will not count toward the bufferyard planting requirement unless they are approved by the utility companies.

8.4.5 *Placement of Bufferyard Plantings.* The exact placement of the required plants shall be the decision of the developer or designer, but shall be approved by the Planning staff. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from an area accessible to the public or from adjacent properties. Trees and shrubs should be planted at least five feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property.

8.4.6 *Determination of Bufferyard Requirements.* To determine if a bufferyard is required between two adjacent land uses and, if so, what bufferyard width and planting density is required, the following procedure should be used:

8.4.6.1 Identify the proposed land use and the adjacent land use(s) on the list of permitted uses found in of this ordinance. Note the category under which the proposed use is listed (for example, post office is listed under the category of Public/semipublic and restaurant is listed under the category Office/business).

8.4.6.2 Identify the size (acreage) of the property being developed and of the abutting properties.

8.4.6.3 Use the following table to determine buffer requirements for the development:

**Table 6:
Buffer Requirements**

| PROPOSED USE CATEGORY | EXISTING USE CATEGORY | PROPOSED USE SITE SIZE | EXISTING USE SITE SIZE | BUFFER REQUIRED |
|------------------------------|------------------------------|-------------------------------|-------------------------------|------------------------|
| Any | Same as proposed use | <1 acre | <1 acre | None |
| Any | Different than proposed use | <1 acre | <1 acre | A buffer |
| Any | Different than proposed use | <1 acre | >1 acre | A buffer |
| Any | Same as proposed use | >1 acre | <1 acre | A buffer |
| Any | Same as proposed use | >1 acre | >1 acre | A buffer |
| Any | Different than proposed use | >1 acre | >1 acre | B buffer |
| Any | Different than proposed use | >1 acre | <1 acre | B buffer |
| Any | Same as proposed use | <1 acre | >1 acre | A buffer |

This process must be done for each property line, except where the property to be developed abuts a street or road, to determine if a buffer planting is required.

Example: A property owner proposes to build a retail gift shop on property containing 0.84 acre. On the west side of the property is a florist shop on a 0.55 acre lot. No buffer is required along this property line, as both uses are classified as “Office/business” and both properties are under an acre. On the east side of the property is a church on a 5 acre parcel. An “A” buffer would be required along this property line, as the use categories are different, the proposed use site size is less than an acre and the existing use site size is more than an acre.

8.4.7 Mixed Uses. When a lot has a combination of different land uses, the buffer is calculated based upon the category of land use occupying the greatest percentage of the lot.

8.4.8 When Buffer not Required. If a street or road is located between two land uses that would require a buffer between them, no buffer shall be required along the street or road frontage of the property being developed; however, street trees are required along the property to be developed.

8.4.9 *Buffer Requirement When Development Site Abuts a Vacant Lot:* If the property to be developed abuts a vacant lot, an “A” buffer shall be provided on the property to be developed.

8.4.10 *Buffer Description Table.*

**Table 7
Buffer Description**

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

8.4.11 *Existing Vegetation in the Buffer.* Existing vegetation in the buffer area may be counted toward the required plantings according to section 8.3.2. The Planning staff must approve the use of existing vegetation to meet the buffer requirement.

8.4.12 *Buffer Reductions.* The width of the buffer may be reduced up to 50 percent with the use of a fence or wall. Fences and walls must meet the following standards:

8.4.12.1 Fences or walls shall be constructed of wood, brick, stone, or other masonry (except plain block) and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. A detailed drawing of the fence or wall must be shown on the site or landscape plan and approved by the Planning staff.

8.4.12.2 Fences and walls shall be a minimum of 6 feet tall;

8.4.12.3 The finished side of the fence or wall shall face the abutting property;
and

8.4.12.4 A planting strip with a minimum width of 8 feet shall be located between the fence or wall and the property line. The strip shall be planted with trees and/or shrubs on the side that faces the abutting property. The trees and/or shrubs shall be spaced no further than 8 feet apart in order to screen at least 50 percent of the fence or wall at maturity.

8.4.12.5 Screening of dumpsters, loading docks, outdoor storage areas, and utility structures. All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless

already screened by an intervening building or bufferyard. Landscaping shall not interfere with the access and operation of any such structure or facility. All unenclosed outdoor storage areas greater than 15 square feet shall also be screened from adjacent properties and streets. Screen types include:

8.4.12.5.1 A continuous hedge of evergreen and/or densely twigged shrubs planted in a 5 foot strip with plants spaced no more than 5 feet apart or a row of evergreen trees planted no more than 8 feet apart.

8.4.12.5.2 A fence or wall with a minimum height of 6 feet with the finished side of the fence or wall facing the abutting property or the street.

8.4.12.6 Street trees. Street trees are required for all new non-residential development. Street trees shall be required at the rate of 1 large maturing (over 35 feet in height at maturity) for every 40 linear feet of property abutting a street or road or 1 small maturing tree (less than 35 feet in height at maturity) for every 30 linear feet of property abutting a street or road, if overhead utility lines are present. This does not imply that trees must be spaced exactly 30 feet or 40 feet apart, but may be clustered together with a minimum spacing of 15 feet. Trees shall be spaced no more than 65 feet apart. Street trees shall be placed in a planting strip on private property and not within the street or road right-of-way. No street tree can be located farther than 20 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary but the minimum width cannot be less than 7 feet and the average width shall be at least 10 feet. The planting area must be covered with living material, including ground cover and shrubs, or mulch so that no soil is exposed. No stone mulch is permitted in the planting area.

8.4.12.7 Parking lot landscaping requirements.

8.4.12.7.1 Requirements for new developments. Trees and shrubs are required in and around parking lots with more than six spaces to enable the parking areas to blend in with the natural appearance of Dillsboro, to provide attractive views from roads and adjacent properties, to reduce stormwater runoff, and to help filter exhaust from vehicles. There are three parking lot planting requirements that may apply to a development depending upon its relation to other properties and public rights-of-way.

8.4.12.7 1.1 Perimeter and interior plantings. Parking lots, loading areas, and other vehicle use areas must be planted with one deciduous tree and two shrubs for every 2,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas (including gravel surfaces). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Trees and shrubs must be placed within 20 feet of the vehicular use area to count as parking lot landscaping. When four or more trees are required in a parking lot with interior rows, 50 percent of the trees and shrubs must be planted in islands or medians located within the parking lot. Each parking space shall be located within 45 feet of a tree. In calculating this distance, measurements shall be taken from the trunk of the tree to the closest point of the parking space. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow. Trees and shrubs shall not impede vehicular or pedestrian visibility.

8.4.12.7.1.2 Planting strip. A planting strip with a minimum width of 10 feet shall be planted between the vehicular use area and the abutting property when any vehicular use area is located within 50 feet of an abutting property and no buffer is required, except for driveway openings that run perpendicular to the planting strip. This planting strip shall ensure that parking lots are separated from other uses and one another. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in subsection 8.4.12.7.1.1 (above) if the planting strip is located within 20 feet of the vehicle use area. Adjacent businesses on separate properties that share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the use of the shared parking or driveway.

8.4.12.7.1.3 Buffering from the street. Vehicular use areas greater than 2,500 square feet that are located within 30 feet of a street or road must be buffered from the street or road. This buffer is required in addition to the street

trees planted in a 10 foot planting strip as required by section 8.4.12.6. The buffer must contain plants that will be at least three feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changes combined with plant material. A vegetative buffer shall contain at least one evergreen or deciduous shrub for every five feet of vehicular use area buffer required. If a fence or wall is used, at least one shrub must be planted for every eight linear feet of fence or wall. Shrubs should be evenly distributed on each side of the fence. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirement.

8.4.12.7.2 Size of planting islands. Tree planting islands within vehicular use areas shall be a minimum of 150 square feet and have no width less than 9 feet.

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

8.4.12.8 Compliance and maintenance.

8.4.12.8.1 Certificate of occupancy. Landscaping must be installed and inspected prior to receiving a certificate of occupancy for the construction. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in the amount of 150 percent of the cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of occupancy shall be issued. The financial surety shall be canceled and/or returned upon completion and approval of the required landscaping.

8.4.12.8.2 Maintenance. The owner or lessee of the property on which landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or to replace dead, damaged, or diseased plant material or to replace a broken

fence or wall shall constitute a violation of this ordinance and shall be subject to the penalty provisions set forth in Article 10 if no corrective action is taken within 30 days of receiving notice. If an act of God or other catastrophic event occurs that destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must comply with the minimum size, spacing, and quantity standards of this ordinance.

8.4.12.9 Plant specifications

8.4.12.9.1 Recommended plant species. (Please refer to Appendix A.) The use of plant materials that are indigenous to the region and readily available from local nurseries is encouraged. Native plant materials are acclimated to the area, are better suited for survival, and maintain the character and appearance of the Town of Dillsboro.

8.4.12.9.2 Minimum plant size requirements:

Large maturing deciduous tree: Greater than 35 feet in height at maturity. Minimum size at planting shall be two inches caliper with a 12 to 14 foot height.

Small maturing deciduous tree: Less than 35 feet in height maturity. Minimum size at planting shall be one and one-half inches in caliper with an 8 to 10 foot height.

Evergreen tree: Minimum height at planting shall be six feet.

Deciduous shrub: Minimum size at planting shall be a three gallon container or 10 inch root ball with a height of 18 inches.

Evergreen shrub: Minimum size at planting shall be a three gallon container or 10 inch root ball with a height of 18 inches.

8.4.12.9.3 Plant standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1. Plants must be healthy, well-branched, and free of disease and insect infestation.

ARTICLE 9: BOARD OF ADJUSTMENT

Section 9.1 Establishment of the Zoning Board of Adjustment

9.1.1 Establishment Affirmed. The establishment of the Zoning Board of Adjustment is hereby affirmed.

9.1.2 Membership. The Board of Aldermen shall appoint five members to serve on the Zoning Board of Adjustment. As the terms of all members expire, members may be reappointed or new members appointed by the Board of Aldermen for terms of four years.

9.1.3 Extra-territorial Representatives. In the event the Town establishes an extraterritorial jurisdiction, representative(s) from the extraterritorial jurisdiction area shall be appointed in accordance with the N.C. General Statutes, 160A-385.1

9.1.4 Alternate Members. The Board of Aldermen may appoint not more than 4 four alternate members to serve on the Board in the absence of any regular member. In the event the Town establishes an extraterritorial jurisdiction, at least one alternate member shall be a resident of the said area. Alternate members shall be appointed for four year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all powers and duties of the absent regular members.

9.1.5 Vacancies. The Board of Aldermen shall by appointment fill any vacancy in the membership of the Zoning Board of Adjustment. The appointee shall serve the balance of the unexpired term of the member who the appointee is replacing.

9.1.6 Reimbursement. Members of the Zoning Board of Adjustment shall serve without pay, but shall be reimbursed for any expenses incurred in pursuit of the Board's activities.

Section 9.2 Proceedings of the Board of Adjustment

9.2.1 Officers. The Zoning Board of Adjustment shall elect a chair and a vice-chair from its members who shall serve for one year or until re-elected or their successors are elected. The Town Clerk shall serve as secretary to the Zoning Board of Adjustment. The Board shall adopt by-laws in accordance with the provisions of this ordinance and the General Statutes of North Carolina. All meetings of the Board shall be open to the public.

9.2.2 Meetings. The Board of Adjustment shall establish a regular meeting schedule. If there is no business for the board, or if so many regular and alternate members notify the secretary that they cannot attend so a quorum will not be available, the chair may dispense with a regular meeting by giving written or oral notice to all members not less than 72 hours before the time set for the meeting. All meetings of

the Board shall be open to the public. Items to be considered by the Board shall be submitted at least 14 days before the meeting date.

9.2.3 *Notice of Hearings.* Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing, including those located across rights-of-way; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

9.2.4 *Oaths.* The chair of the board, or any member acting as chair and the secretary 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 of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor. Upon a hearing, any party may appear in person, or by agent or by attorney.

9.2.5 *Subpoenas.* The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

9.2.6 *Voting.* The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter 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.

9.2.7 *Violations of Due Process.* A member of any Board exercising quasi-judicial functions pursuant to this Article 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 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 a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

9.3 Powers and Duties of the Board of Adjustment.

The Board of Adjustment shall hear and decide special use permits, requests for variances, and appeals of decisions of the Planning staff. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

9.3.1 *Appeals.* The Board of Adjustment shall have the power to hear and decide appeals of decisions of the Planning staff and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

9.3.1.1 Any person who has standing under G.S. 160A-393(d) or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.

9.3.1.2 The Planning staff shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

9.3.1.3 The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

9.3.1.4 It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that

is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the Planning staff. Posting of signs shall not be required, however.

- 9.3.1.5 The Planning staff shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The Planning staff shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- 9.3.1.6 An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the Planning staff certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Planning staff a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- 9.3.1.7 Subject to the provisions of subdivision 9.3.1.6 of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
- 9.3.1.8 The Planning staff shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the Planning staff.
- 9.3.1.9 When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

9.3.1.10 The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

9.3.2 *Special Use Permits.* The Board of Adjustment may hear and decide special use permits in accordance with standards and procedures specified in Article 5 of this ordinance. Reasonable and appropriate conditions may be imposed upon these permits.

9.3.3 *Variances.*

9.3.3.1 When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

9.3.3.1.1 Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

9.3.3.1.2 The hardship results from conditions that are peculiar to the property, such as location size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

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

9.3.3.1.4 The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. No change in permitted uses may be authorized by variance.

9.3.3.2 Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection

9.3.3.3 The Zoning Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been

no substantial changes in conditions or circumstances bearing on the appeal or application.

9.3.3.4 A variance issued in accordance with this section shall expire if a Zoning Certificate or Certificate of Compliance for such use is not obtained by the applicant within six months from the date of the decision.

9.3.3.5 All applications for variances shall be addressed and submitted to the Planning staff. Upon receipt of an application for a variance and payment of the required fee, the Board shall call a public hearing and give notice as required by law. Applications for a variance shall be made on the proper form obtainable from the Planning staff. Some application requirements may be waived, such as for changes of use in existing buildings involving no expansions in building or parking areas, etc.

9.3.4 Quasi-Judicial Decisions and Judicial Review

9.3.4.1 The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

9.3.4.2 Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. Petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision 9.3.4.1 above. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

ARTICLE 10: ADMINISTRATIVE AND LEGAL PROVISIONS,
ENFORCEMENT, PENALTIES, AND AMENDMENTS

Section 10.1 Zoning Administrator

10.1.1 Appointment and Removal. The Planning staff shall act as the Zoning Administrator for the Town of Dillsboro, and shall be duly sworn in. The Planning staff shall serve at the pleasure of the Board of Aldermen and may be removed from office without cause at any time by an affirmative vote of a majority of the members of the Board.

10.1.2 Powers and Duties. The Planning staff is granted the authority to administer and enforce the provisions of this ordinance, exercising the full police power of the Town. The Planning staff 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.

10.1.3 Issuance of Certificates. The Planning staff shall have the sole authority to issue zoning certificates and certificates of compliance.

Section 10.2 Zoning Certificate

10.2.1 Requirements. No person shall commence or proceed with construction of any new building, land disturbance or with the reconstruction, alteration, repair, moving or demolition, or change in use, of any existing building prior to the issuance of a Zoning Certificate. Application for a Zoning Certificate shall be filed with the Planning staff and may be made prior to or in conjunction with application for a permit under the North Carolina State Building Code. Application shall include the following information:

10.2.1.1 A site sketch, drawn to a scale of at least one inch to forty feet (1" = 40'), of the parcel of property showing its actual dimensions and indicating the size, location and distance from property lines of the proposed building, any other existing building(s), and any other improvements proposed to be accomplished, including but not limited to driveways, sidewalks and parking areas.

10.2.1.2 A drawing of the proposed building drawn to scale and in sufficient clarity and detail to indicate the nature and character of the work to be done, and consisting at minimum of a floor plan and elevations of the building (except, however, that the Planning staff may approve minor construction work without compliance with this requirement).

10.2.1.3 A description of the use to which the completed project shall be devoted.

10.2.1.4 Any other information the Planning staff may deem reasonably necessary to evaluate compliance of the applicant's proposal with the provisions of this ordinance.

10.2.1.5 Evidence of compliance with the Jackson County Sedimentation and Erosion Control Ordinance.

10.2.2 Issuance. The Planning staff shall review each element of the application and if satisfied that the work described therein complies with the ordinance, issue a Zoning Certificate. Zoning Certificates may be issued prior to application for a permit under the North Carolina State Building Code. After a Zoning Certificate has been issued, no changes or deviations from the terms of the application, plans or permit shall be made until specific written approval has been obtained from the Planning staff. If the finds the application to be deficient or the information contained therein to be contrary to the provisions of this ordinance, the application for a Zoning Certificate shall be denied and a written statement setting forth the reasons for the rejection provided to the applicant.

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

Section 10.3 Certificate of Compliance

10.3.1 A Certificate of Compliance shall be secured from the Planning staff before the making of a permanent connection to electrical service, water service or sewer service.

10.3.2 If any repairs, improvements or alterations have been performed for which a Zoning Certificate has been issued, a Certificate of Compliance shall be secured from the Planning staff within 30 days from the completion thereof.

10.3.3 The Certificate of Compliance shall certify that the Planning staff has inspected the completed improvements and that the improvements, together with the proposed use thereof, are in conformity with the Zoning Certificate and the provisions of the ordinance.

10.3.4 No new building or part thereof, no addition or enlargement of any existing building, and no existing building that has been altered or moved shall be occupied until a Certificate of Compliance has been issued.

10.3.4 The Planning staff may issue a Temporary Certificate of Compliance permitting occupancy of specified portions of an uncompleted building or project for a limited time, not to exceed six months, if the Planning staff finds that the portion of the building or project may safely be occupied prior to the final completion of the entire building or project. The Planning staff may renew the Temporary Certificate of Compliance for additional periods, each period not to exceed six months.

Section 10.4 Enforcement

10.4.1 *Complaints Regarding Violations.* Any person may file a written complaint with the Planning staff whenever a violation of a provision of this ordinance occurs or is alleged to have occurred. The Planning staff shall properly record the complaint, promptly investigate it, and take action as provided in this ordinance.

10.4.2 *Notice of Violation.* When the Planning staff finds a violation of a provision of this ordinance, it shall be his duty to issue the owner or occupant a “Notice of Violation” stating the following:

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

10.4.2.2 The nature of the violation, and citation of the section of this ordinance violated;

10.4.2.3 The measures necessary to remedy the violation; and

10.4.2.4 The time within which the violation must be corrected.

The “Notice of Violation” shall be in writing and shall be delivered by certified or registered mail to the last known address of the owner or occupant, by personal service, or by posting conspicuously on the property. The owner or occupant shall remedy the violation within the time specified in the “Notice of Violation.” Appeals of the “Notice of Violation” may be taken to the Zoning Board of Adjustment in accordance with Section 9.3.1 and any further enforcement shall be stayed pending the hearing of appeal, in accordance with Section 9.3.1.

Section 10.5 Penalties and Remedies

Any or all of the following procedures may be used to enforce the provisions of this ordinance.

10.5.1 *Equitable Remedies.* This ordinance may be enforced by an appropriate remedy issuing from a court of competent jurisdiction, including by way of example and not by way of limitation, the equitable remedies of injunction, abatement, mandamus, or temporary restraining order, pursuant to N.C. General Statute 160A-175(d).

10.5.2 Civil Penalties. Any person who violates any provision of this ordinance shall be subject to the assessment of a civil penalty in accordance with the following procedures:

10.5.2.1 *Responsible Parties.* The owner or occupant of any land, building, sign, use of land, or part thereof, and any architect, builder, contractor, agent or other 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 herein.

10.5.2.2 *Issuance of Citations.* No civil penalty shall be assessed under this section until the person alleged to be in violation has been notified in accordance with 10.4.2, Notice of Violation. If after receiving a Notice of Violation the owner or other violator fails to correct the violation, a civil penalty shall be imposed in the form of a citation. Such citation shall be in writing; shall be delivered by certified or registered mail to the last known address of the owner or occupant, by personal service, or by posting conspicuously on the property; shall state the civil penalty to be imposed upon the violator; shall direct the violator to pay the penalty within 10 business days of the date of violation. The following language shall be placed on any citation issued and served pursuant to this ordinance: “Failure to pay the civil penalty stated hereinabove, in addition to other remedies against you, shall subject you to payment of additional attorney’s fees, not to exceed 15% of the outstanding balance, including the principal amount of the penalty and interest accruing thereon.”

10.5.2.3 *Payment of Civil Penalties.* Upon expiration of the time limit set forth by the Planning staff in the Notice of Violation, a civil penalty of \$30.00 shall be assessed for each violation of this ordinance. In the event a violation continues, each 48 hour period constitutes a separate violation and causes additional civil penalties to be assessed in the amount of \$30.00 per violation. A maximum of \$500.00 in civil penalties can accrue for each violation. Assessment of a civil penalty and payment of that penalty does not negate the responsible party from correcting the violation. Civil penalties paid within 10 business days shall be reduced by 50 percent, if the violation has been corrected.

10.5.2.4 *Civil penalties assessed for violations of this ordinance shall constitute a lien against the property upon which the violation is, or has been conducted.*

10.5.3 Criminal Penalties. Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined as determined by the court for each offense. Each day that the violation continues shall constitute a separate offense.

10.5.4 Denial of Permit or Certificate. Planning staff may withhold or deny any permit, certificate or other authorization on any land, building, structure, sign or use in which there is an uncorrected violation of a provision of this ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

10.5.5 Conditional Permit of Temporary Certificate. The Planning staff may condition the authorization of any permit or certificate upon correction of a deficiency, or payment of civil penalties within a specified time.

10.5.6 Stop Work Orders. Whenever a building, structure, property, sign, or part thereof is being constructed, altered or repaired in violation of this ordinance, the Planning staff may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with N.C.G.S. 160A-421.

10.5.7 Revocation of Permits or Certificates. The Planning staff may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application, plans or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

10.5.8 Remedies; Institution of Action by the Board of Aldermen of the Town of Dillsboro. If any building, structure, property or facility is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, property or facility is used in violation of this ordinance, the Board of Aldermen, in addition to all other remedies available either in law or in equity, including but not limited to those described in G.S. 106A-175 and described in this the Town of Dillsboro's Code of Ordinances, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; to prevent any illegal act, conduct, business or use in or about the premises.

Section 10.6 Ordinance Amendments

10.6.1 In no instance shall action be initiated for a zoning amendment affecting the same parcel of property, or any part thereof, more often than once every 12 months. Any communication purporting to be an application for a change shall be regarded as mere notice to seek relief until it is made in the form required. Upon receipt of any communication, the interested party shall be supplied with the proper application form.

10.6.2 Before amending this ordinance, the Board of Aldermen shall hold a public hearing. Notice of the public hearing shall be given in accordance with Article 19 in Chapter 160A of the North Carolina General Statutes as amended.

Section 10.7 Severability

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 10.8 Effective Date

This ordinance is effective upon adoption.

Adopted this _____ day of _____, 1994. Revised this the _____ day of _____, 2014

TOWN OF DILLSBORO, N.C.

Mayor

Attest:

Town Clerk

APPENDIX B: ZONING BOARD OF ADJUSTMENT BYLAWS

ARTICLE I General Rules

The Zoning Board of Adjustment shall be governed by the terms of Article 19 of Chapter 160A, Part 3 of the General Statutes of North Carolina and by the Zoning Ordinance of the Town of Dillsboro, North Carolina; in particular, Article 9. All members of the Board shall thoroughly familiarize themselves with the laws.

ARTICLE II Officers and Duties

2.1 Chair. The chair shall be elected by majority vote of the Board membership. The term of office shall be for one year or until re-elected or the successor is elected. The election shall take place as the first order of business at the first meeting. Subject to these rules, the chair shall decide upon all points of order and procedure, unless directed otherwise by majority of the Board in session at that time, in which case Robert's Rules of Order shall prevail. The chair shall appoint any committees found necessary to investigate any matter before the Board.

2.2 Vice-Chair. The vice-chair shall be elected by majority vote of the Board membership. The term of office shall be for one year or until re-elected or the successor is elected. The vice-chair shall serve as acting chair in the absence of the chair, and at such times shall have the same powers and duties as the chair.

2.3 Secretary. The Town Clerk shall serve as secretary to the Board. The secretary shall, keep all records, conduct all correspondence of the Board, arrange for all public notices required to be given, and generally supervise the clerical work of the Board. The secretary shall keep a permanent volume of the minutes of every meeting of the Board. The minutes shall include a record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. The secretary shall not be eligible to vote in any matter.

ARTICLE III Membership

3.1 The Board of Aldermen shall serve as the Zoning Board of Adjustment. In the event the Town establishes an extraterritorial jurisdiction, at least one member of the Zoning Board of Adjustment shall reside in said area.

- 3.2 The Board of Aldermen may appoint not more than 4 four alternate members to serve on the Zoning Board of Adjustment in the absence of any regular member. In the event the Town establishes an extraterritorial jurisdiction, at least one alternate shall reside in said area. Alternate members shall be appointed for 4-four year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all powers and duties of the absent regular member.
- 3.3 The Board of Aldermen shall by appointment fill any vacancy in the membership of the Zoning Board of Adjustment. The appointee shall serve the balance of the unexpired term of the member who the appointee is replacing.
- 3.4 Members of the Zoning Board of Adjustment shall serve without pay, but shall be reimbursed for any expenses incurred in pursuit of the Board's activities.

ARTICLE IV Rules of Conduct for Members

- 4.1 Members of the Board may be removed by the Board of Aldermen for cause, including violation of the rules stated below.
- 4.2 Faithful attendance at meetings of the Board and conscientious performance of the duties required of members shall be considered a prerequisite of continuing membership on the Board.
- 4.3 No member shall take part in the hearing, consideration or determination of any case in a manner that would violate affected persons' constitutional rights to an impartial decision maker, as specified in Section 9.2.7. above.
- 4.4 No Board member shall vote on any matters deciding an appeal or application unless the member has attended the public hearing on that appeal or application.
- 4.5 No Board member shall discuss any case with any party thereto prior to the public hearing on that case.
- 4.6 Members of the Board shall not express individual opinions on the proper judgment of any case with any party thereto prior to the determination of that case.

ARTICLE V Meetings

- 5.1 The Board of Adjustment shall establish a regular meeting schedule. Meetings of the Board shall be held in the Dillsboro Town Hall; provided, however, that meetings may be held at other convenient places in the town or county if directed by the chair in advance of the meeting.

5.2 Emergency meetings of the Board may be called at any time by the chair. At least 48 hours notice of the time and place of such meetings shall be given by the secretary or the chair, in writing or orally, to each member of the Board.

5.3 A quorum shall consist of three members of the Board, however, the Board shall not pass upon any question relating to an appeal from a decision, order, requirement or determination of the Planning staff or an application for a variance when there are fewer than four members present.

5.4 Proxy voting shall not be permitted.

5.5 All meetings shall be open to the public and the order of business at regular meetings shall be as follows:

1. Roll Call
2. Reading of Minutes of Previous Meetings
3. Hearing Cases
4. Reports of Committees
5. Unfinished Business
6. New Business

ARTICLE VI

Appeals and Applications

6.1 Types of Appeals: The Board shall hear and decide all appeals of decisions of the Planning staff and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to Section 9.3.1 above of the zoning ordinance.

6.2 Procedure for Filing Appeals: A notice of intent to file an appeal shall be filed as specified in Section 9.3.1 above of the zoning ordinance.

6.3 Hearings:

6.3.1 Time. After receipt from the Planning staff of a completed appeal or variance application, the chair shall schedule the time for the hearing, which shall be at the next regularly scheduled meeting or at least within 36 days.

6.3.2 Notice. The Board shall give notice of the hearing as specified in Section 9.2.3 above of the zoning ordinance *by publishing the notice of hearing in a newspaper of general circulation at least once and at least 5 days prior to the date of hearing and by mailing notices of the hearing to parties to the action at least 5 days prior to the hearing. All such notices shall state the location of the building or lot, the general nature of the question involved and the time and place of the hearing.*

6.3.3 Conduct of Hearing. Parties or their attorney shall appear in person at the hearing. The order of business for each hearing shall be as follows:

6.3.3.1 The chair or the person so directed to do so by the chairman shall give a preliminary statement of the case.

6.3.3.2 Witnesses will be sworn in.

6.3.3.3 The applicant shall present the arguments in support of the case or application. Witnesses in favor of the applicant's request may be called and factual evidence submitted.

6.3.3.4 Applicants and proponents may be questioned by the Board.

6.3.3.5 Persons opposed to granting the application shall present their argument. Witnesses may be called and factual evidence submitted in opposition.

6.3.3.6 Opponents may be questioned by the Board.

6.3.3.7 Both sides will be permitted to present rebuttals to opposing testimony.

6.3.3.8 The Board may at its discretion view the premises and obtain additional facts of the matter before arriving at a determination of the case.

6.3.3.9 Discussion of the case among Board members, leading to "findings of fact" and conclusions, with reference to the ordinance.

6.3.3.10 Motion.

6.4 Decisions:

6.4.1 Vote. 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. Refer to Section 9.2.6 above of the zoning ordinance for additional information regarding voting.

6.4.2 Time. Decisions by the Board shall be made not more than 30 days from the time of the hearing.

6.4.3 Form. Written notice of the decision shall be as provided in Section 9.3.4.1 above of the zoning ordinance. 9.3.4.1

6.4.4 Rehearing. An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence or conditions in the case. A rehearing shall be granted by the Board if in its judgment there has been such a change and it shall thereupon treat the request in the same manner as any other application.

6.4.5 Public Record of Decisions. The decisions of the Board, as filed in its minutes, shall be a public record, available for inspection at all reasonable times. Said records shall be kept by the secretary, who shall make them available to the public.

ARTICLE VII Amendments

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of the majority of the membership of the Board, provided that such amendment is presented in writing at a meeting of the Board, preceding the meeting at which the vote is taken.

Read, approved and adopted by the Zoning Board of Adjustment of Dillsboro, North Carolina, on _____, the following Board members voting AYE:

Voting NAY:

These bylaws shall become effective _____.

ATTEST:

Chair

Secretary