

ZONING ORDINANCE

of the Town of

SHARPSBURG, NORTH CAROLINA

CHAPTER 153 OF TOWN CODE

ORIGINALLY ADOPTED FEBRUARY 5, 2008
AS AMENDED THROUGH
JUNE 1, 2021

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ARTICLE I: GENERAL PROVISIONS

100. TITLE

This chapter shall be known and may be cited as the *Zoning Ordinance of the Town of Sharpsburg, North Carolina*.

102. JURISDICTION

The area to which this ordinance applies is within the corporate limits and extraterritorial area of the Town of Sharpsburg, North Carolina as shown on the Official Zoning Map.

104. PURPOSE

The purpose of these regulations shall be to accomplish the coordinated, balanced and harmonious development of the land within the corporate limits and extraterritorial area of the Town of Sharpsburg, in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, panic and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; and to protect property against blight and depreciation.

106. INTERPRETATION AND APPLICATION

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations and shall apply uniformly to each class or kind of structure or land. Except as hereinafter provided, these regulations shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner whatsoever any easements, covenants, or other agreements between parties. Wherever the provisions of these regulations impose greater restrictions upon the use of land or buildings, or require a larger percentage of the lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits, or any easements, covenants, or other agreements between parties, the provisions of these regulations shall govern.

108. VESTED DEVELOPMENT RIGHTS

108.1 In general

Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses in the following cases:

- A. When a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160D-403 (c); and the building permit has not been revoked pursuant to G.S. 160D-403 (f); or
- B. When a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or

- C. When a vested right has been established and remains valid and unexpired pursuant to this section.
- D. A building permit is valid for six months as under prior law. (N.C.G.S 160D-108(d) (1).
- E. Development approvals are valid for 12 months, unless adjusted by statute or local rule. (N.C.G.S.160D-108(d)(2).
- F. Site-specific vesting plans shall be vested for a period of two years. (N.C.G.S.160D-108(d)(23).
- G. Multi-phase developments (long term projects of at least 25 acres) are vested for a period of five years. (N.C.G.S.160D-108(d)(4-8).

108.2 Additional procedures for establishing a vested right

A vested right to commence a planned development or use of property according to a site-specific development plan shall be established upon approval of a special use permit by the Board of Adjustment, or conditional zoning by the Town Board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

108.3 Term of a vested right

A right, which has been vested by the Town of Sharpsburg, shall remain vested for a period of three years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the appropriate board when it approves the modification or amendment. A vested right obtained under this sub-section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

- A. When a vested development plan has been at least fifty percent completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and
- B. Prior to the vested right terminating at the end of the three-year period, the owner of the property may petition the appropriate board for a one-time two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the board may consider, among other things:
 - 1. the percentage of the project completed;
 - 2. a demonstration by the petitioner of good faith efforts made towards project completion;
 - 3. the reasons for the delay of project build-out; and
 - 4. the compatibility of the planned development with current town plans and the surrounding landscape. The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the permit to meet the current code.

108.4 Declaration of a vested right upon voluntary annexation

A petition for annexation filed with the town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S.160D-108.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

110. LEGAL STATUS PROVISIONS

- A. This Ordinance is adopted under the authority of Chapter 160D of the North Carolina General Statutes (N.C.G.S.).
- B. In its interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public, safety, and general welfare. Wherever the requirements of this ordinance are at variance with other requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the highest standards, shall govern.
- C. This ordinance and the various parts, sections, subsection and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid as applied to a particular property, buildings or structures shall not be affected hereby. Whenever any condition or limitation is included in an order authorizing a special use permit, variance, building permit, zoning compliance permit, certificate of occupancy or site plan approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this ordinance or the requirement of some provision hereof, and to protect the public health, safety and welfare, and that the office or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.
- D. As provided in G.S. 1-4.1, a cause of action as to the validity of this ordinance or amendment thereto shall accrue upon adoption of the ordinance or amendment thereto and shall be brought within two (2) months. As used herein, the term shall be calculated as 60 days.

This Ordinance adopted February 8, 2008, as amended through June 1, 2021, by the Board of Commissioners of the Town of Sharpsburg shall take effect and be in force from and after February 8, 2008.

ARTICLE II: DEFINITIONS

200. PURPOSE

For the purpose of interpreting this ordinance, certain words and terms are herein defined. Unless the context clearly indicates otherwise, the terms defined in this ordinance shall have the meaning indicated herein.

202. INTERPRETATION OF COMMONLY USED TERMS AND WORDS

Words used in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural include the singular, unless the natural construction of the wording indicates otherwise.

The word “person” includes a firm, association, corporation, trust, and company, as well as an individual.

The word “used for” shall include the meaning “designed for”.

The word “structure” shall include the word “building”

The word “lot” shall include the word “plot”, “parcel”, or “tract”.

The word “shall” is always mandatory and not merely directory.

The word “zoning map” shall mean the official zoning map, Sharpsburg, North Carolina.

The word “town board” or “board of commissioners” shall refer to the Town Board of Commissioners of the Town of Sharpsburg.

204. DEFINITIONS OF COMMONLY USED TERMS AND WORDS

Unless otherwise specified, words used in this ordinance shall have their commonly indicated dictionary meaning.

Certain words and terms in this ordinance shall have the following meanings:

ABC Store. An establishment run by the Alcoholic Beverage Control Board selling alcoholic beverages.

Accessory building, structure, or use. A building, structure, or use on the same lot with, of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure. Accessory buildings and structures to single, two, three and four family residential structures shall consist only of the following: Playhouses, tree houses, storage sheds for garden tools, bicycles and similar items; swimming pools and tennis courts for the residents of the dwelling and their guests only; garages for the vehicles used by residents of the dwelling and their guests only; greenhouses used for growing plants as a hobby, fences, walls, hedges, ornamental yard objects and small outdoor garden plots.

Administrative Decision. Decisions made in the implementation, administration or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in these local government development regulations. These are sometimes referred to as “ministerial” decisions or administrative decisions.

Administrative Hearing. A proceeding to gather facts needed to make an administrative decision.

Adult Establishment. Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in G.S. 14-202.10 et.seq, but excluding massage therapy.

Alley. A strip of land, owned publicly or privately, set aside primarily for vehicular service. It provides a secondary means of access to abutting property and not intended for general traffic circulation.

Bakery. A commercial establishment under 5000 square feet that prepares, bakes and/or sells food directly to the public. Does not include establishments that primarily sell baked goods to retailers or otherwise operate as a distributor of goods. May include restaurant service and/or distribution that is ancillary to the primary use.

Bar. (See also *Nightclub*) An establishment primarily engaged in the sale of alcoholic beverages in a ready-to-consume state. Bars and nightclubs may include live bands, other music, and dancing as well as games of skill such as pool or darts for use by the patrons of the establishment.

Bed and Breakfast. A dwelling wherein rooms are rented as a home occupation to provide overnight accommodations for transient guests.

Bona Fide Farm. A farm used for purposes including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS 106.581.1. Activities incidental to the farm include existing or new residences occupied by the owner, lessee, or operator of the farm and other buildings or structures supporting the farm use and operation (see NCGS 160D-903).

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building, accessory. For purpose of single-family dwellings a subordinate building in the rear of the principal buildings consisting of walls, a roof, the use of which is customarily incidental to that of a principal building on the same lot. For purposes other than single family dwellings a detached subordinate structure, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal structure or use.

Building, height of. The vertical distance measured from the grade to the height point of the coping of a flat roof; to the deck line of a mansard roof; or to the highest level between the eaves and ridge of a gable, hip, or gambrel roof.

Building lines. Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side and rear lot lines, and referred to as front, side and rear building lines, respectively.

Building, principal. A building in which is conducted the principal use of the lot on which it is located.

Campground. An area used for a range of overnight accommodation, from tenting to serviced trailer sites, including accessory facilities which support the use, such as administration offices, laundry facilities, washrooms, support recreational facilities, but not including the use of mobile homes, trailers or other forms of moveable shelter on a permanent year-round basis.

Conditional District Zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious purposes and related social events and which is maintained and controlled by a recognized and legally established religious body organized to sustain nonprofit religious ceremonies and purposes.

Commercial & industrial equipment repair. An establishment primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment. Establishments in this industry

either sharpen/install commercial and industrial machinery blades and saws or provide welding (e.g., automotive, general) repair services; or repair agricultural and other heavy and industrial machinery and equipment (e.g., forklifts and other materials handling equipment, machine tools, commercial refrigeration equipment, construction equipment, and mining machinery).

Day nursery, day care center, preschool. An agency, organization or individual providing daytime care to five (5) or more children not related by blood or marriage to, or not the legal wards or foster children of the attendant adult.

Determination. A written, final and binding order, requirement or determination regarding an administrative decision.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Unless the context clearly indicates otherwise, the term means:

- (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
- (b) Excavation, grading, filling, clearing or alteration of land'
- (c) The subdivision of land as defined in N.C.G.S. 160D-802; or;
- (d) The initiation or substantial change in the use of land or the intensity of use of land.

Development agreement. An agreement between the Town of Sharpsburg and a developer pursuant to NCGS §160D-1001 for a large-scale development with a lengthy buildout period and having a public-private partnership component involving mutual financial interests.

Development approval. An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. This term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, flood plain or flood damage prevention regulation, floodplain or flood damage prevention regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement or any other regulation adopted pursuant to NCGS 160D, local act, charter that regulates land use or development.

Down-Zoning. A zoning ordinance that affects an area of land by either a) decreasing the development density of the land to be less dense than was allowed under its previous usage or b) reducing the permitted uses of land that are specified in a zoning ordinance to fewer uses than were allowed under its previous zoning classification.

Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling, single family, detached. A detached building designed for or occupied exclusively by one family, only one dwelling unit.

Dwelling, detached. A one family dwelling that is completely surrounded by permanent open space.

Dwelling, two families. A building or portion thereof used or designed as a residence for two (2) families living independently of each other and doing their own cooking therein including apartment houses.

Dwelling, multi-family. A building or portion thereof used of designed as a residence for three (3) or more families living independently of each other and doing their own cooking therein, including apartment houses. Single-family attached dwellings shall be considered multi-family dwelling units for the purpose of this ordinance.

Dwelling unit. An enclosure of one or more rooms and separate bathroom and kitchen facilities designed and constructed as a unit for permanent residential occupancy by one family.

Dwelling, zero-lot line. An arrangement of housing on adjoining lots in which one or more sidewalls rests directly on a lot line and the required side yard is reduced on one side and increased on the other so that the sum of the increased side yards is no less than the sum of the required side yards.

Dwelling, cluster. A form of planned residential development that concentrates buildings on a part of the site (the cluster area) to allow the remaining land (the open space) to be used for recreation, common open space, or preservation of environmentally sensitive areas. The open space may be owned by either a private or public entity.

Entertainment, Indoor. An establishment offering entertainment or recreation¹ to the general public for a fee or charge where the activity takes place indoors. Typical uses include bowling alleys, indoor tennis facilities, indoor swimming pools and racquet clubs.

Entertainment, Outdoor. An establishment offering entertainment or recreation² to the general public for a fee or charge wherein any portion of the activity takes place in the open, excluding golf courses and public parks. Typical uses include archery ranges, athletic fields, batting cages, golf driving ranges and miniature golf courses, swimming pools and tennis courts.

Evidentiary hearing. A hearing to gather competent, material and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

Familial relationship. A close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Family. Any number of individuals living together as a single housekeeping unit or an individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit.

Family care home. A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons.

Family childcare home. A facility, generally a private residence, licensed by the N.C. Division of Child Development for the daytime care of five (5) or fewer pre-school children or up to eight (8) total children if at least three are school-aged.

General Retail Uses under 5000 square feet. An establishment under 5000 square feet providing general retail sales or rental of goods, but excluding those uses specifically classified in another use type. Typical uses include; business machine sales; the sale of electronic equipment like computers, TVs, audio visual equipment and cameras; antique stores; sporting good stores; shoe stores; interior design businesses with retail sales; jewelry stores; rental and accessory repair stores, clothing stores, department stores, discount stores, floor covering stores, garden supply stores, hardware and home

¹ Ord. No. 2018-08-7

² Ord. No. 2018-08-7

repair/improvement stores, office supply stores, optical retail sales, paint stores, toy stores and variety stores. Repair services for bicycles, jewelry, clocks, lamps, small appliances and similar items are also permitted when they are offered as a service by a business primarily engaged in the retail sale of that good.

General Retail Uses over 5000 square feet. Same as above, except occupying more than 5000 square feet.

Golf course, excluding miniature. A facility providing a private or public golf recreation area designed for executive or regulation play along with a golf support facility. Golf course does not include a miniature golf facility.

Home occupation. An incidental use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services.

Legislative decision. The adoption, amendment or repeal of a regulation under Chapter 160D or an applicable local act. It also includes the decision to approve, amend or rescind a development agreement consistent with the provisions of Article 10 of N.C.G.S. 160D.

Legislative hearing. A hearing to solicit public comments on a proposed legislative decision.

Lot. A parcel of land or any combination of several lots, occupied or intended to be occupied by a principal building, building group, or a group housing development as permitted herein, together with their accessory buildings or uses, and such access, yards, and other open spaces.

Lot of record. A lot which is a part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Edgecombe, Nash and Wilson Counties, or a lot described by metes and bounds, the description of which has been so recorded.

Lot depth. The depth of a lot is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot width. The width of a lot is the greatest mean width measured at right angles to its depth over as much of the lot depth as is needed to achieve the minimum required lot area.

Lot, reversed corner. A corner lot which does not front on the same street with the interior lots on the same side, as distinguished from the end, of the block.

Manufactured (mobile) home. A dwelling unit that is not constructed in accordance with the North Carolina State Building Code and is composed on 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 eight feet in width.

Manufactured home, Class A (double-wide). A manufactured home that has been certified by the appropriate authority as meeting or exceeding the construction standards promulgated by the US Department of Housing and Urban Development (HUD) that were in effect at the time of its construction and that satisfies the development standards in section 406.24 of this ordinance.

Manufactured home, Class B (single-wide). A dwelling unit that has been certified by appropriate authority as meeting or exceeding the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of its construction and that satisfies the development standards in Section 406.25 of this ordinance.

Manufactured home, Class C. Any manufactured home that does not meet the definition criteria of Class A, or Class B manufactured home.

Modular home. A single-family dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. It may consist of two or more sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a truck and erected, or joined together on the building site.

Manufactured home parks. Any area, lot, parcel, or tract held in common ownership, and on which individual portions of said area, lot, parcel, or tract are leased for the placement of 2 or more manufactured homes as primary residences. A manufactured home land lease community does not include manufactured home subdivisions or property zoned for manufactured home subdivisions.

Manufactured home subdivision. A parcel of land which has been planned and improved for the placement of manufactured homes for residential use on single lots with private ownership of the lots.

Massage therapy business. A use of land that offers “massage and bodywork therapy”, as a principal or accessory use, which is legally defined as, “systems of activity applied to the soft tissues of the human body for therapeutic, educational or relaxation purposes” and who employ therapists licensed by the North Carolina Board of Massage and Body Work Therapy.

Nightclub. (See also *Bar*) An establishment primarily engaged in the sale of alcoholic beverages in a ready-to-consume state. Bars and nightclubs may include live bands, other music, and dancing as well as games of skill such as pool or darts for use by the patrons of the establishment.

Nursing home. A licensed facility that provides room and board and a planned, continuous medical treatment program, including 24-hour-per-day skilled nursing care, personal care, and custodial care.

Open Use of Land. Any use where the predominant land use activity takes place outside of a building. The lot may contain a building, but it will generally be incidental to the primary activity taking place on the lot. Examples include auto sales, agricultural or mining operations, truck weigh stations, and junk or salvage yards.

Park, active. A park that provides opportunities for active recreational activities to the general public like ballfields, jogging trails, exercise areas, and playgrounds.

Park, passive. A public or private outdoor recreational use relying on a natural or man-made resource base that is developed with a low intensity of impact on the land. Typical uses include trail systems, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relates to the natural qualities of the area, and support facilities

Parking lots (stand alone). A commercial use of land principally for the storage of automobiles.

Personal services (Other). An establishment that provides a personal service to the general public not specifically allowed under another use, but with a similar impact. Examples include chiropractic services, tax preparation, tattoo and body piercing.

Planned Unit Development. A planned unit development is a project which is at least two (2) gross acres in size to be located under unified control, planned as a whole, and developed in a single development operation or in a definitely programmed series of units or stages of development according to comprehensive and detailed plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development.

Playground. An improved outdoor area designed, equipped, and set aside for children's play that is not intended for use as an athletic playing field or athletic court, and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

Principal structure or building. A structure or building containing the principal use of the lot.

Principal use. The primary purpose or function that a lot serves or is intended to serve.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Repair and maintenance shops (other). A commercial business specifically for the repair and maintenance of goods not specifically mentioned under another use but with a similar impact.

Roof Pitch. The steepness, or slope, of a roof expressed as a ratio of rise to run. For example, a 4:12 roof pitch means a roof that rises 4 inches for every 12 inches of run. May also be expressed as "4 in 12." See Figure 204.1 for examples of typical roof pitches.

Schools. Public and private schools having curricula approximately the same as ordinarily given in public schools, including gymnasiums and assembly halls.

Setback. The distance between a street line and the front building line of a principal building or structure, projected to the sidelines of the lot, and including driveways and parking area, except where otherwise restricted by this ordinance.

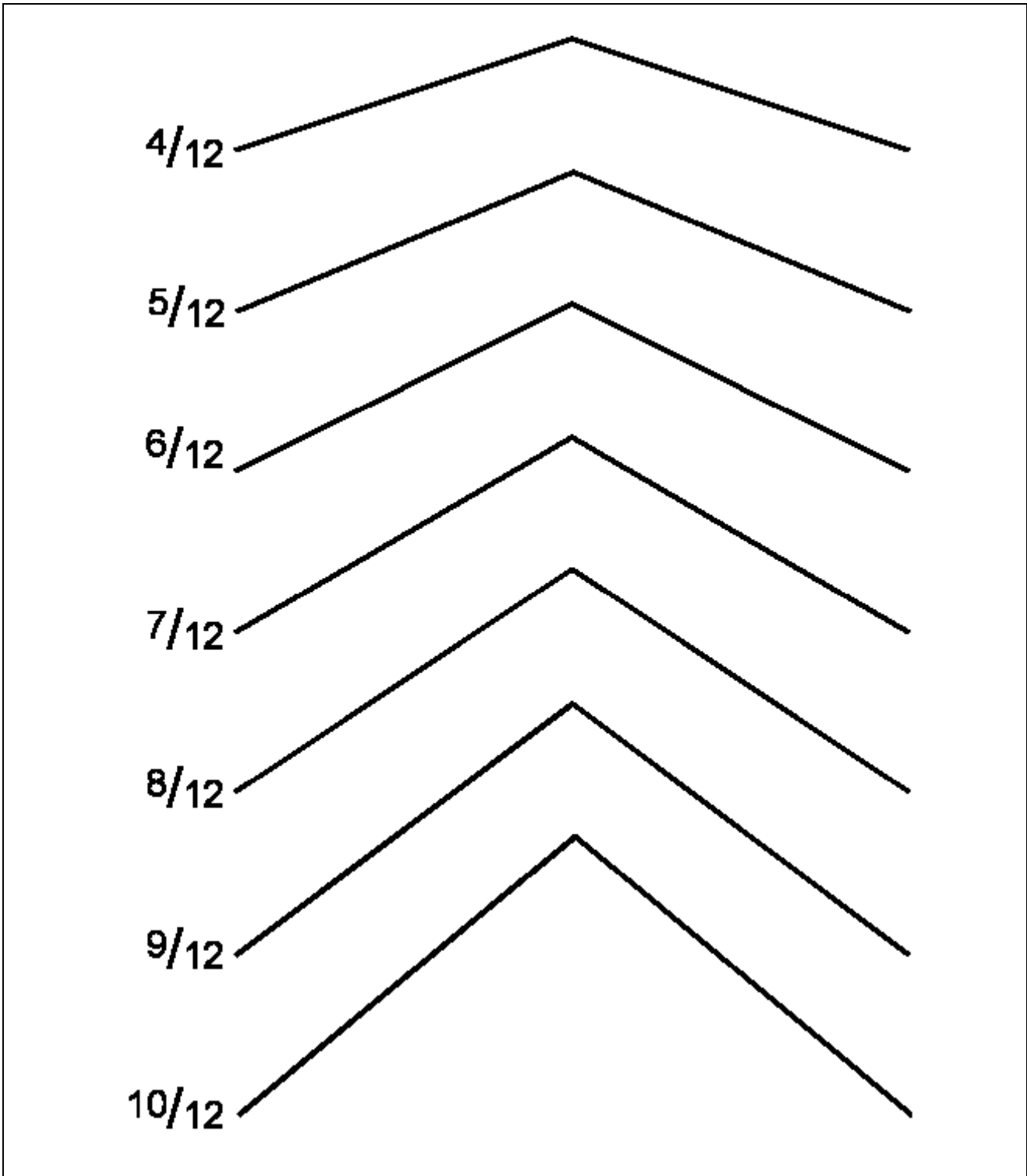


Figure 204.1 Typical Roof Pitches

Shopping center. A commercial establishment planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access.

Sign. Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names or trademarks by which anything is made known such as the designation of an individual, firm, association, profession, business commodity or product which are visible from any public way and used to attract attention.

Sign, area of. That sign area shall be computed by the smallest square triangle, rectangle, circle, or combination thereof which will encompass the entire sign including lattice work, wall work, frame or supports incidental to its decoration. In computing the area, only one (1) side of a double face sign structure shall be considered.

Sign, onsite identification. Any sign which advertises an establishment service, commodity or activity conducted upon the premises where such sign is located.

Sign, outdoor advertising. Any sign which advertises an establishment, service, commodity, goods or entertainments sold or offered on premises other than that on which such sign is located.

Sign, snipe. An off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

Sleeping Unit. A room or space in which people sleep, which can include permanent provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a *dwelling unit* are not sleeping units.

Special Use Permit. A permit issued to authorize development or land uses in a zoning district upon presentation of competent, material and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as conditional use permits or special exceptions.

Solar generation facility, utility scale. An installation, sometimes called a solar farm, principally designed and used to capture and convert solar energy into electric or thermal energy primarily for use off-site, such as transmission to the power grid. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.³

Storage yard, outdoor. An accessory or principal use consisting of the storage of goods or other items out of doors at all times.

Story. That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third (1/3) of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third (1/3) of the area of the roof.

Street. A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard or however otherwise designated, when dedicated and accepted with rights-of-way, having a controlled right or easement of access.

Sweepstakes Center or Internet Café. An "internet café," "cybercafé," or "sweepstakes center" or by what other terminology such establishment might be known, is for a principal use operating as a for profit business enterprise, whether as a principal or an accessory use, where three (3) or more computers or

³ Ord. No. 2016-03-01

electronic machines, equipped with no more than two (2) play stations each, can be utilized to conduct games of chance, including sweepstakes, including but not limited to computers and gaming or skilled gaming terminals or stations and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to those establishments where one can use a computer or electronic machine with or without internet access, usually for a fee on per hour or per minute basis; or unmetered access with a pass for a day, month, etc. The establishment may serve as a regular café, as well, with food and drinks being served. For purposes of this definition, a game of chance is one in which the element of chance is the dominating element that determines the result of the game. This does not include any lottery approved by the State of North Carolina. See also Sweepstakes Accessory Use.⁴

Sweepstakes Accessory Use. A “sweepstakes” accessory use is where two (2) or fewer computers or electronic machines that are equipped with no more than two (2) play stations each are utilized as an incidental activity to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are earned, redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds in a principal place of business (i.e., convenience store, restaurant or sports bar) other than a Sweepstakes Center or Internet Café. For purposes of this definition, a game of chance is one in which the element of chance is the dominating element that determines the result of the game. This does not include any lottery approved by the State of North Carolina. See also Sweepstakes Center or Internet Café.⁵

Temporary Event: A use established for a fixed time period for short term events. Uses may include but are not limited to: religious tent revivals, seasonal farm/produce stands, holiday tree lots, carnivals and civic festivals.

Temporary Use: A use established for a fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations. Examples include but are not limited to temporary manufactured homes, construction office trailers, etc.

Yard. A space, from the ground to the sky, on a lot, which shall be open, unoccupied and unobstructed by buildings, structures or other uses except where encroachments and accessory buildings or uses are expressly permitted by this ordinance. All yards shall adjoin one or more lots lines and have dimensions as specified in each district. Those yards designated as front and rear yards shall adjoin the front and the rear lot lines respectively and shall extend from side lot line to side lot line. Those yards designated as side yards shall extend from front yard to rear yard.

Yard, front. A yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use, projected to the side lot lines.

Yard, rear. A yard extending the full width of the lot and situated between the rear line of the lot and the rear line of the principal structure or use projected to the sidelines of the lot.

Yard, side. A yard extending along either side of a lot measured from front yard line to rear yard line and lying between the side lot line and the principal structure or use on the lot.

Zoning Administrator. Person charged by Sharpsburg Town Board of Commissioners with enforcing the provisions of this ordinance.

⁴ Ord. No. 2018-08-7

⁵ Ord. No. 2018-08-7

ARTICLE III: DISTRICT REGULATIONS

300. ESTABLISHMENT OF DISTRICTS

300.1 General Use districts established

The following general use districts are hereby established for the Town of Sharpsburg and its extra-territorial jurisdiction, and land within said areas shall be designated on the Official Zoning Map by the following symbols:

General Use District	Symbol
<u>Residential Districts</u>	
Residential-agricultural	RA-30
Low-density residential	R-12
Medium-low density residential	R-10
Medium-density residential	R-8
Higher-density residential	R-6
Residential-manufactured housing residential	R-6M
Manufactured Home Park	MHP
<u>Commercial & Industrial Districts</u>	
General Business	B-1
Light Industrial	LI

300.2 Conditional Zoning districts established

The following conditional zoning districts are hereby established for the Town of Sharpsburg and its extra-territorial jurisdiction. A conditional zoning district corresponds to each of the general use districts authorized in this ordinance and land within said areas shall be designated on the Official Zoning Map by the following symbols:

Conditional District Symbol	Corresponding General Use District Symbol
<u>Residential Districts</u>	
RA-30-CZ	RA-30
R-12-CZ	R-12
R-10-CZ	R-10
R-8-CZ	R-8
R-6-CZ	R-6
R-6M-CZ	R-6M
MHP-CZ	MHP
<u>Commercial & Industrial Districts</u>	
B-1-CZ	B-1
I-CZ	I

302. GENERAL ZONING DISTRICTS - PURPOSE AND DISTRICT STANDARDS.

302.1 RA-30: Residential-agricultural district

- A. The purpose of this district is to allow agricultural activities and residential development at low rural densities in areas where public service is not available.
- B. Dimensional Requirements:

RA-30 District	Minimum Lot Area		Minimum Setbacks See (2)			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling	30,000	125	40	30	15	35%	35
Other building or use	30,000	125	40	30	15	35%	35
Planned Unit Development (PUD)	See (1)						

Note: (1) Dimensional requirements in PUDs shall be in accordance with section 406.31 of this ordinance. (2) Add 10 ft. to street side of corner lots (see section 308.5).

302.2 R-12: Low-density residential district

- A. The purpose of this district is to provide for single family on site constructed residential development at low densities. The R-12 District requires a minimum lot size of 12,000 square feet.
- B. Dimensional Requirements:

R-12 District	Minimum Lot Area		Minimum Setbacks See (2)			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling	12,000	100	40	20	12	35%	35
Other building or use	12,000	100	40	20	12	35%	35
Planned Unit Development (PUD)	See (1)						

Note: (1) Dimensional requirements in PUDs shall be in accordance with section 406.31 of this ordinance. (2) Add 10 ft. to street side of corner lots (see section 308.5).

302.3 R-10: Medium-low density residential district.

- A. The purpose of this district is to provide for single family on-site constructed residential development at a medium low density.
- B. Dimensional Requirements:

R-10 District	Minimum Lot Area		Minimum Setbacks See (2)			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling	10,000	80	40	20	12	35%	35
Other building or use	10,000	80	40	20	12	35%	35
Planned Unit Development (PUD)	See (1)						

Note: (1) Dimensional requirements in PUDs shall be in accordance with section 406.31 of this ordinance. (2) Add 10 ft. to street side of corner lots (see section 308.5).

302.4 R-8: Medium-density residential district.

- A. The purpose of this district is to provide areas for medium density single and two-family residential development.
- B. Dimensional Requirements:

R-8 District	Minimum Lot Area		Minimum Setbacks See (2)			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
Single-family dwelling	8,000	75	30	20	8	35%	35
Two-family dwelling	See (1)	100	30	20	8	35%	35
Multi-family (less than five units)	See (1)	100	30	20	8	35%	35
Planned Unit Development (PUD)	See (2)						

Notes: (1) Two and multi-family dwellings with less than five (5) units in a complex permitted as of right in the R-8 district shall have a lot area of eight thousand (8,000) square feet for the first dwelling unit plus an additional three thousand (3,000) square feet for each dwelling unit in excess of one (1).

(2) Dimensional requirements in PUDs shall be in accordance with section 406.31 of this ordinance. (3) Add 10 ft. to street side of corner lots (see section 308.5).

302.5 R-6: Higher-density residential district.

- A. The purpose of this district is to provide for higher density residential development in areas of the town where this density is appropriate.
- B. Dimensional Requirements:

R-6 District	Minimum Lot Area		Minimum Setbacks See (3)			Max Lot coverage in %	Height (ft)
	Use	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)		
Single-family dwelling	6,000	50	30	20	8	35%	35
Class A Manufactured Home	6,000	50	30	20	8	35%	35
Two-family dwelling	See (1)	100	30	20	8	35%	35
Multi-family dwelling	See (1)	100	30	20	10	35%	35
PUD	See (2)						

Notes: (1) Two and multi-family dwellings with less than five (5) units in a complex permitted as of right in the R-6 district shall have a lot area of six thousand (6,000) square feet for the first dwelling unit plus an additional three thousand (3,000) square feet for each dwelling unit in excess of one (1).

(2) Dimensional requirements in PUDs shall be in accordance with Section 406.31 of this ordinance. (3) Add 10 ft. to street side of corner lots (see section 308.5).

302.6 R-6M: Residential-manufactured housing district.

- A. The purpose of this district is to provide for higher density residential development, including Class A and Class B manufactured housing on individual lots, in areas where such development is appropriate.
- B. Dimensional Requirements:

R-6M District	Minimum Lot Area		Minimum Setbacks See (3)			Max Lot coverage in %	Height (ft)
	Use	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)		
Single-family dwelling	6,000	50	30	20	8	35%	35
Class A and Class B Manufactured Home	6,000	50	30	20	8	35%	35
Two-family dwelling	See (1)	100	30	25	10	35%	35

R-6M District	Minimum Lot Area		Minimum Setbacks See (3)			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
Use							
Multi-family dwelling	See (1)	100	30	25	10	35%	35
Planned Unit Development (PUD)	See (2)						

Notes: (1) Two and multi-family dwellings with less than five (5) units in a complex permitted as of right in the RA-6 district shall have a lot area of six thousand (6,000) square feet for the first dwelling unit plus an additional three thousand (3,000) square feet for each dwelling unit in excess of one (1).

(2) Dimensional requirements in PUDs shall be in accordance with Section 406.31 of this ordinance. (3) Add 10 ft. to street side of corner lots (see section 308.5).

302.7 MHP: Manufactured home park district

- A. The purpose of this district is to provide for manufactured home parks in appropriate locations.
- B. Dimensional requirements for the MHP district shall be in accordance with section 406.27.

302.8 B-1: General commercial district

- A. The purpose of this district is to provide for the primary commercial areas in the Town of Sharpsburg.
- B. Dimensional Requirements:

B-1 District	Minimum Lot Area		Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
All uses	None	None	None	15	See (1)	N/A	50

Notes: (1) No side yard is required, however when a side yard is provided it must be a minimum of five (5) feet wide.

302.9 I: Industrial district.

- A. The purpose of this district is to provide for industrial uses which will be compatible with adjacent areas of the town in appropriate locations.
- B. Dimensional Requirements:

I District	Minimum Lot Area		Minimum Setbacks			Max Lot coverage in %	Height (ft)
	Area (sq ft)	Width (ft)	Front (ft)	Rear (ft)	Side (ft)		
All uses	8,000	80	30	10	10	N/A	See (1)

Notes: (1) No building shall exceed thirty-five (35) feet in height unless the front, side, and rear yards required herein are increased by one (1) foot for each two (2) feet or fraction thereof in excess of thirty-five (35) feet.

304. Conditional Zoning Districts - purpose and district standards

- A. Purpose: The rezoning of land to a conditional zoning district is intended to provide a landowner and the Town an alternative to rezoning the land to a standard general zoning district, where the general zoning district allows certain uses and development that may be appropriate but also allows uses and development that may not conform to Town plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the Town Board to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel general zoning district. This enables the Town to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the general zoning district.
- B. Owner-initiated process: The Conditional Zoning District classification will be considered only in response to a petition by the owners of all of the property to be included. As a voluntary procedure, the conditional zoning district amendment process is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative or speculative proposals that will not be undertaken for some time.
- C. If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, it is the intent of this ordinance that the authorization of such Conditional Zoning District shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification.
- D. District Standards: Development in a conditional zoning district shall be subject to all the use and development standards and requirements that apply to development in the parallel general zoning district, plus the conditions imposed as part of the Conditional Rezoning approval, which may not be less restrictive than the regulations for the parallel general zoning district. All other requirements of the corresponding district and other requirements of this ordinance shall be met.

306. DISTRICT BOUNDARIES

The boundaries of the districts are shown upon the map accompanying this ordinance and made part hereof, entitled "Zoning Map, Town of Sharpsburg, North Carolina". The zoning map and all the notation, references and all amendments thereto, and other information shown thereon is hereby made part of this ordinance the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is on file in the Office of the Town Clerk and is available for inspection by the public.

In the creation by this ordinance, of the respective districts, the Board of Commissioners of the Town of Sharpsburg have given careful consideration to the peculiar suitability of each and every district for the particular regulations applied thereto, and the necessary, proper and comprehensive groupings and arrangements of various uses and densities of population in accordance with a well considered comprehensive plan for physical development of the community.

The boundaries of such districts as are shown upon the map adopted by this ordinance are hereby adopted and provisions of this ordinance governing the use of land and buildings, the height of buildings, building site areas, the size of yards about buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all and included within the boundaries of each and every district shown upon said map.

308. GENERAL REGULATIONS

308.1 Application of regulations

The regulations set forth in this ordinance shall affect all land, every structure, and every use of land and/or structure and shall apply as follows:

- A. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, or structurally altered except in compliance with the regulations of this ordinance for the district in which it is located.
- B. No structure shall be erected or altered so as to exceed the height limit or density regulations of this ordinance for the district in which it is located.
- C. Yards or lots created or altered after the effective date of this ordinance shall meet at least the minimum dimensional requirements established by this ordinance.
- D. No lot shall be reduced in size so as to produce an additional lot which is not in conformity with these regulations, unless said lot is combined with other land to produce a conforming lot or unless said lot is needed and accepted for public use.
- E. The minimum yards, or other open spaces required by this ordinance, for each and every building, hereafter erected, moved, or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building.
- F. In any district, no more than one (1) principal building or use may be erected on a single lot of record, except as specifically permitted in other sections of this ordinance.

308.2 Visibility at intersections

On a corner lot nothing shall be erected, placed, planted, or allowed to grow which obstructs vision within the area formed by the right-of-way lines of the intersecting streets and a line joining points on such right-of-way line at a distance of twenty-five (25) feet from the intersection between a height of two (2) feet and a height of ten (10) feet above the average center line grade of each street.

308.3 Street frontage required

Every principal building, structure, or use shall abut at least fifty (50) feet on a public street dedicated to and maintained by the Town of Sharpsburg, or the North Carolina Department of Transportation except as provided in this section below:

- A. A private street constructed to the standards of the Town of Sharpsburg, or the North Carolina Department of Transportation, with a written agreement concerning maintenance of the street may be approved as part of a planned unit development.
- B. Multi-family, townhouse and commercial complex developments shall have right of access though common areas or drives at least twenty-four feet in width leading to a publicly maintained street.
- C. In the RA-30 District, a recorded easement of at least thirty (30) feet to a publicly maintained street or highway. The easement may serve only one recorded lot or tract.

308.4 Complexes

Office centers, institutional, industrial, multi-family dwelling and similar complexes may have more than one (1) principal building on a single lot provided that the following requirements are met:

- A. Uses in complexes shall be limited to those permitted within the zoning district in which the project is located.
- B. The overall intensity of land use shall be no higher, and the standard of open space no lower, than that permitted in the district in which the project is located.
- C. The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located.
- D. The building heights shall not exceed the height limits permitted in the district in which the project is located.
- E. The buildings shall be located so as to provide access for emergency vehicles.

308.5 Corner lots

A corner lot is a lot which occupies an interior angle of more than 45 degrees and less than 135 degrees at the intersection of two street lines. The owner shall be required to specify which way the building will face when requesting a building permit and the side toward which the building will face will be deemed the front of the lot. Side yard requirements for the street side on corner lots in residential districts shall be the normal side yard requirement for the district in which the lot is located plus ten (10) feet.

308.6 Cul-de-sac lots

Lot width on lots which front on the turn-around circle of a cul-de-sac may be measured at the lot line formed by connecting the midpoint of the side lot line of the shorter side with a point on the longer side lot line which is the same distance from the front lot line as the midpoint of the shorter side, or if both side lot lines are the same length, at the line connecting the midpoints of the side lot lines. All yard requirements must be met on such lots. If a lot has more than two (2) sides, the side lot lines to be used are the two (2) which connect with the front lot line.

308.7 Setback requirements: walls, fences and buffers

The setback requirements of this ordinance shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence or wall. However, no fence, or wall shall exceed a height of six (6) feet in any front or side yard unless specified elsewhere.

308.8 Uses prohibited

If either a use or class of use is not specifically indicated as being permitted in a district, either as a matter of right or as a special use, then such use or class of use shall be prohibited in such district.

308.9 Exceptions and modifications

- A. Height. The district height limitations stipulated elsewhere in this ordinance may be modified in accordance with the following:
1. Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, shall not exceed in height their distance from the nearest lot line.
 2. Special structures, such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smokestacks, shall not exceed in height their distance from the nearest lot line.
 3. Essential services, utilities, water towers, electric power and communication transmission lines if located on a lot shall not exceed in height their distances from the nearest lot line.
 4. Setback distance from property lines for communication structures, such as radio and television transmission and relay towers, aerials, and observation towers, is the tower height or a shorter fall zone distance certified by a qualified professional engineer.⁶
 5. Agricultural structures, such as barns, silos, tanks, and windmills, shall not exceed in height their distance from the nearest lot line.
 6. Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices, and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot or fraction thereof for each foot or fraction of a foot the structure exceeds the heights established in the district regulations.
- B. Yards. The yard requirements in this ordinance may be modified in the following cases:
1. The minimum front yard requirements of this ordinance for dwelling shall not apply on any lot where the average front yard for dwellings located wholly or part within one-hundred (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 front yard. In such cases, the front yard on such lot may be reduced to not less than the average of the front yards of the aforementioned existing buildings.
 2. Uncovered stairs, landings, terraces, porches, balconies, and fire escapes may project into any yard, but such projection shall not exceed six (6) feet and shall not be closer than three (3) feet to any lot line.

⁶ 308.9.A4 Amended Ord. No. 0-2019-03

3. Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard, but such projection shall not exceed three (3) feet.
4. Open, unenclosed carports may extend to within five (5) feet of a side property line.

308.10 Agricultural uses in Extraterritorial Jurisdiction

Property that is located in a the Town's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the zoning to the same extent bona fide farming activities are pursuant to G.S. 160D-903. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes shall become subject to exercise of this ordinance in the extraterritorial planning and development regulation jurisdiction. For purposes of complying with State or federal law, property that is exempt from the exercise of municipal extraterritorial planning and development regulation jurisdiction pursuant to this subsection shall be subject to floodplain regulation.

308.11 Development Approvals

All development approvals shall be in writing. If notified electronically, it will be protected from further editing. Applications for development approval must be made by a person that has a property interest or a contract to purchase the property. The development approval runs with the land. Approval revocation must follow the same procedure as the approval process.

308.12 Determinations

The Planning Staff shall provide written notices of determination by personal delivery, electronic mail or first-class mail to the property owner and party seeking determination if different from the property owner. The Zoning Administrator or their designated representative shall be responsible for making determinations.

308.13 Appeals of administrative decisions

(a) Appeals. - Except as provided in subsection (c) of this section, appeals of decisions made by the staff under this Chapter shall be made to the board of adjustment unless a different board is provided or authorized otherwise by statute, or an ordinance adopted pursuant to this Chapter. If this function of the board of adjustment is assigned to any other board pursuant to G.S. 160D-302(b), that board shall comply with all of the procedures and processes applicable to a board of adjustment hearing appeals. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the board of adjustment unless required by a local government ordinance or code provision.

(b) Standing. - Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the local government clerk or such other local government official as designated by ordinance. The notice of appeal shall state the grounds for the appeal.

(c) Judicial Challenge. - A person with standing may bring a separate and original civil action to challenge the constitutionality of an ordinance or development regulation, or whether the ordinance or development regulation is ultra vires, preempted, or otherwise in excess of statutory authority, without filing an appeal under subsection (a) of this section.

(d) Time to Appeal. - The owner or other party shall have 30 days from receipt of the written notice of the determination 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 determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(e) Record of Decision. - The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The

official 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.

(f) Stays. - An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board 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 development regulation. 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 official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

(g) Alternative Dispute Resolution. - The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

(h) The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

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

310. PERMITTED USES

310.1 Notation of permitted uses

- A. For each district, uses are indicated in the following ways:
1. Uses permitted by right are indicated by a *P*.
 2. Uses that must meet a development standard, as described in section 406, are indicated by a *D*. To receive a Certificate of Occupancy/Compliance, the Zoning Administrator must certify that the development standard for the particular use has been met.
 3. Uses requiring a special use permit are indicated by a *S*. To receive a special use permit, the Board of Adjustment must review the application for compliance with the standards and conditions, as described in sections 406 and 608.4 of this ordinance and issue findings and either approve or deny the Special Use Permit.
 4. Uses that are permitted only as part of a Planned Unit Development (PUD) are indicated by *PUD*. Planned unit developments are special uses which must be approved by the Sharpsburg Board of Commissioners after receiving a recommendation from the Planning Board.
 5. Uses that are prohibited in a particular district are indicated by a blank.
 6. *Additional Standards* indicates the section of this ordinance where the development standards for that use can be found.
 7. *Use Level* indicates the intensity of the use as applicable to landscaping requirements. See sections 404.4 through 404.16 for more information about landscaping standards.

310.2 Table of Permitted Uses

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
Residential Type Uses											
Dwelling, single-family detached	P	P	P	P	P	P				406.16	1
Dwelling, two-families				P	P	P				406.17	1
Dwelling, zero-lot line					PUD	PUD				406.32	See 406.32
Dwelling, cluster				PUD	PUD	PUD				406.32	See 406.32
Dwelling, multi-family (less than 5 units in a complex)				S	P	P					2
Dwelling, multi-family (more than 5 units in a complex)					PUD	PUD					2
Family care homes	D	D	D	D	D	D				406.21	1
Manufactured Home, Class A (double-wide)	D*				D*	D	D			406.24* (406.25 in R-6M & MHP)	1
Manufactured Home, Class B (single-wide)						D	D			406.25	--
Manufactured Home, Modular	P	P	P	P	P	P	P			406.26	1
Manufactured Home Park							D			406.27	3
Planned Unit Development (PUD)	S	S	S	S	S	S				406.32	See 406.32
Accessory or Temporary Uses											
Accessory dwelling unit, attached	D	D	D	D	D	D		D	D	406.3	--
Accessory dwelling unit, detached	D	D	D	D	D	D		D	D	406.4	--
Accessory building, structure or use (non-residential)	P	P	P	P	P	P		P	P	406.2	--
Accessory communication antennae	D							D	D	406.33	--
Manufactured Home, Temporary Accessory Use	D	D	D	D	D	D		D	D	406.28	--
Outdoor display of merchandise								D	D		
Outdoor Storage								D	D	406.33	
Home Occupation	D	D	D	D	D	D	D			406.23	--

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
Temporary Event	D	D	D	D	D	D	D	D	D	406.35	
Temporary Use	D	D	D	D	D	D	D	D	D	406.36	
Agricultural Type Uses											
Farming	P										3
Sale of farm product on property where produced	P										3
Greenhouses, commercial	D										3
Plant nurseries and related agricultural uses	P										3
All Other Uses											
A											
ABC Store								P			3
Above ground utilities		P	P	P	P	P		P	P	406.1	3
Adult Establishments									S	406.5	3
Air conditioning supplies and equipment								P			3
Armories								P			4
Auto Parts and Accessories								P	P		3
Automotive Rental or Leasing								P	P		3
Automotive Repair Services								D	P	406.6	4
Automotive Storage								S	S	406.7	4
B											
Bakery								P			4
Banks, and other financial institutions, including drive-in								P	P		3
Bar								S		406.8	3
Barber or Beauty Shop								P			3
Bed and Breakfast	S	S	S	S				D		406.9	3
Bottling Plants, manufacturing of									P		4
Building materials and supplies, with outdoor storage								S	P	406.10	3
Building materials & supplies, without outdoor storage								P	P		3

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
Bus Station								P			4
C											
Campground	S									406.11	3
Car wash								D	D	406.12	3
Cemeteries, public and private	S	S	S	S	S	S					3
Chemicals, manufacturing of									S		4
Churches and other places of worship	P	S	S	S	S	S		P	P	406.13	3
Civic and fraternal organizations	P	S	S	S	S	S		P	P	406.14	3
Clay, stone, concrete, cement products									P		3
Clay, stone, concrete, cement, mining/manufacturing of									P		4
Clothing Alteration or Repair								P	P		3
Colleges, Technical Schools and Universities		S	S	S	S	S		P	P		3
Commercial & Industrial Equipment Repair									P		4
Communication or broadcast facility								P			3
Community centers	S	S	S	S	S	S		P			3
Convenience Store w/o Fuel Sales								P	P		3
Convenience Store with Fuel Sales								P	P		3
Cotton, manufacturing of									P		4
Country, tennis, swim clubs	S	S	S	S	S	S					3
D											
Dairies	S								P		4
Day care centers and preschools				S	S	S		P	P	406.15	3
Drug Stores w/o drive through								P	P		3
Drug Stores with drive through								P	P		3
E											
Electrical equipment & supplies,									P		4

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
manufacturing of											
Electrical Supplies and equipment								P	P		3
Engineering supplies and equipment								P	P		3
Entertainment, Indoor								P	P	406.18	3
Entertainment, Outdoor								S		406.19	4
F											
Family Child Care Home	D	D	D	D	D	D	D	D		406.20	2
Farm equipment and supplies								P	P		3
Farm equipment, manufacturing of									P		4
Farmers Market	P							P	P		3
Fertilizer, manufacturing of									S		4
Flea Market, Indoor								P	P		3
Flea Market, Outdoor	S							S	P		3
Food and beverage packaging or manufacturing									S		4
Food and beverage excluding meat, poultry, vinegar, yeast									P		3
Fuel Oil Sales									P		3
Funeral Homes								P	P		3
Furniture								P	P		3
Furniture, manufacturing									P		4
G											
General Retail Uses over 5000 sq feet								D	P	406.22	3
General Retail Uses under 5000 sq feet								P	P		3
Glass, glassware, china, pottery, manufacturing									P		4
Golf course, excluding miniature	S	S				S					3
Groceries								P	P		3

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
H											
Hardware								P	P		3
Hardware, machinery, appliance; manufacturing									P		4
Health and Fitness Clubs								P			
Hospitals, nursing homes or sanitariums		S	S	S	S	S					3
Hotel or Motel								P			3
I											
Ice, manufacturing									P		4
K											
Kennels or Pet Grooming	P							P	P		4
L											
Laboratories for research and testing									S		4
Laundromats, Coin-operated								P	P		3
Leather and leather products, manufacturing of									S		4
Leather goods								P	P		3
Libraries				P	P	P		P	P		3
M											
Machine shops									P		4
Manufactured Home Sales								S	P		4
Manufactured Home, manufacturing									P		4
Massage Therapy Business								P	P		3
Medical supplies and equipment								P	P		3
Medical supplies manufacturing									P		4
Metal and wood manufacturing									P		4
Motor Vehicle Sales (new and used)								S	P		4
Museums and art galleries				P	P	P		P	P		3
Musical									P		4

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
instruments, manufacturing of											
N											
Nightclub								S	S	406.8	4
O											
Office equipment and supplies								P	P		3
Office equipment, manufacturing									P		4
Offices – business, professional and public								P			3
Offices for industrial plants								P	P		3
Optical, scientific, jewelry and clocks, manufacturing									P		4
Other Operations, outdoor									S	406.34	4
P											
Paint and wallpaper								P	P		3
Paint manufacturing									P		4
Park, active. (including ballfields)	P	S	S	S	S	S		S		406.30	3
Park, passive	P	P	P	P	P	P		P			3
Parking lots (stand alone)								S		406.31	3
Pawn shops								P	P		3
Personal Services (Other)								P	P		3
Pest or Termite Control								P	P		3
Pets and pet supplies								P	P		3
Pharmaceutical manufacturing									P		4
Photocopying or Duplicating								P			3
Photographic Studio								P			3
Playgrounds	P	P	P	P	P	P		P			3
Plumbing and air conditioning equipment manufacturing									P		4
Police stations, fire stations & training facilities and other public buildings	P							P	P		3

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
Printing Plants, newspaper and publishers								S	P		4
Public Utility Installation	S	S	S	S	S	S		S	P		3
R											
Radio, TV or communication towers	S	S	S	S	S	S		S	S	406.33	3
Repair and Maintenance Shops (other)								D	P		3
Restaurants (with drive-thru)								P	P		3
Restaurants (without drive thru)								P	P		3
S											
Schools, elementary and secondary, public and private				S	S	S		P	P		3
Septic Tank Service									P		4
Service Station, Gasoline								P	P		3
Sewage and water treatment plants		S	S	S	S	S		S	S		4
Shopping Center								P	P		4
Solar generation facility, utility scale	S										4
Storage for inflammable liquids or other hazardous substances									S		4
Storage Yard, outdoor									S	406.34	4
Sweepstakes Center, Internet Café									S	406.37	3
T											
Tanning-Nail Salon								P	P		3
Taxi Stand								P			3
Textile and apparel manufacturing									P		4
Theaters, indoor								P			3
Tire repair, recapping									P		4
Truck and Trailer Leasing									P		3
Truck Stop									P		4

USE	RA-30	R-12	R-10	R-8	R-6	R-6M	MHP	B-1	I	Additional Standards	Use Level
Trucking Terminals									P		4
U											
Upholstery shops								P	P		3
Utility lines and related structures	P	P	P	P	P	P		P	P		3
W											
Warehousing, general								P	P		3
Warehousing, – self-storage								P	P		3
Woodworking shops, indoor operations									P		3

ARTICLE IV: DEVELOPMENT STANDARDS

400. PARKING AND LOADING REQUIREMENTS

400.1 Off-Street parking

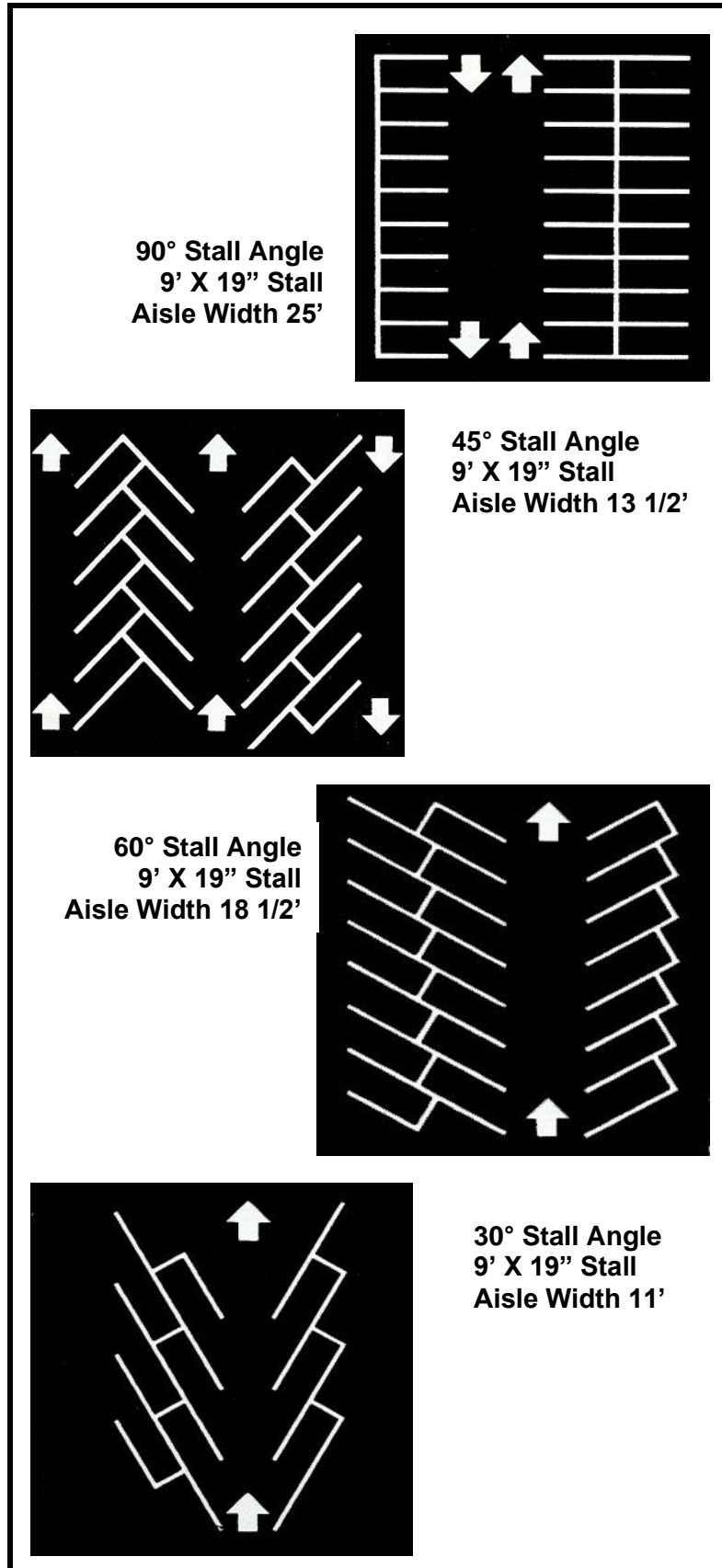
- A. Required off-street parking shall be provided on every lot or within a distance of five hundred (500) feet from the lot if such parking space cannot be reasonably provided on that lot. Each application for a Certification of Occupancy/Compliance shall include information as to:
 - location and dimensions of off-street parking and loading space;
 - distance between that parking/loading space and the street or alley;
 - ingress and egress of the property.
- B. Parking stall area. Parking stalls shall contain a rectangular area at least 9 feet wide and 19 feet long. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, as long as the parking spaces so created contain within them the rectangular area required by this section.
- C. Parallel parking. Wherever parking consists of spaces set aside for parallel parking (0° in the table below), one foot shall be added to the minimum required width, and three feet to the minimum required length.
- D. Motorcycle parking. Motorcycle pads shall contain a rectangular area at least four feet wide and eight feet long. Spaces shall be located at either end of parking aisles and shall have, centered, a concrete or metal strip one square foot in area to accommodate the use of kick stands.
- E. Parking aisle widths. Parking lots shall have aisles with a minimum width between parking spaces as shown in Table 400.1:

Table 400.1: Parking lot aisle widths

	Required Width of Parking Area Aisles (feet)				
	PARKING ANGLE				
AISLE TYPE	0°	30°	45°	60°	90°
ONE WAY	13	11	13 1/2	18 1/2	25
TWO WAY	25				25

- F. Table 400.2 shows some applications of the off-street parking requirements:

Table 400.2: Example Parking lot layouts



- G. A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single and two-family residential and shall be at least twenty-four (24) feet wide.
- H. When off-street parking for more than ten (10) vehicles is provided, the following regulations shall apply in addition to all other regulations in this Article.
1. Surfacing: All such parking lots shall be graded and surfaced with blacktop or concrete, or other such surfacing material to ensure a dustless surface condition.
 2. Markings: Each parking stall shall be marked off and maintained so as to be distinguishable.
 3. Lighting: Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
 4. Yards surrounding parking lots shall be planted and maintained in accordance with the landscaping requirements of Section 404.11 of this ordinance.
 5. Curbs or Bumpers: The required yards shall be set off from parking areas by either continuous curb or one (1) non-continuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five (5) inches or more than two (2) feet high.
 6. Drainage: Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Zoning Administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage.
 7. Separation of Bumper and Walkways: in the event any parking stall abuts upon a walkway, there shall be a space of three and one-half (3 ½) feet between the wheel bumper or curb and the edge of the walkway.
 8. Entrances and Exits: On all corner lots, all vehicular openings shall be located at least twenty (20) feet from the point of intersection of established street right-of-way lines. No entrance and exit, whether or not on a corner lot, shall exceed thirty (30) feet in width at the property line or forty (40) feet in width at the curb line. There shall be a minimum distance between driveways of twenty-five (25) feet measured along the curb line unless such driveways are less than five (5) feet apart.
 9. Internal Circulation: Sufficient area shall be provided within the property lines of the parking lot, exclusive of required yards, so that all vehicles may enter and leave the lot in a forward motion.

I. Exceptions

1. The Zoning Administrator may withhold a permit or Certificate of Occupancy if a parking layout not specifically prohibited by this Section would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the Zoning Administrator's decision to the Board of Adjustment under the normal procedure for an appeal.
2. If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Adjustment may grant the applicant a parking modification.
3. In the B-1 district, the Zoning Administrator may allow a new use to be established in an existing building even if all parking requirements of this Article cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.

J. Off-Street Parking Requirements. The minimum number of required off-street parking spaces shall be calculated as provided in Table 400.3. In the case of a building or use not specifically listed in Table 400.3, the number of off-street spaces shall be the same as for a similar use or inclusive category which is listed. Where there is more than one (1) use in a single structure, or on a single tract, or two (2) or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, except for shopping centers which are expressly provided for.

Table 400.3: Off-Street Parking Requirements

Use	Required Off-Street Parking
Residential Uses	
Residence, single-family	2 spaces
Residence, duplex	4 spaces
Residence, multifamily	2 1/2 spaces for each dwelling unit
Dwelling unit having home beauty or barber shop	2 additional spaces
Accessory Dwelling Unit	1 additional space per unit
Office and Institutional Uses	
Bank	1 space per 100 square feet of usable floor space
Churches	1 space for every 4 seating spaces in principal sanctuary

Use	Required Off-Street Parking
Day care center	1 space for each employee plus 1 space for every 10 children or fraction thereof
Elementary or junior high school	3 spaces for each room used for administrative offices or class instruction, or 1 space for each 6 seats in auditoriums and other places of assembly or facilities available for the public, whichever is greater
Hospital and nursing homes	1 space for every bed space + 1.25 for each full-time employee
Internet Café/Sweepstakes Center	1 space per gaming or computer monitor on premises
Institutions and clubs	1 space for every 4 seats in principal assembly room plus 1 for each 100 feet of floor area used for assembly, but not containing fixed seats
Medical office/clinic	6 spaces for each doctor plus 1 space for each employee
Offices, other than medical	1 space for every 250 square feet of gross floor area
Senior high school	1 space per school employee and 1 space per 4 students.
Commercial and Industrial Uses	
Bed and Breakfasts	2 spaces, plus 1 space for every rental room
Campground	1 for each campsite plus office parking requirement
Car Wash	5 per wash lane
Entertainment Commercial Outdoor	1 per 400 square feet of lot area accessible to the public
Entertainment, Commercial Indoor	1 per 200 square feet of activity area
Grocery store	1 for every 200 square feet of floor area
Hotel - Motel	1 per guest room, plus 1 per 2 employees, plus required parking for accessory uses.

Use	Required Off-Street Parking
Industries	1 space or every 1.5 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously.
Restaurant: Drive-in or take-out Other	Minimum of 15 spaces, plus 1 additional for each 50 square feet of gross floor area or fraction thereof 1 space for each 3 seats
Retail use, unless otherwise specified	.7 of a space for every 100 square feet of gross floor area (1 space minimum)
Retail and service establishments (Low generator)	1 for each 500 square feet of gross floor area or fraction thereof, including any outdoor sales area
Service stations	1 per every 2 gas pumps, plus 2 spaces per service bay, plus 1 space per employee of largest shift
Shopping centers (in lieu of individual store parking requirements)	5.5 per 1,000 square feet of gross leasable area or fraction thereof
Wholesale establishment, warehouse and other businesses not catering to retail or package trade	1 space for every 1.5 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously
Recreational Uses	
Auditoriums, stadiums & theaters	1 space for every four (4) seats.
Golf course (not including putting greens accessory to multi-family dwellings or hotels or motels)	4 per hole
Swimming clubs (Community or private)	1 space for every 5 memberships.

- K. Special situations shall be handled by the Sharpsburg Board of Commissioners. The board shall make the final determination as to the number of spaces to be required but shall in all cases give due consideration to the needs.

400.2 Off-street loading regulations.

Every building or structure used for business, trade, industry, or office and institutional purposes, shall provide loading space as indicated in this section.

- A. Each loading space shall be no less than fifteen (15) feet in width, and thirty (30) feet in depth. Each space shall also have an overhead clearance of no less than fifteen (15) feet.
- B. Each loading space shall have access driveways to public streets or alleys which driveways shall be at least twenty-four (24) feet wide and with adequate turning radii for the delivery vehicles customarily associated with the particular use.
- C. If there is not more than one (1) delivery and pickup during the hours when a retail trade, office, or institutional establishment is open to patrons, such space maybe combined with the existing parking space on the premises.
- D. All off-street loading spaces shall be designed so that the vehicles loading and unloading shall not set upon or cross any public street or alley right-of-way.
- E. Loading Space Requirements. The space shall be provided in accordance with the schedule below:
 - 1. Retail Business – 1 space for each 20,000 square feet of gross floor area or fraction thereof, with a minimum of 1 space.
 - 2. Wholesale Trade and Industry – 1 space for the first 40,000 square feet of gross floor space plus 1 space for each additional 60,000
 - 3. Office and Institutional Uses Including Hotels and Motels – 1 space for each 100,000 square feet of gross floor area or fraction thereof.
 - 4. In addition to meeting the requirements of Table 400.3, elementary, junior high, high schools, kindergartens, nurseries, and day care centers shall also provide a safe place off the street for the loading and unloading of children from automobiles and buses.
- F. Exceptions
 - 1. If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the Board of Adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.
 - 2. The Zoning Administrator may allow a new use to be established in an existing building even if all the loading requirements of this section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use and traffic or safety hazards will not be created.

402. Signs

402.1 Sign compliance

No type of exterior sign may be erected, posted, reposted, placed, replaced, hung, painted, or repainted in any district except in compliance with this ordinance

402.2 General sign regulations

- A. All signs permitted as described in section 402.4 shall conform to this section.
- B. No sign shall be erected or constructed to interfere with vision clearance at any street or road right-of-way.
- C. No sign except those erected for governmental purposes shall be permitted in any public right-of-way.
- D. All signs shall be at least five (5) feet from street right-of-way.
- E. Signs and sign structures shall meet all requirements of the North Carolina State Building Code.
- F. All signs and sign structures shall be kept in good repair, with all supports, braces, guys, anchors, and fastening free from deterioration, insect infestation, rot, rust, or loosening. All signs shall be kept neatly finished, with lettering intact, and if of a type that requires painting, free from visible peeling or chipping.
- G. Illuminated signs shall be limited to those lighted from behind to silhouette letters and internally illuminated and spotlighted signs. All illuminated and spotlighted signs shall be placed so as to prevent the light rays, illumination, or glare from being cast directly on any building or on traffic.
- H. Window signs may be placed only on the inside of any buildings and shall not exceed twenty-five (25) percent of the glass area of the pane on which the sign is displayed.
- I. An identification sign shall pertain solely to the name of the principal use of the premises or its operators and shall not advertise products or services which differ in name from the principal use.
- J. Obsolete signs and their supporting structures shall be removed within ninety (90) days after they have been abandoned at the location to which the sign refers. A sign is considered abandoned when it no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, or when the contents of the sign pertain to a place, time or purpose that no longer exists or applies, or an event that has already occurred. Such removal shall be the responsibility of the property owner. An extension of the ninety (90) day time limit for removal may be granted by the Zoning Administrator for reasonable cause.
- K. Signs erected prior to the adoption of this ordinance, that do not conform to the regulations of this ordinance may remain until they become obsolete in which case they must be removed in accordance with section 402.2 (J).

402.3 Prohibited signs

The following types of signs are expressly prohibited:

- A. Signs with moving, revolving, or rotating parts, or any sign which moves or give the illusion of movement, except for time and temperature units and traditional barber poles, shall be prohibited in all districts.
- B. Signs with lights or illumination which flash, move, rotate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except for time and temperature units.
- C. Signs which obstruct the view of or could be confused with any authorized traffic sign, signal, or device or make use of the words “stop”. “look”, “danger” or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.
- D. Signs which obstruct openings required to be left uncovered or unobstructed by building codes, the housing code, or other laws relating to buildings.
- E. Snipe signs (*see definition section 204*), except those temporary signs specifically provided for in table 402.4.

402.4 Table of permitted signs

Type of Sign	Maximum Area (sq ft)	Maximum Height (ft)	Other Requirements	Where Permitted	Permit Required
GROUND SIGNS- SINGLE TENANT ESTABLISHMENTS Only one of the following types of signs allowed per establishment per street face.					
Canopy signs	2 square ft per linear ft of building frontage	--	<ul style="list-style-type: none"> ▪ Bottom of sign is at least nine (9) feet above sidewalk level ▪ Only main entrance wall of building used in computing frontage 	B1, I districts only	Sign permit required in B1, I districts
Monument sign (public, commercial and institutional uses)	40	4	<ul style="list-style-type: none"> ▪ Maximum height may be 8 feet if monument sign is combined with a bulletin board. ▪ If oriented to the corner of two street frontages, the establishment may choose to have 1 sign 60 square feet in size rather than two signs. 	All districts	Sign permit required in all districts.
Pole sign (on premise)	75	12		B1, I only	Sign permit required in B1, I

Type of Sign	Maximum Area (sq ft)	Maximum Height (ft)	Other Requirements	Where Permitted	Permit Required
Industrial identification sign (monument or wall sign)	64	4	<ul style="list-style-type: none"> Each shall not exceed sixty-four (64) square feet in area. 	I district only	Sign permit required
GROUND SIGNS- MULTIPLE TENANT ESTABLISHMENTS (COMPLEXES)					
Canopy signs	2 square ft per linear ft of building frontage	--	<ul style="list-style-type: none"> Bottom of sign is at least nine (9) feet above sidewalk level Only main entrance wall of building used in computing frontage. Each tenant in a center or complex may have a canopy sign. 	B1, I districts only	Sign permit required in B1, I districts
Only one of the following types of signs is allowed per complex per street frontage.					
Monument sign (public, commercial and institutional uses)	40	4	<ul style="list-style-type: none"> Maximum height may be 8 feet if monument sign is combined with a bulletin board Only one of the following types of signs allowed per establishment per street face. If oriented to the corner of two street frontages, center may choose to have 1 sign 60 square feet in size rather than two signs. 	All districts	Sign permit required in all districts.
Pole sign (on premise)	75	12		B1, I only	Sign permit required in B1, I
Industrial identification sign (monument or wall sign)	64	4	<ul style="list-style-type: none"> Each shall not exceed sixty-four (64) square feet in area. 	I district only	Sign permit required
ALL OTHER SIGNS					
Agricultural product sales signs	20		<ul style="list-style-type: none"> Must be located on premises where products are produced Not to exceed twenty (20) square feet in area. 	RA30, B1, I only	--
Banners, pennants and streamers	--	--	<ul style="list-style-type: none"> Must be removed within (2) weeks. Non-illuminated 60 day waiting period required before new permit may be issued. 	B1, I only	Sign permit required

Type of Sign	Maximum Area (sq ft)	Maximum Height (ft)	Other Requirements	Where Permitted	Permit Required
Billboards (off-premise advertising)	15		<ul style="list-style-type: none"> No more than two (2) blocks from establishment being advertised. 	S in B1, I districts only	SUP in B1, I districts
Bulletin boards (church, public)	40	8	<ul style="list-style-type: none"> Located at least (15) feet from the property line. Maximum area is limited to 20 sq feet if bulletin board is combined with a pole or monument sign. 	S in R12, R10 Permitted in all other districts	SUP in R12, R10
Campaign signs	4		<ul style="list-style-type: none"> No more than three (3) per dwelling unit, business or industrial establishment. Must be removed one week after election. 	All districts	--
Construction site placards	10	6	<ul style="list-style-type: none"> Only while construction is taking place on the premises. non-illuminated 	All districts	None
Directional or informational signs (public, quasi-public, institutional, civic organizations).	8	--		S in R12, R10 Permitted in all other districts	SUP in R12, R10; Sign permit required for all other districts
Entrance and exit signs (subdivisions, commercial and institutional uses - monument type)	40 (sign face)	4		All districts	Sign permit required in all districts.
Entrance and exit signs (subdivisions, commercial and institutional uses - free standing pillar style)	10 (sign face)	8		All districts	Sign permit required in all districts.
House numbers, names of occupants	3		<ul style="list-style-type: none"> Shall be mounted flat against a wall or door or hung from a mailbox or lamp post. 	All districts	--
Memorial signs (permanent tablets, with names, dates of construction)	--	--	<ul style="list-style-type: none"> Shall be cut into a masonry surface or constructed of metal and affixed flat against a structure. 	All districts	--
Official signs, traffic, other, governmental signs				All districts	--

Type of Sign	Maximum Area (sq ft)	Maximum Height (ft)	Other Requirements	Where Permitted	Permit Required
Portable commercial sign			<ul style="list-style-type: none"> ▪ One (1) allowed per business per street face. ▪ Ten (10) day time limit. ▪ Same establishment may not apply again for sixty (60) days after removal of such sign(s). ▪ No colored or flashing lights. 	B1, I only	Sign permit required in B1, I
Professional or announcement sign (on-premise)	3	--	<ul style="list-style-type: none"> ▪ One(1) per establishment or dwelling unit ▪ Must be mounted flat against a wall or door or hung from a mailbox or lamp post. 	R8, R6, R6M, MHP, B1, I only	--
Real estate signs (temporary sale, rental or lease, on-premise)	10	--		All districts	--
Temporary directional signs (to garage sales and similar events in residential area)	4	--	<ul style="list-style-type: none"> ▪ Includes garage sales in residential districts. ▪ Sign(s) must be posted no more than 24 hours before sale and removed within 24 hours after sale. ▪ Excludes portable commercial signs. 	All districts	--
Temporary signs relating to farm auctions, agricultural production sales, annual charitable civic or fraternal events	20 off-site 32 on-site	--	<ul style="list-style-type: none"> ▪ Excludes portable commercial signs ▪ Signs may be posted no more than 2 weeks before the event and must removed within 1 week after the event. 	RA30, B1, I only	
Traffic and pedestrian signs, private	10	--		All districts	None
Traffic and pedestrian signs, public	--	--		All districts	None
Wall signs	1 square foot per linear foot of building frontage	Not to project over the roof line of building	<ul style="list-style-type: none"> ▪ Mounted flat against the walls of buildings ▪ Not to be painted directly on the walls, ▪ Mounted in area of wall free of windows, doors, or other architectural detail. ▪ One(1) wall sign per building side. 	B1, I only	Sign permit required in B1, I districts

404. LANDSCAPING REQUIREMENTS

404.1 Purpose and scope

This article is intended to establish minimum standards for the design of landscapes for uses other than single family and two-family residential so as to improve the community aesthetically, economically and environmentally.

404.2 Definitions

The following definitions shall apply to the regulation and control of landscaping within this article:

Caliper: A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.

Critical Root Zone (CRZ): A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

DBH: Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

Deciduous: Those plants that annually lose their leaves.

Drip Line: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Evergreen: Those plants that retain foliage throughout the year.

Evergreen Screen: A plant growing to over 20 feet in height at maturity that retains foliage year round that is planted to provide a dense vegetative screen for purposes of visual mitigation between zoning districts.

Ground Cover: A prostrate plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides.

Landscaping: The process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover.

Parking Lot Plantings: Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

Planting Area: The area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

Planting Yard: The required installation of landscaping and screening materials between zoning districts and sometimes individual uses.

Type A Planting Yard: A planting strip having minimum width of 8 feet which is intended to separate uses, provide vegetation in densely developed areas, and enhance the appearance of individual properties.

Type B Planting Yard: A medium density screen having a minimum width of 15 feet which is intended to partially block visual contact between uses with differing intensities and create spatial separation.

Type C Planting Yard: A medium density screen having a minimum width of 20 feet which is intended to substantially block visual contact between uses with differing intensities and create spatial separation. A Type C Planting Yard reduces lighting and noise that would otherwise intrude upon adjacent uses.

Type D Planting Yard: A very high density screen having a minimum width of 30 feet which is intended to substantially block visual contact between uses with differing intensities and create spatial separation. A Type D Planting Yard reduces lighting and noise that would otherwise intrude upon adjacent uses.

Shrub, Large: An upright plant growing 10 feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Medium: A plant growing 5 feet to 10 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Small: A plant growing to less than 5 feet in height at maturity that is planted for ornamental purposes.

Street Tree: A tree planted along the street behind the right-of-way.

Street Yard: A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of the development by providing a pleasing view from the road.

Tree, Ornamental: A small to medium tree, growing 15 feet to 40 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

Tree, Shade: A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

404.3 Applicability

The provisions of this ordinance shall apply to all uses other than single family and two-family residential.

404.4 Planting yards

- A. Planting Yards are intended to separate different land uses from each other and are intended to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs and unsightly buildings or parking areas.
- B. Use Levels. The planting yard types are determined by four different levels based on general use types. Level 1 is the least intense use type and level 4 is the most intense use type. These levels are listed in the Permitted Use Table in the far right column titled, "Use Level."
- C. In the case of a group development, the outer boundaries shall be landscaped according to the requirements of Table 404.6 and Table 404.61. The interior boundaries abutting out parcels within a group development must comply with the requirements of Table 404.6 and Table 404.61 at the time of their development.

404.5 Planting Yard Chart

Table 404.5 shows how the four different levels of use classification relate to one another to determine the type of Planting Yard that is required.

Table 404.5 Planting Yard Chart

		Least Intensive	▶	▶	Most Intensive
		Adjacent Use Level			
Least Intensive	Proposed Use Level	1	2	3	4
▼	1	*	*	*	*
▼	2	B	A**	A	A
▼	3	C	B	A**	A
Most Intensive	4	D	D	C	A**
* = No Planting Yard Requirement					
** = Where like uses abut one another, the planting yard requirement for the Type A Yard shall be a minimum average width of 8 feet, but at no time shall the width be less than four (4) feet.					

404.6 Planting Yard Landscaping

- A. Table 404.6 shows the planting requirements of the Planting Yard Types A-D and Street Yards. Each Planting Yard has a specified width, type of plant material and quantity of plant material that is required. The width and density of the Planting Yard increases as the difference in zoning classifications increase. Table 404.61 shows the points allocated to the different types of plant materials.

Table 404.6

Yard Type	Minimum Width (in feet)	Minimum Shade Trees	Minimum Ornamental Trees	Shrubs	Required Points per 100 Linear Feet (per foot)*
A	8	optional	1 every 50'	optional	40 (0.40)
B	15	1 every 75'	1 every 100'	optional	70 (0.70)
C	20	1 every 50'	1 every 75'	optional	90 (0.90)
D	30	1 every 50'	1 every 50'	optional	100 (1.0)

* To determine the number of points needed per project, multiply the length of the individual yard by the multiplier shown. For example a project with a planting yard length of 65 linear feet would require 26 points for a Type A yard (65 X 0.40 =26).

Table 404.61

POINTS FOR PLANTING YARDS	
	POINTS
SHADE TREE	12
ORNAMENTAL TREE	6
LARGE SHRUB	3
MEDIUM SHRUB	2
SMALL SHRUB	1

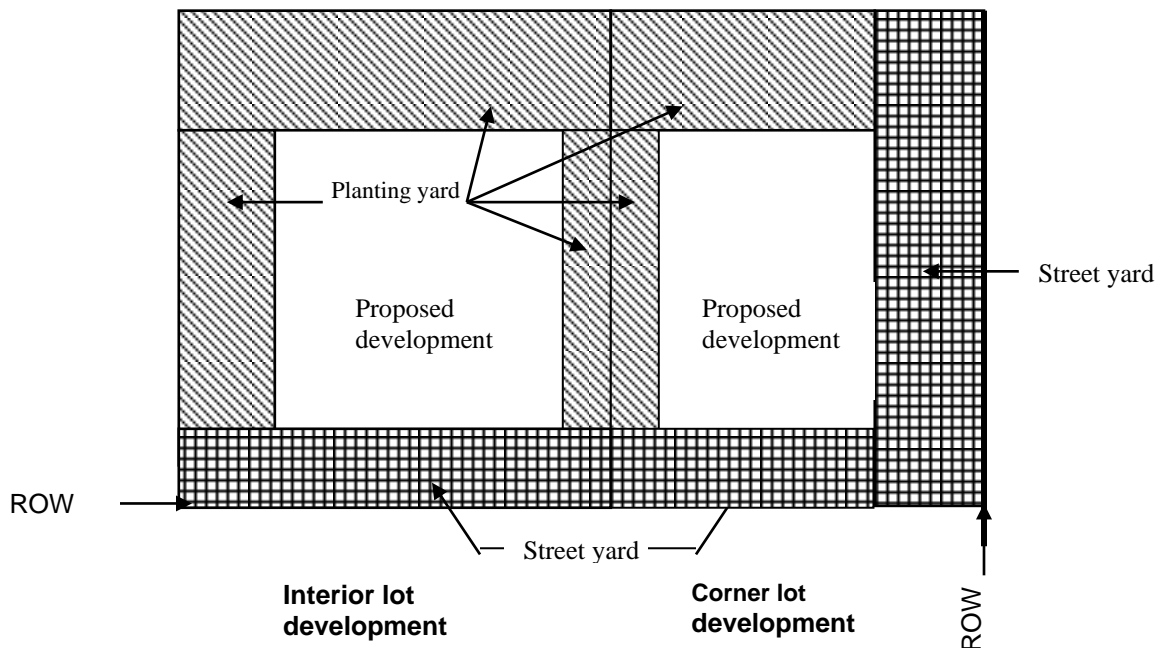
- B. A wall or fence, a minimum of six (6) feet in height (constructed of masonry or pressure treated lumber) or densely planted vegetation a minimum of six (6) feet in height that would provide a complete visual separation within three (3) years of planting, may be used to reduce both the minimum width of the Planting Yards and the corresponding number of points per linear foot by 20%.
- C. In Type B Planting Yards, ornamental trees may be substituted for shade trees at the rate of two (2) ornamental trees for each required shade tree.
- D. All trees in Street Yards shall be planted no closer than four (4) feet from any public right-of-way
- E. For the purpose of this section, building setbacks (as listed in Article III) shall supersede Planting Yard landscaping requirements.

404.7 Street Yard Landscaping

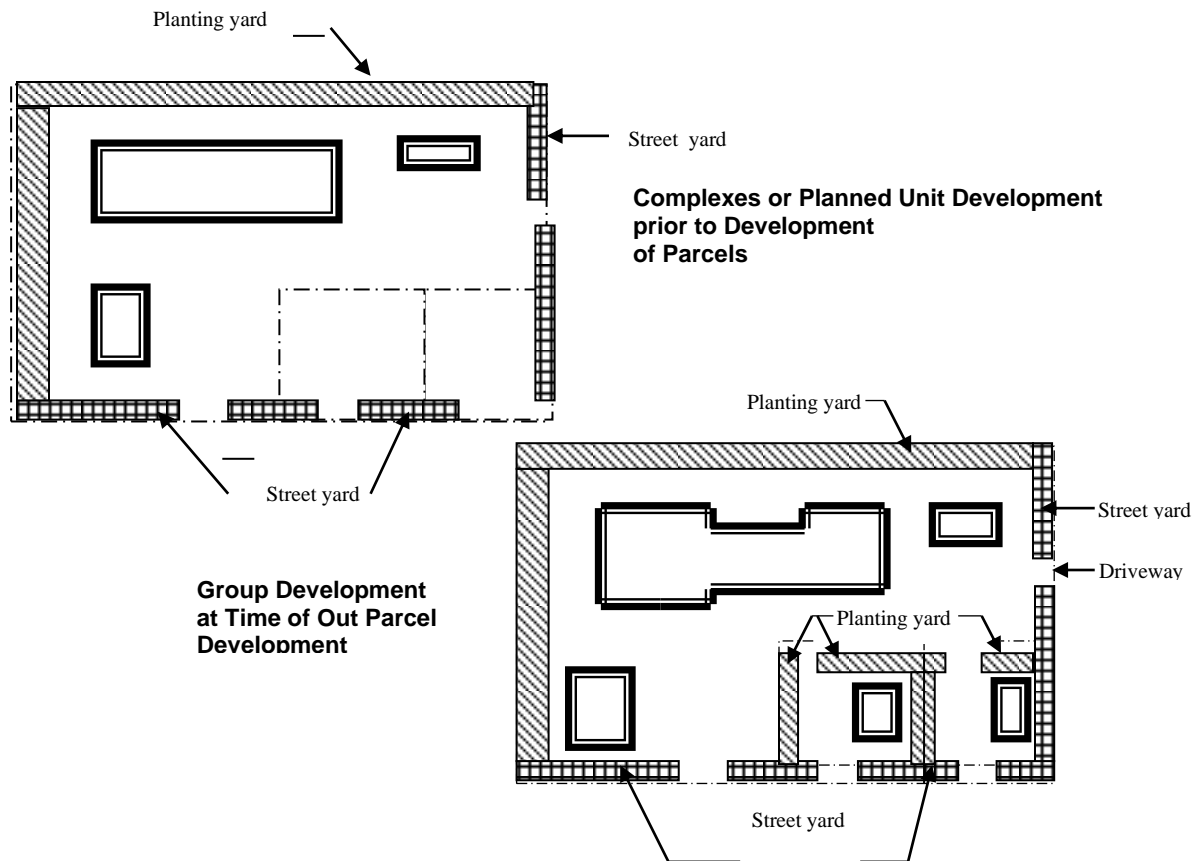
Table 404.7 Street yard landscaping

STREET YARD LANDSCAPING				
		Trees		Shrubs
	Minimum Width	Shade	or Ornamental	
Requirements	8'	1/35'	or 1/25'	Optional

404.8 Planting yard diagram



404.9 Complexes or Planned Unit Developments diagrams



404.10 Landscaping and design standards for street yards

A Street Yard consists of a Planting Area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

- A. Street Yards shall be a minimum of eight (8) feet wide
- B. Street Yards shall contain one shade tree per thirty-five (35) linear feet, or one ornamental tree per twenty-five (25) linear feet, except in the case of a conflict with utility lines. These trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees. Shrubbery may be planted in clusters where trees are not practical; however, the requirements of Table 3 shall be met.
- C. Parking, merchandise display and off-street loading are prohibited in the street yard.
- D. Any tree or shrub planted within a sight triangle shall comply with Section 304.2 Visibility at Intersections.

404.11 Standards for landscaping within parking lots

- A. All new parking lots with 12 or more spaces shall comply with the requirements of this section.
- B. If an existing parking lot (paved or unpaved) is expanded or improved to add 12 or more spaces, it shall comply with the parking lot requirements of the landscape ordinance within the expanded or improved portion.
- C. If a parking lot is expanded or developed, then Street Yard, Planting Yard, and parking lot requirements shall be applicable.
- D. In parking lots with 12 or more spaces, trees shall be planted at a rate of one shade tree or two ornamental trees for every 12 spaces or fraction thereof.
- E. Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.
- F. Trees required within the Planting Yards or Street Yards cannot be credited toward the parking lot requirements.
- G. Planting Areas within the parking lots shall provide a minimum of 81 square feet with a minimum inside dimension of nine (9) feet and a minimum prepared depth of 18 inches.

404.12 Tree preservation and care during construction

Existing trees shall be preserved whenever feasible. Credits for tree preservation are offered when a tree preservation plan is submitted to the Town's Zoning Administrator prior to grading the site. A tree preservation plan must show that there will be no disturbance in the critical root zone (CRZ). A disturbance is considered trenching, placing backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the tree(s).

When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.

Credit for existing trees within parking lots and Planting Yards will be given at the rate of 18 points per 4 inches in diameter at breast height (DBH) of existing plant material preserved. Minimum size requirement to qualify for tree preservation is 4 inches (DBH).

Should any tree designated for preservation in the tree preservation plan die at any time after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient landscaping equal to the tree preservation credit within 180 days. In the event of a restricted site, the owner may request review by the Zoning Administrator. The replacement tree shall be a minimum of 2" in caliper for a shade tree and a minimum of 6' in height for an ornamental tree (six feet from the top of root ball to top of tree) at the time of planting.

404.13 Landscaping plan requirements

Projects requiring site plans must also submit a landscaping plan (see section 608.9). To be reviewed, the landscaping plan must include the following information:

- A. Site plan shall be drawn to scale and include a North arrow and necessary interpretive legends.
- B. Property lines and zoning designation of adjacent properties
- C. Location of proposed buildings, parking areas with spaces delineated, paving and sidewalks.
- D. Existing plant materials and areas to be left in natural state
- E. Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required.
- F. Locations, size and names for all proposed plants
- G. Location and description of other landscape improvements, such as earth berms, walls, fences, sculptures, fountains, and paved areas
- H. Planting and installation details as necessary to ensure conformance with all required standards
- I. Location of overhead and underground utilities
- J. Landscape Compliance Summary Table. This Table shall list required Planting Yards by Type, length, points required and plants to meet the points requirement. It shall also include length of Street Yard and Trees by type (shade or ornamental) to meet the tree planting standard. This Table shall include the number of new parking spaces provided and the trees required and the trees proposed to meet Parking Lot Landscape requirements.

404.14 Landscape standards and specifications

- A. The developer shall furnish and install all plant materials listed on the plan schedule.
- B. Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, which is published by the American Association of Nurserymen.
- C. Plant materials must be from the Recommended Plant List or known to be hardy in USDA Plant Hardiness Zone 7. Plants included in the Plant Types to Discourage List may not be used to meet the requirements of this Ordinance.

- D. Shade trees must be a minimum of 2 inches in caliper. Ornamental trees must be a minimum of 6 feet in height at the time of planting. (Six feet from top of root ball to top of tree.)
- E. No tree may be planted in the sight triangle.
- F. Do not use staking materials unless it is absolutely necessary. If staking is necessary, then the developer/property owner must remove the staking materials after one growing season.
- G. Property owners ensure the survival and health of required tree in perpetuity.
- H. A temporary Certificate of Occupancy may be issued when extremes in weather or soil conditions are not favorable for landscaping.
- I. The developer shall ensure that all plant pits, vine pits, hedge trenches, and shrub beds are excavated as follows:
 - 1. All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth of the ball to be above existing grade. Soil within the Planting Areas shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the Planting Area and the adjacent soil strata. Plants shall rest on well-compacted surface. The tree pit shall be a minimum of nine inches larger on every side than the ball of the tree.
 - 2. If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches in depth.
- J. Each tree or shrub, shall be pruned in an appropriate manner, in accordance with accepted standard practice.
- K. All trenches and shrub beds shall be cultivated to the lines shown on the drawings. The areas around isolated plants shall be cultivated to the full diameter of the pit.
- L. Existing trees shall be preserved whenever possible.
- M. All planting areas shall be mulched with a two-to-three inch layer of bark or other similar material to cover the Planting Area.

404.15 Alternative methods of compliance

- A. Use of Alternate Plan, Material, or Methods: Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography,

or other physical conditions; or front lot configuration, utility easements, unified development design, or unusual site conditions.

- B. Approval of Alternate Plan: The Sharpsburg Planning Board may approve an alternate plan which proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required by this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening, height, spread, and canopy of the planting at maturity.
- C. Appeal: Decision of the Sharpsburg Planning Board regarding alternate methods of compliance may be appealed to the Sharpsburg Town Board of Commissioners.

404.16 Plant substitution

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting may be approved by the Zoning Administrator or his/her designee if the following are true.

- A. There is no reduction in the quantity of plant material.
- B. There is no significant change in size or location of plant materials
- C. The new plants are of the same general category (i.e., shade tree, ornamental tree, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

406. STANDARDS FOR INDIVIDUAL USES

406.1 Above ground utilities

- A. General: Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, shall be installed underground, unless subsurface conditions make underground installation not possible or practical.
- B. Facilities used for the operation of aboveground utilities shall, whenever possible, be located on interior properties rather than on properties aligned with other lots that have continuous street frontage.
- C. Areas around water towers, water and wastewater treatment facilities, substations, and power plants shall be enclosed by a fence, not easily climbable, at least six feet in height. The fence shall be located at least twenty feet from any public street right-of-way and abutting property line and shall be planted on the exterior side with a semi-opaque vegetative screen with expected height of at least six feet at maturity.

406.2 Accessory buildings or uses

1. General:

In no event shall “accessory use” or “accessory structure” be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located. Accessory uses shall be permitted according to Table 310.2

- 2. No accessory use or building shall be located in the street-side side yard of corner lots.
- 3. Height: Accessory buildings shall conform to the height requirements of the zoning district in which they are located. Accessory buildings shall not exceed the principal building in height except in the RA-30 zoning district where accessory buildings, barns, etc. may exceed 35 feet, provided such buildings maintain a minimum thirty (30) foot setback from all property lines and from the principal structure.
- 4. Setback: No accessory building or recreational structure or use may extend within five (5) feet of a lot line, nor within twenty (20) feet of a street right-of-way line.
- 5. Accessory uses and building may be erected in any required side or rear yards, provided no separate accessory use or building shall be erected within ten (10) feet of the principal building or within five (5) feet from any lot lines.
- 6. No accessory building (except a well house) or recreational structure or use may extend in front of the front building line of a single-family, or two-family dwelling or manufactured home.
- 7. No detached accessory building, except carports open on at least three sides, shall be located closer than ten (10) feet to any other building or manufactured home.

8. With exception of carports open on at least three sides, an accessory building sharing one (1) or more common walls with the principal building shall be considered part of the principal building for purposes of this ordinance and must meet all yard requirements applied to the principal building. Open carports shall meet the accessory building setbacks.
9. Recreational uses and buildings accessory to multi-family dwelling complexes shall be in accordance with Section 405 of this ordinance.
10. Satellite Dish Antennas: Dish antennas less than twenty-six (26) inches in diameter shall be allowed as a permitted use in all zoning districts. Dishes larger than twenty-six (26) inches in diameter may be permitted only as a "special use".
11. Fences and Wall: Fences and walls shall be permitted as accessory uses provided that they comply with the following:
 - (a) No fence or wall more than three (3) feet in height, or retaining wall more than five (5) feet in height, may be placed in any front yard, including along the side lot line or in the yard to the front of any principal building, unless required as part of a development standard in accordance with Section 406 of this ordinance.
 - (b) Rear and side fences greater than six (6) feet in height, shall be of an open type similar to woven wire or wrought iron fencing except where a buffer with different specifications is required elsewhere by this ordinance.
 - (c) Fences may not exceed six (6) feet in height, except that in commercial and industrial districts, where such fences may be no more than ten (10) feet in height.
 - (d) Fences and walls are exempt from the setback requirements of this ordinance.
 - (e) No fence shall impede vision as regulated in Section 308.2 of this ordinance.

406.3 Accessory dwelling unit, attached

A. General:

1. The accessory unit and principal dwelling unit shall have the same address.
2. No more than one accessory dwelling unit is permitted on the same lot with a principal dwelling unit.
3. No dwelling accessory unit shall be permitted on the same zone lot with a two-family or multifamily dwelling or family care home.

B. Accessory Dwelling Unit Within a Principal Single-Family Dwelling:

1. The principal dwelling unit shall not be altered in any way so as to appear from a public or private street to be multifamily housing. Prohibited alterations include but are not limited to: multiple entranceways or multiple mailboxes. Access to the accessory dwelling unit shall be by means of an existing side or rear door,

except where a new entrance is required by the NC Building Code. No new doorways or stairways to upper floors are permitted if they are attached to the side of a building facing a public or private street.

2. An accessory dwelling unit shall occupy no more than twenty-five percent (25%) of the heated floor area of the principal building. The sum of all accessory uses (including home occupations) in a principal building shall not exceed twenty-five percent (25%) of the total floor area.
3. The minimum size shall be two hundred and fifty (250) square feet.
4. Water, sanitary sewer, and electrical utilities shall not be separately provided to the accessory dwelling unit.

406.4 Accessory dwelling unit, detached

A. General:

1. The accessory dwelling unit and principal dwelling unit shall have the same address.
2. No more than one (1) accessory dwelling unit is permitted on the same zone lot with a principal dwelling unit.
3. The accessory dwelling unit must meet the NC State Building Code and may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use.
4. The accessory dwelling shall be owned by the same person who owns and occupies the principal dwelling unit.
5. The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
6. The accessory dwelling unit shall be housed in a building with a maximum of one thousand (1,000) square feet in total area or thirty percent (30%) of the gross floor area of the principal dwelling, whichever is less.
7. The accessory dwelling unit shall meet all setbacks applicable to the principal dwelling unit and shall be located at least ten (10) feet from the principal dwelling unit.

406.5 Adult establishments

A. Location:

1. No adult establishment shall be located within one thousand feet (determined by a straight line and not street distance) of the closest boundary line of any residential zoning district, or of any point on the closest property line of any church, school, day care, public park, residence or playground as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied

by the adult establishment.

2. No adult establishment shall be located within one thousand feet (determined by a straight line and not street distance) of any other adult establishment as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by each.
3. No more than one adult establishment may be located within the same structure.

B. General Requirements:

1. Patrons of adult establishments shall be separated from entertainers, performers or entertainment employees by a minimum of six feet.
2. All performers or entertainment employees of adult establishments shall perform on an elevated stage or platform, elevated from the main floor by at least three feet.
3. No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible to the public or an adjacent property or use, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

C. Other Requirements: Mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.

406.6 Automotive repair services

- A. Screening: The automotive storage area shall be surrounded by a minimum six (6) foot high opaque fence.

406.7 Automotive storage

A. Maximum Automotive Storage:

1. In the B-1 Districts no more than twenty (20) motor vehicles shall be stored on the premises at any one time.
2. In the I District no more than one hundred (100) motor vehicles shall be stored on the premises at any one time.

- B. The automotive storage area shall be surrounded by a minimum six (6) foot high opaque fence.

406.8 Bars or nightclubs

- A. No such establishment shall be located within two hundred (200) feet of a church, elementary or secondary school, public park, or residentially zoned property.
- B. The main entrance of the building shall be toward a street zoned predominantly for nonresidential uses.
- C. A minimum six (6) foot high opaque fence shall be erected adjacent to the property line of abutting residences.

- D. Parking areas related to the establishment shall be located no closer than thirty (30) feet to the property line of abutting residences.

406.9 Bed and Breakfast

- A. General Requirements:
 - 1. The establishment shall not serve food or drink to non-guests for pay.
 - 2. The establishment shall serve only breakfast to registered guests of the establishment.
 - 3. The price of breakfast shall be included in the room rate.
 - 4. The establishment shall be the permanent residence of the owner of the establishment.
 - 5. In any residential zoning district, no more than two off-street parking spaces shall be provided in the front yard and overnight guest accommodations shall be in the principal structure only.
 - 6. Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.
 - 7. Employment shall not exceed two full time employees in addition to the owner(s).

406.10 Building materials supplies with outdoor storage

- A. All outside storage shall be completely screened from view from all streets and adjacent residentially zoned property.
- B. Security fencing, a minimum of six (6) feet in height, shall be provided around all outside storage areas.
- C. All storage areas shall be maintained in a manner so as to prevent dust from adversely impacting adjacent properties.

406.11 Campground

- A. Building(s) shall be not less than seventy-five (75) feet from any interior side or rear property line which adjoins residentially zoned property.
- B. A minimum six (6) foot high opaque fence shall be provided adjacent to all residentially zoned property.

406.12 Car washes

- A. Building(s) shall be not less than seventy-five (75) feet from any interior side or rear property line which adjoins residentially zoned property.
- B. A minimum six (6) foot high opaque fence shall be provided adjacent to all residentially zoned property.
- C. Operation:
 - 1. All washing operations shall be contained in a building.

2. Specific areas shall be provided for the manual drying, waxing, polishing, and vacuuming of automobiles and other motor vehicles when these services are offered on the site. These areas shall not conflict with on-site circulation patterns.
3. Hours of operation shall be between 7:00 a.m. and 10:00 p.m. when the property adjoins developed residentially zoned property.
4. Adequate provisions shall be made for the safe and efficient disposal of waste products.

406.13 Churches and other places of workshop

Noise from a public address system shall not be heard beyond the property line.

406.14 Civic and fraternal organizations

Noise from a public address system shall not be heard beyond the property line.

406.15 Day care centers and preschools

A. Space Requirements

1. Interior: At least thirty-five (35) square feet per child shall be provided, such space not including closets, passageways, kitchens, or bathrooms.
2. Exterior: At least two hundred (200) square feet per child of fenced usable play area, not to include parking areas, driveways, or land otherwise unusable.

B. Before a day care facility may be occupied, licensing is required by the North Carolina Division of Child Development with a certificate of compliance furnished to the Zoning Administrator by the operator.

406.16 Dwellings, single-family detached

To ensure compatibility and design harmony with the historic building patterns in Sharpsburg, the following design standards have been established. These standards are required for all new single-family residential construction and modular homes. All single-family and modular dwellings must meet the provisions of the North Carolina Residential Building Code.

406.17 Dwellings, two-family

All two-family dwellings must meet the provisions of the North Carolina Residential Building Code.

406.18 Entertainment, indoor

Hours of operation are limited to 10:00 AM-10:00 PM.

406.19 Entertainment, outdoor

- A. No outdoor activities, including parking, shall be located within two thousand (2,000) feet of any residentially zoned land.
- B. Lighting associated with the use shall not shine on adjacent properties.
- C. Noise from commercial amusements shall not be a nuisance to any residentially zoned land.
- D. Hours of operation are limited to 10:00 AM – 10:00 PM.

406.20 Family child care homes

- A. Space Requirements
 - 1. Interior: At least thirty-five (35) square feet per child shall be provided, such space not including closets, passageways, kitchens, or bathrooms.
 - 2. Exterior: At least two hundred (200) square feet per child of fenced usable play area, not to include parking areas, driveways, or land otherwise unusable.
- B. Administrative Requirements: Before a day care facility may be occupied, licensing is required by the North Carolina Division of Child Development with a certificate of compliance furnished to the Zoning Administrator by the operator.
- C. Buildings, parking, and play area shall be screened from adjacent residential areas by a buffer strip.

406.21 Family care homes

- A. Location: No such home may be located within a ½ mile radius of an existing family-care home.
- B. Administrative Requirements: A Zoning Compliance Certificate must be completed and signed by the Zoning Administrator indicating that all Town of Sharpsburg requirements as described in this section are met prior to final inspection and issuance of a certificate of occupancy by the County Building Inspections to allow occupancy.

406.22 General retail uses, over 5000 square feet

- A. General Requirements:
 - 1. Accessory shipping containers used for the temporary storage of merchandise must be placed in the rear yard of the use and shall not be visible from the principal entrance.
 - 2. Accessory Outdoor Sales Area: All merchandise for sale or rent shall be contained within the building envelope or under cover of attached canopies except:

3. Sidewalk sales or other organized temporary promotional events not to exceed one (1) event per month.
4. Lawn and Garden Centers, Home Improvement or Department Stores may permanently display plant materials, lawn and garden supplies, outdoor furniture or similar merchandise. All sales areas shall be contained within a designated area immediately adjacent to the primary retail building. Any permanent sales areas shall be designated on the required site plan. Sales areas shall not encroach upon required parking areas and must be designed so as not to impede the passage of vehicles within required parking areas. All tents or detached canopies must be securely tied down and maintained to prevent a hazardous condition.

406.23 Home occupation

A. General Requirements:

1. No person other than those residing in the home shall be engaged in the occupation.
2. The occupation shall not be visible from the street.
3. The home shall continue to be used principally as a dwelling.
4. The occupation shall not involve the retail sales of products.
5. There shall be no change in the outside appearance of the building or premises, except one non-illuminated sign, not exceeding three (3) square feet in area in accordance with section 402.4.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, fumes, odors, or which causes electrical interference in radio and television reception.
7. No more than twenty-five (25) percent of the total actual floor area of the dwelling or five hundred (500) square feet, whichever is less, shall be used in the conduct of the home occupation, except that a garage is permitted to park vehicles in connection with the home occupation if it meets the normal requirements for accessory buildings.

406.24 Manufactured home, Class A

A. Dimensional Requirements:

1. The manufactured home has a length not exceeding three (3) times its width, with the length measured along the longest axis and the width measured at the narrowest part of the other axis.
2. Minimum square footage: 1100 square feet.

B. Construction Standards:

1. The pitch of the roof has a minimum vertical rise of three feet for each twelve feet of horizontal run (3:12).
2. The roof is finished with a type of shingle that is commonly used in standard residential construction;
3. All roof structures shall provide eaves projection of no less than six (6) inches, which may include a gutter;
4. The exterior siding consists of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

C. Set-up and Installation:

1. General:

The manufactured home must be set up in accordance with the standards set forth by the North Carolina Department of Insurance for installation and tie downs;

(b) The tongue, axles, transporting lights, and removable towing apparatus must be removed subsequent to final placement.

2. Foundation:

Continuous, permanent brick foundation or brick curtain wall, unpierced except for required ventilation and access.

(b) Concrete footers under each supporting pillow. These footers are to be below the frost line. Minimum 12" below finish grade and on undisturbed soil or on controlled fill. Minimum area 2.5 square feet. Minimum thickness of footer 8".

3. Entrances:

(a) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground.

Primary (front) entrance stairs, porches, entrance platforms, ramps and other means of entrance shall be constructed of brick or concrete with an exterior brick veneer.

4. Additional Features. All new homes must be designed with at least one of the following three (3) features:

(a) Varied foot print visible from street.

(b) Covered front porch with a minimum size greater than thirty-six (36) square feet.

(c) More than two roof lines visible from the street. This may be accomplished through roofs designed with gables, hips and varied pitch, etc.

D. Site Requirements:

1. The lot must be landscaped and foundation shrubbery installed.

406.25 Manufactured Home, Class B

Class B manufactured homes shall be located within an approved manufactured home park in the MHP district or R-6M district and shall meet the following standards:

- A. Exterior finished shall be in good repair and in no case shall the degree or reflectivity of the exterior siding, foundation skirting, and roofing, exceed that of gloss white paint.
- B. Skirting required. A skirt or curtain wall, unpierced except for required ventilation and access, is required under the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation, and
- C. Stairs, porches, platforms or landing a minimum 4ft X 4ft landing, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.
- D. The running lights shall be removed and the hitch shall either be removed or screened with shrubbery.
- E. At least two (2) off-street parking spaces shall be provided.
- F. All areas not used for parking, manufactured home, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
- G. All standards must be met prior to issuance of a Certificate of Occupancy.

406.26 Manufactured Home, Modular

Modular homes must meet the same development standards as single-family detached dwellings. See subsection 406.16 above.

406.27 Manufactured Home Park

- A. General Requirements:
 - 1. Minimum Number of Manufactured Home Spaces: At least 2 spaces.
 - 2. Manufactured homes shall not be sold within a manufactured home park, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which he resides.
 - 3. The transfer of a deed to a manufactured home space or spaces either by sale or by any other manner shall be prohibited within a manufactured home park as long as the manufactured home park is in operation.
 - 4. Additions: Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building

Code may be added to any manufactured dwelling, provided that setback within the space can be met and a building permit is obtained.

5. Within a manufactured home park, one (1) manufactured home may be used as an administrative office.
6. Convenience establishments of a commercial nature shall be limited to food stores, coin-operated laundries, beauty parlors and barber shops. These may be permitted in manufactured home parks subject to the following restrictions:
 - (a) Such establishments shall be subordinate to the residential use and character of the park.
 - (b) Such establishment shall present no visible evidence of their commercial character from any portion of any residential district outside the park.
 - (c) Such establishment shall be designed to serve the trade and service needs of the park residents only.
7. The county Environmental Health Section, Building Inspector, and/or the Town of Sharpsburg Zoning Administrator are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Section. It shall be the duty of the owners or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for inspection.
8. The park owner or operator shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities under this section.
9. Site plans for manufactured home parks shall comply with section 608.8 of this ordinance.

B. Manufactured Home Space Requirements:

1. All manufactured homes shall be located on individual manufactured home spaces.
 - (a) Spaces served by municipal water and sewer systems or community water and sewer systems shall have at least 5,000 square feet of lot area.
 - (b) Spaces served by either a municipal or community sewer system, but not served by a municipal or community water system shall have at least 15, 000 square feet of lot area or a larger area if determined necessary by the county Health Department.
 - (c) Spaces served by a municipal or a community water system but not served by municipal or a community sewer system shall have at least 15, 000 square feet of lot area or a larger area if determined necessary by the county Health Department per manufactured home unit, allowing no more than one manufacture home per septic tank.
 - (d) Spaces shall not be less than 100 feet in width at the setback line.

- (e) An individual manufactured home with neither municipal or community water service nor municipal or community sewer service shall not be permitted within a manufactured home park.
2. Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners and each space shall clearly display a street address as assigned by the Town of Sharpsburg.
 3. Each manufactured home space shall be located so as not to be susceptible to flooding and shall be graded so as to prevent any water from ponding or accumulating on the premises.
 4. Each manufactured home shall be located at least 20 feet from any other manufactured home, at least 20 feet from any building within the manufactured home park, at least 20 feet from a side external property line, at least 30 feet from a rear external property line, and at least 15 feet from the edge of the right-of-way of any private interior road. The setback from a public road right-of way shall be the same as that required for the zoning district in which the manufactured home park is located.
 5. Road and Access Requirements:
 - (a) Convenient access to each manufactured home space shall be provided by roads with a minimum right-of-way of 50 feet for a residential collector road and 45 feet for a local residential road as defined by the North Carolina Department of Transportation Subdivision Roads Minimum Construction Standards Manual. The required traveled way of width is 20 feet for a 50-foot right-of-way and 18 feet for a 45-foot right-of-way. Private roads within manufactured home parks shall conform to the construction standards delineated in Section 10-7.3(G)(2).
 - (b) Proper sight lines shall be maintained at all road intersections in accordance with the current NCDOT requirements for sight clearances.
 - (c) New road names shall not duplicate or be similar to existing road names in the Town and shall be subject to approval by the Town.
 - (d) Two automobile parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any road in the park.
 - (e) No manufactured home space shall have direct vehicular access to a public road.
 - (f) All manufactured home spaces shall directly abut a private road contained within the park.
 - (g) The manufactured home park owner shall be responsible for the continued maintenance of the roads within the mobile home park.

D. Utility Requirements:

1. Water Supply: An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. Where a municipal water supply is available, connection shall be made thereto, and its supply used exclusively. When a municipal water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the NC Division of Health Services. Placement of water improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing.
2. Sewage Disposal: Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the NC Division of Environmental Management shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the NC Division of Environmental Management. Placement of sewer improvements to manufactured home spaces shall comply with the NC Building Code for Plumbing. Individual septic tank systems can be considered, if soil, topography, and ground water conditions are favorable and approval from the county Health Department is obtained. Provision shall be made for plugging the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the rise. The rim of the riser pipe shall extend at least 4 inches above ground elevation.

E. Solid Waste Disposal and Sanitation Requirements:

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be in accordance with the requirements of county Health Department.
2. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the County Health Director.
3. Parks shall be maintained from an accumulation of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.
4. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building materials shall be stored at least 1 foot above the ground.
5. Where the potential for insect and rodent infestation exists, all exterior opening in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
6. The growth of brush, weeds, and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak,

poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

- F. Street Lighting Requirements: All roads in the manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size street light shall be a 175-watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.
- G. Electrical Service Requirements: Minimum electrical service of 200 ampere, 120/240 volt single phase shall be provided to each manufactured home space. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.
- H. Screening Requirements: When a manufactured home park is to be constructed within 50 feet of a recorded residential subdivision not naturally screened with existing vegetation located on the site of the proposed manufactured home park, the owner of the park shall provide and maintain a 5-foot buffer yard along the adjacent boundary. The buffer yard shall be planted in evergreen trees or shrubbery or solid fencing at least 5 feet in height.
- I. Recreational Space Requirements:
 - 1. Each manufactured home park shall provide 400 square feet of recreational area for each manufactured home space that is less than 10,000 square feet in area. However, no recreational area required by this subsection shall be less than 2,500 square feet.
 - 2. Recreational areas shall not be located in an area utilized for septic tank fields.
- J. Manufactured Housing Unit Requirements:
 - 1. Type of manufactured housing unit allowed: Class A or Class B
 - 2. Set-up and Installation:
 - (a) The manufactured home must be set up in accordance with the standards set forth by the North Carolina Department of Insurance for installation and tie downs;
 - (b) The tongue, axles, transporting lights, and removable towing apparatus must be removed subsequent to final placement.
 - (c) A permanent foundation; or brick or vinyl curtain wall, un-pierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home.

406.28 Manufactured Home, temporary accessory use

- A. A manufactured home as a temporary accessory use may be installed in a zone that does not permit manufactured homes by right in the following situations:

The manufactured home shall only be occupied by:

1. The sick, disabled or elderly; or the primary caretaker of such a person.
 2. A holder of a building permit for a principal structure on the same lot to be occupied, for not longer than 18 months during construction of the principal structure.
- B. Type of manufacture home allowed: Class B.
- C. Skirting: The manufactured home shall be skirted with material constructed of fire and weather resistant material, such as aluminum, treated pressed wood or other approved materials that encloses the entire undercarriage and tongue of the manufactured or mobile home.
- D. Siting:
1. The manufactured home shall be located a minimum of 30 feet from the principal structure.
 2. The manufactured home shall have access to potable water and a sewage disposal system approved by the county health department.
- E. Set-up and Installation:
1. The manufactured home must be set up in accordance with the standards set forth by the North Carolina Department of Insurance for installation and tie downs;
 2. The axles and transporting lights must be removed subsequent to final placement.
 3. The towing tongue shall be removed, under skirted or screened with shrubbery. Such shrubbery shall be of a height to insure a total visual barrier of the towing apparatus and maintained.
 4. The manufactured home shall not be located in any required yard.
- F. Permit Required: Application must be made on form provided by the town for temporary uses and presented to the Board of Adjustment. The Board, as conditions of approval, may impose any additional reasonable conditions and safeguards as may be necessary to insure that the criteria for the granting of such a permit will be complied with and to reduce or minimize any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community.
- G. Public hearing required.
- H. Permit Renewal and Expiration:
1. If the manufactured home is occupied by the sick, disabled, or elderly, as provided in subsection (A)(2) of this section, the permit shall be valid for one year and may be renewed by the Zoning Administrator for additional one-year periods for as long as the condition exists.
 2. If the manufactured home is occupied during the construction of a primary residence as described in subsection (1)(b) of this section, the permit shall be valid for 18 months and may be renewed by the Zoning Administrator for two additional one-year

(12-month) periods. The manufactured home shall be removed within 30 days of issuance of a certificate of occupancy for the primary residence.

3. Application for necessary permits for use of the property and construction shall be made within 45 days of the issuance of the temporary use permit, else the temporary use permit becomes null and void.

406.29 Nightclub: see Bar

406.30 Park, active

- A. Access: All athletic or ball fields shall have primary access to collector or thoroughfare streets.
- B. Operation: Hours of operation will be no earlier than 7:00 a.m. and no later than 10:00 p.m.
- C. Lighting: Any outdoor lighting associated with the use shall not shine directly into yards of a residential use nor into the windows of a residential structure.
- D. Screening: Service areas will be separated by an opaque screen from the view from any street and from abutting properties; chain link and similar fencing materials, if used, shall be planted on the exterior side

406.31 Parking lots (stand alone)

- A. Use Limitation: Automotive parking shall be allowed as a principal use only in such instances where the lot or structure functions as a shared parking lot providing required off-street parking for nearby uses.

406.32 Planned Unit Development

- A. General. Although conventional zoning and subdivision regulations are in the public interest in most instances, such regulations may prohibit certain innovative architectural designs and project plans which might result where projects planned and developed under unified control are involved. Such projects may be planned in such a way that the possible adverse effects from mixing of land uses and densities are minimized or avoided, and significant public benefits such as preservation of large areas of usable open space and natural features, and savings in street and utility costs may be realized. Planned unit developments shall be approved according to the procedures for special uses in Article X.
- B. Definition. For the purpose of this ordinance, a planned unit development is a project on two (2) or more gross acres containing more than four (4) dwelling units or more than two (2) buildings to be located on land under unified control, planned as a whole and developed in a single development operation or in a definitely programmed series of units or stages of development which include all lands in the development, according to comprehensive and detail plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development. Developers of conventional subdivisions are not required to seek approval as a planned unit development unless the uses proposed for the subdivision are required to be approved as a PUD in the table of uses for this ordinance, or a deviation from standard subdivision design is proposed.
- C. Development Plan Requirements. The development plan for a planned unit development shall contain the following information:

1. All of the information listed as required for a preliminary and for a final plat in the Subdivision Regulations for the Town of Sharpsburg, North Carolina, whether or not the planned unit development is a subdivision as defined by that ordinance. If the planned unit development is not a subdivision, the developer may combine the required information on one set of plans rather than having preliminary and final plans if the developer so desires.
2. A site plan in accordance with this section 608.9 of this ordinance that also shows the location, arrangement, number, type, number of stories and dimensions of all existing and proposed structures, units and uses. In the case of individual lots for detached single through four family dwelling units, the lots and setbacks shall be shown, but a detailed plot plan of the structure need not be submitted until such time as the structure is to be built.
3. The internal traffic and circulation system, off-street parking, number of off-street parking spaces, service and loading areas, and major points of access to and egress from public rights-of-way.
4. The net acreage of usable land in each district in the proposed planned unit development.
5. A general landscaping plan.
6. The square footage of land covered by each structure.
7. The square footage in each structure.
8. A statement of the proposed ownership and a legal description of all of the land to be included in the proposed planned unit development.
9. Evidence that the developers have or will have sufficient control over the property to affect the proposed plan.
10. Copies of any agreements, conveyances, restrictions, or covenants which will govern the use, maintenance, and continued protection of the planned unit development.
11. When a planned unit development is to be constructed in stages or units, a schedule for the development of such stages or units.
12. All information required by the North Carolina Unit Ownership Act where applicable.
13. Any other information requested by the governing body upon its own motion or upon the recommendation of the planning board, the Zoning Administrator or the town attorney, because of special topographic, circulation, traffic, design, siting, legal or other potential problems raised by the planned unit development.

D. Development Standards:

1. Uses allowed in a planned unit development:
 - (a) Any use allowed as a use-by-right in the table of uses for the district in which the project is located;
 - (b) Any use allowed as a special use in the table of uses for the district in which the project is located; if a special use is approved as part of a planned unit

development, a separate special use permit is not needed.

- (c) Any use allowed in a PUD in the table-of-uses for the district in which the project is located.
- (d) Recreation buildings primarily for residents of the planned unit development.
- (e) Planned unit developments of ten (10) acres or more in residential districts may have up to twenty-five (25) percent of floor space in multifamily buildings and recreation buildings devoted to office, light retail and service uses for the convenience of residents of the planned unit development.

2. Dimensional and density requirements in planned unit developments.

- (f) Overall density shall be the same as that required for individual uses in the zoning district in which the project is located if all lot size and dimensional requirements were met.
- (g) The height requirements of the district in which the project is located shall not be exceeded.
- (h) Lot size and dimensional requirements for each individual building may be reduced provided that the overall density shall be that in (2)(f) of this section and the land not in individual lots shall be provided as common open space with covenants and agreements providing for their continuing use by occupants of the planned unit development and maintenance in accordance with (j) of this section.
- (i) Land in streets, rights-of-way and utility and storm drainage easements shall be excluded when computing density.
- (j) Building Separation: Within a PUD the required separation between buildings shall be determined by their heights. The minimum horizontal distance between vertical projections of any points on two (2) adjacent buildings shall be determined according to the following table. The vertical projections for each building shall be drawn from that point on each building which is horizontally closest to the other building:

Height of Taller Building	Minimum Horizontal Distance Between Vertical Projections
20 feet or less	16 feet
between 20.1 and 25.0 feet	25 feet
between 25.1 and 30.0 feet	30 feet
between 30.1 and 40.0 feet	40 feet
between 40.1 and 50.0 feet	60 feet

- (k) Distance related to windows: The minimum distance between the centers of the facing windows of different dwelling units within a PUD project shall be twenty (20) feet;

3. The proposed land uses, buildings, structures, and improvements shall be so located, arranged, fenced, screened, buffered, and insulated as to ensure adequate light and

air, privacy, protection from noise, and safety from fire and explosion;

4. The yard requirements for the district in which the planned unit development is located shall be maintained around the outside edge of the property on which the planned unit development is constructed.
5. The landscaping requirements in section 404 shall apply on the outer edges of the planned unit development, as shown in Figure 404.9.
6. All substantive standards of the subdivision regulations for the Town of Sharpsburg shall be met except those concerning block and lot layout, if the planned unit development is also a subdivision.
7. The internal traffic and circulation systems, including off-street parking, loading, refuse and service areas and sidewalks will adhere to the standards in Article VI, for parking, and loading, and substantive standards of the subdivision regulations, and will be safe and convenient, adequate for the type and amount of vehicular and pedestrian traffic reasonably to be expected, and will not have any adverse economic, glare, noise, odor, or other impacts within the planned unit development;
8. Any proposed signs, lighting or other advertising devices, if allowed within the applicable use district, will be in accordance with Article V and will be located, designed, directed, and shielded so as not to have any adverse economic, glare, traffic, safety or other impacts within the planned unit development;
9. The open space which will be provided either through yards, buffers or common open space or recreational areas, will be suitable for such purposes and at least equal to the amount of open space that would have been provided had the applicable yard requirements been applied. Open space means lands which are suitable for yard or common open space or recreational uses, devoid of buildings, structures, and improvements except where accessory to the provision of recreational opportunities and accessible and available to all of the persons for whose use the space is intended. Where significant vegetative cover, natural features, or scenic areas or vistas exist, the planning board may recommend that they be preserved, and the governing body may impose conditions or safeguards to ensure their preservation;
10. No stage or unit of development includes more than its proportionate share of dwelling units or gross floor area or less than its proportionate share of open space;
11. The number of development stages or units are not so great or the length of time over which the development will be constructed so long as to prevent review of the planned unit development and its various stages or units in a coordinated and comprehensive manner;
12. Adequate provision will be made through agreements, conveyances, restrictions, or covenants for governing the use, maintenance, and continued protection of the planned unit development and its common open spaces or recreational areas.
13. The type, size, and intensity of the planned unit development shall be harmonious with adjoining properties and the general neighborhood.

406.33 Radio, television, or communication antennae⁷

Radio, television, or communication antennae towers and equipment cabinets are subject to the setbacks of the zoning district in which the tower is located and setback far enough to prevent the tower fall zone from encroaching onto adjacent property. Fall zone determination shall be based upon professional engineering certification that the structure's design upon construction will prevent the completed structure from falling onto the adjacent lots or other buildings or public streets or parking areas located outside the fenced tower equipment area. Any supporting cables and anchors must be contained within a fenced tower equipment area. The site plan accompanying the application shall show the existing and proposed property lines and tower easement or property area and other existing features on the property and immediately adjacent (e.g., buildings, streets); tower location, safety fall zone, fencing, equipment cabinets, cable anchors necessary to support the tower, drive, access and utility easements, signage, and buffer zone/landscaping.

406.34 Storage Yard, Outdoor

- A. All outside storage shall be completely screened from view from all streets and adjacent residentially zoned property.
- B. Security fencing, a minimum of six (6) feet in height, shall be provided around all outside storage areas.
- C. All storage areas shall be maintained in a manner so as to prevent dust from adversely impacting adjacent properties.

406.35 Temporary Event

Includes uses such as circuses, carnivals, fairs, yard sales, flea markets, religious tent revivals

- A. The site shall be located at least two hundred (200) feet from the nearest occupied residential structure, and shall be adequately designed for its size and purpose. The use shall meet any applicable county Health Department regulations.
- B. Time Limit. Permits for temporary events shall have a five (5) day time limit.
- C. A temporary use permit must be issued by the Zoning Administrator. The applicant must demonstrate provisions for sanitation, parking and security. Temporary use permits are valid for ten days and may be renewed by the Zoning Administrator for one (1) additional ten day period. A new permit may not be obtained for the same use at the same location until sixty days from the expiration of the previous permit.

406.36 Temporary Use

Certain uses of a temporary nature are permitted within the Town of Sharpsburg, provided a temporary use permit is obtained from the Zoning Administrator. These may include, but are not limited to uses such as sales of Christmas trees and seasonal greenery; and farm stands. All temporary use permits, except those issued for manufactured homes as a temporary use (see 406.28) are valid for thirty (30) days and may be renewed by the Zoning Administrator.

406.37 Solar Generation facility, utility scale

- A. Except for poles and lines necessary to connect the facility to the electrical utility grid, the height of structures and arrays associated with the facility shall not exceed 20 feet, and

⁷ 406.33 Radio, television, or communication antennae Ord. No. 2019-03)

structures and arrays shall be set back at least 100 feet from every public road right-of-way. Poles outside of the fenced area shall be at least 30 feet from adjoining property lines and 30 feet from the centerline of every public road or as otherwise required by NC DOT. Fencing shall be at least 50 feet from every public road right-of-way. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid. The setback requirements for fencing, structures, and arrays from public rights-of-way as set forth in this subsection may be reduced in the discretion of the Board of Commissioners.

- B. The solar generation facility shall be enclosed by a chain-link security fence, a minimum of six feet in height and topped with barbed wire.
- C. Except for poles and lines necessary to connect the facility to the electrical utility grid, the height of structures and arrays associated with the facility shall not exceed 20 feet, and structures and arrays shall be set back at least 100 feet from every public road right-of-way. Poles outside of the fenced area shall be at least 30 feet from adjoining property lines and 30 feet from the centerline of every public road or as otherwise required by NC DOT. Fencing shall be at least 50 feet from every public road right-of-way. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.
- D. Prior to construction, the developer of the site shall consult with NCDOT or the Town Director of Public Works regarding necessary driveway location and improvements to ensure safety and to protect the public road or street from damage during construction and shall comply with such requirements.
- E. The site shall conform to applicable stormwater regulations, such as water supply watershed protection regulations and river basin rules, to prevent erosion and protect water quality in adjacent surface waters. Prior to development of the site, the applicant shall consult with the N.C. Division of Water Quality concerning compliance with applicable stormwater management requirements.
- F. Nothing in this ordinance modifies already established building standards, including, but not limited to, the acquisition prior to construction of all necessary building and electrical permits.
- G. Nothing in this ordinance modifies already established Department of Health and Human Services requirements. A solar generation facility shall not be constructed over onsite wastewater systems (e.g. septic systems) unless approved by the Department of Health and Human Services.
- H. The solar generation facility shall be developed in accordance with an approved site plan that includes:
 - 1. The location of the solar generation facility (including the arrangement of any existing or proposed buildings, structures, or panels).
 - 2. The distance from any proposed solar generation facility, structure, or use area to the surrounding property lines.
 - 3. Any existing or proposed signs, fencing, lighting, parking areas, driveways, landscaping, vegetative screening or required buffers.

4. Horizontal and vertical (elevation) scaled drawings with dimensions of proposed solar collector structures and lighting facilities.
 5. Noted limitations on built-upon area as required for compliance with stormwater, watershed, and/or riparian buffer regulations.
 6. The electrical disconnect switch shall be clearly identified and unobstructed and shall be noted clearly on the site plan.
- I. Security and safety signage shall be provided and maintained at the entrance of the facility.
 - J. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.
 - K. The Board may require that any portion of the perimeter of the facility adjoining residential property be screened by a ten-foot buffer yard. The buffer yard shall consist of nine evergreen trees or shrubs per 100 linear feet or fraction thereof. The evergreen buffer must be capable of reaching a height of 6 feet within three years of planting, with at least 75% opacity at the time of planting. This requirement may be waived if the fencing setback is increased to 200 feet from the dwelling.
 - L. Inverter noise shall not exceed 40dBA, measured at the property line.
 - M. Decommissioning:
 1. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.
 - (a) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.).
 - (b) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
 - (c) Restoration of property to condition prior to development of the solar generation facility.
 - (d) The timeframe for completion of decommissioning activities
 - (e) Description of any agreement (e.g., lease) with landowner regarding decommissioning.
 - (f) The party currently responsible for decommissioning.
 - (g) Plans for updating this decommissioning plan.
 2. A recorded copy of the decommissioning plan shall be submitted to the Town Manager prior to commencement of construction of the solar generation facility.

Decommissioning shall be completed within 12 months of determination by the Town Manager that the facility is no longer being maintained in an operable state of good repair, unless the current responsible

party with ownership interest in the facility provides substantial evidence to the Town Manager of the intent to maintain and reinstate operation of the facility.

406.38 Sweepstakes Centers or Internet Cafés⁸

- I. Selling and/or consuming alcoholic beverages are prohibited in internet cafes.
- J. Persons under the age of eighteen (18) are prohibited from the premises.
- K. All sweepstakes centers or internet cafés shall be located at least one thousand (1,000) feet from any school, church, or residential use.
- L. Parking shall comply with the requirements of Section 400.3 of the Code of Ordinances.
- M. The permitted hours of operation for the internet café shall be 10:00 a.m. to 10:00 p.m.
- N. All uses meeting the definition of “sweepstakes centers” or “internet café” as defined in Section 204 of the Code of Ordinances that were legitimately established prior to May 4, 2010 shall cease operations and close or be brought into compliance with the provisions of the Sharpsburg Code of Ordinances by midnight December 8, 2010.
- O. Internet Cafés shall be operated only on the ground floor of a building and plate glass windows and plate glass entry door shall be in those parts of the building facing any street, so that a clear and unobstructed view of the interior may be had during all hours of operation.
- P. No curtains, screens, blinds, partitions or other obstructions shall be placed between the entrance to the room where computers or gaming terminals or machines or play stations are stationed and the rear walls of the room so that a clear view of the interior may be had from the storefront and entry door of the building and street.
- Q. Adequate lighting shall be provided inside the sweepstakes center or internet café as well as the immediate exterior of the building.
- R. The establishment must be a minimum of one thousand (1,000) feet from any other Sweepstakes Center or Internet Café’
- S. The establishment may contain no more than twenty (20) gaming, skilled gaming machine stations or computer monitors.
- T. The business operator is required to provide onsite security on any sweepstakes center or internet café business.

⁸ Ord. No. 2018-08-7

ARTICLE V: NON-CONFORMING USES

500. GENERAL

Within the districts established in this ordinance or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated or restricted under the provisions of this ordinance or future amendment. These are called nonconformities and are subject to the following provisions:

502. NON-CONFORMING VACANT LOTS

This category of nonconformance consists of vacant lots for which plats or descriptions have been recorded in the Office of the Register of Deeds of the county in which the lot is located, which at the time of enactment or amendment of this ordinance fail to comply with the dimensional requirements for the districts in which they are located. Any such nonconforming lot may be used for any of the minimum uses permitted by this ordinance for the district in which it is located provided that no dimensional requirement is reduced below the minimum specified in this ordinance by more than (20) percent. If two or more nonconforming adjoining and vacant lots are in single ownership when this ordinance is adopted or at any time thereafter, they shall be considered a single lot for purposes of this ordinance and the provisions of this section shall not apply.

504. NON-CONFORMING SUBSTANDARD STRUCTURES

This category of nonconformance consists of structures existing at the time of adoption or amendment of this ordinance, whose size or location does not conform with the yard, height, lot area, lot coverage or other dimensional provisions of this ordinance or any amendment thereto. Such structures may remain and their conforming use may continue, provided that any enlargement to such structure must conform to all applicable requirements of this ordinance. If such structures are damaged or destroyed by fire, explosion, or other calamity, they may be reconstructed, provided that when reconstructed they comply with all applicable requirements of this ordinance, unless the structure is situated on a nonconforming lot of record in which case the provisions in Section 502 apply. The Board of Adjustment may grant a variance in cases where the location of the structure on the lot would make it infeasible to meet the requirements of this section when the structure is enlarged or rebuilt.

506. NON-CONFORMING OPEN USES OF LAND

This category of nonconformance consists of open uses of land where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use is not permitted to be established hereafter, under this ordinance or amendment thereto in the district in which it is located.

- A. When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use, nor may such use be moved off the lot or lots on which it is located unless, when relocated, it complies with the regulations of the district in which it is relocated.
- B. A nonconforming open use of land shall not be changed to any but conforming uses.
- C. A nonconforming open use of land shall not be enlarged to cover more land than was occupied by the use on the effective date of this ordinance or amendment thereto, except that nonconforming cemeteries may expand to the boundaries of the property they owned on the date of this ordinance or amendment thereto.
- D. When any nonconforming open use of land is discontinued for a period in excess of one hundred eighty (180) days, any future use of the land shall be limited to those uses permitted in the district in which the land is located and in conformance with all applicable

requirements. Vacancy and/or nonuse of the land regardless of the intent of the owner or tenant shall constitute discontinuance under this provision.

508. NON-CONFORMING USES OF BUILDINGS OR STRUCTURES

This category of nonconformance consists of buildings or structures used at the time of enactment of this ordinance or amendment thereto for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- A. Any existing nonconforming use of a building or structure may not be changed to another nonconforming use, except that the board of adjustment may permit as a special use a change in nonconforming use if the board finds that such new use would be more in character with the uses permitted in the district than the previous use, provided that once the board of adjustment has permitted such substitution, the new use shall lose its status as a legal nonconforming use and become subject to any conditions required by the Board of Adjustment. Once such change has been made, use of the structure shall not revert to the previous nonconforming use.
- B. A building or structure occupied by a nonconforming use may not be moved off the lot or lots on which it is located unless when relocated, it complies with the regulations for the district in which it is relocated.
- C. When a nonconforming use of a building or structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use,
- D. A nonconforming use of a building or structure shall not be extended or enlarge except into portions of the structure which, at the time the use became nonconforming were already erected and arranged or designed for such nonconforming use except that nonconforming existing residential structures in either business or industrial districts may be enlarged, extended or structurally altered provided no additional dwelling units result from such enlargement and the extension or enlargement is otherwise in accordance with this ordinance.
- E. Maintenance and repairs necessary to keep a structure housing a nonconforming use in sound condition shall be permitted.
- F. A structure occupied by a nonconforming use may be changed in physical appearance to be more in character with the uses permitted in the district in which it is located provided that once so changed it shall not subsequently be changed to be less in character.
- G. When any nonconforming use of a building or a structure is abandoned for a period in excess of one (1) calendar year, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- H. Reconstruction of damaged buildings or structures. Any building or structure other than an owner/occupant residential dwelling housing a nonconforming use which has been damaged may be repaired and used as before if repairs are initiated in twelve (12) months and completed within two years of such damage, unless such building or structure has been damaged to an extent exceeding sixth (60) percent of its assessed value at the time of destruction in which case future use of the building and site must conform to the provisions of this title or amendment thereto. An owner/occupant residential dwelling which is a non-conforming use and has been damaged, may be repaired regardless of the extent to which it is damaged, and used as before if repairs are initiated and completed within the times set forth herein.

510. NON-CONFORMITY IN REGARD TO PARKING, LOADING OR LANDSCAPING

Where a use does not conform to the parking, loading or landscaping requirements of this ordinance or amendment hereto, and there is room on the lot or on adjoining vacant property in the same ownership to meet such requirements, no alteration, expansion, reconstruction or resumption or change in use shall be allowed until all such requirements for the entire use are met. Where there is insufficient land to meet these requirements, the Board of Adjustment shall hear the case and may approve a variance in use of a site for a business or industrial purpose may be denied if parking and loading requirements cannot be met if there are alternate business and industrial uses which could be made of the site with lower parking and loading requirements.

512. NON- CONFORMING SIGNS AND MANUFACTURED HOMES

- A. Nonconforming signs. The regulations in Section 402.2(J) of this ordinance shall govern.
- B. Nonconforming manufactured homes. Individual manufactured homes which are a nonconforming use in the district in which they are located may remain, provided that once any such manufactured home is removed from the lot on which it is located, it shall lose its status as a nonconformity and the same or another manufactured home may not be placed on the lot.

ARTICLE VI: ADMINISTRATION AND AMENDMENTS

600. ZONING ADMINISTRATOR

The Zoning Administrator who shall be appointed by the Board of Commissioners is duly charged with the enforcement of the provisions of this ordinance. If the Zoning Administrator(s) finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action(s) necessary to correct it. He shall also take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

602. PLANNING BOARD

602.1 Establishment.

This section is intended to re-establish a Planning Board for the Town of Sharpsburg, North Carolina. The Planning Board shall be appointed by the Sharpsburg Board of Commissioners and shall serve at the pleasure of the board. Each board member shall take an oath of office before starting their duties. (N.C.G.S. 160D-309).

602.2 Membership.

The Planning Board shall consist of four at large members who reside within the corporate limits of Sharpsburg and three who reside within the town's extra-territorial jurisdiction, one (1) from each of the three counties that coincide with Sharpsburg's corporate limits: Edgecombe, Nash and Wilson counties. These ETJ members shall be appointed by the Board of Commissioners of their respective counties. The counties' Boards of Commissioners shall have ninety (90) days from the time of a resolution by the Sharpsburg Town Board of Commissioners requesting appoints be made for the ETJ member vacancies to make the appointments. If the county boards of commissioners do not appoint a member within this time frame, the Sharpsburg Town Board may fill the vacancy. The Town Board shall also appoint two alternate members. Members shall be appointed for terms lasting three years.

As directed by the Board of Commissioners, the Planning Board shall have the following duties:

- A. Make studies and recommend to the Board of Commissioners plans, goals and objectives relating to the growth, development and redevelopment of the town planning jurisdiction.
- B. Develop and recommend to the Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
- C. Make recommendations to the Board of Commissioners concerning proposed zoning text and map amendments, as provided by section 608.
- D. Review and approve minor subdivisions in accordance with the subdivision regulations of the Town of Sharpsburg.
- E. Perform any other duties assigned by the Board of Commissioners.
- F. The Board shall adopt rules and bylaws in accordance with the provisions of this ordinance and Chapter 160D of the General Statutes of North Carolina

- G. When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

602.3 Maintenance of Maps.

- (a) Zoning Map. - Zoning district boundaries adopted pursuant to this Chapter shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the Town of Sharpsburg. The Town of Sharpsburg adopts the most current version of the Army Corps of Engineer's Flood Insurance Rate Maps by reference:
- (b) These maps shall be maintained for public inspection as provided in the office of the Town Clerk.
- (c) Copies. - Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the local government clerk, shall be admissible into evidence and shall have the same force and effect as would the original map.
- (d) Plan Consistency- When a rezoning is adopted that is not consistent with the future land use plan, it shall be noted and the plan and the future land use plan will be amended with the decision.
- (e) Additional Reasonableness Statement for Rezonings. – When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.
- (f) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

604. BOARD OF ADJUSTMENT

604.1 Establishment

The Planning Board of the Town of Sharpsburg is hereby designated to serve as the Board of Adjustment. The alternate members of the planning board shall also be alternate members when the Planning Board is serving as the Board of Adjustment. The in-town members, and in-town alternate members in the absence of in-town regular members, shall have voting power on all matters of business, whether in-town or in the extraterritorial jurisdiction. The extraterritorial members, and extraterritorial alternate member in the absence of an extraterritorial regular member, shall have voting powers on all matters of business, whether in-town or in the extraterritorial jurisdiction. The officers of the planning board shall retain their offices when the Board is acting as the Board of Adjustment. Each board member shall take an oath of office before starting their duties. (N.C.G.S. 160D-309).

604.2 Powers and duties of the Board of Adjustment

The Board of Adjustment shall have powers and duties to hear and make decisions regarding administrative appeals, variances, special use permits, interpretation of maps, nonconformities, and parking and loading modifications.

604.3 Administrative appeals

The Board of Adjustment will hear and decide appeals where it is alleged that there is an error or errors in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the town. Appeals shall be taken within times prescribed by the Board of Adjustment by general rule, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

- A. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this ordinance. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- B. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that, in its opinion, ought to be made in the premises. To this end, the Board shall have all the powers of the officer from whom the appeal is taken.
- C. The board shall refuse to consider an appeal or application previously denied, if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

604.4 Variances

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 zoning regulation upon a showing of all of the following:

- A. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- D. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved. The variance is not a request to permit a use which is not a permitted or special use in the district involved. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

604.5 Special Use Permits

The Board of Adjustment shall hear and decide whether to allow specific special uses for development to be established in the districts indicated; to decide such questions as are involved in determining whether a special use permit should be granted; to grant special use permits with such conditions and safeguards as are appropriate under this ordinance, or to deny special use permits when not in harmony with the purpose and intent of this ordinance. Application for special uses shall be decided in accordance with the provisions of Section 608.4 of this ordinance.

604.6 Map interpretation

The Board of Adjustment will interpret the official zoning map in accordance with section 306 of this ordinance.

604.7 Nonconformities

The Board of Adjustment will hear and make determinations concerning nonconformities described in Article V of this ordinance.

604.8 Parking and loading modifications

The Board of Adjustment will hear and make those parking and loading modification described in Article IV of this ordinance.

606. PROCEEDINGS OF BOARDS

606.1 General

All members of the Board of Adjustment and the Planning Board (hereafter called the Board) shall adopt rules and bylaws in accordance with the provisions of this ordinance and of Chapter 160D-308 of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his or her absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

606.2 Rights, privileges and duties

The Board shall have equal rights, privileges and duties in all matters. The alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all such rights, privileges and duties of a regular member.

606.3 Board vacancies and compensation

Vacancies occurring for other than expiration of term shall be filled as they occur for the remainder of the un-expired term and such vacancy shall be filled by the Town Board. Members shall serve without pay but may be reimbursed with prior approval of the Town Board for any expenses incurred while representing the board.

606.4 Organization

- A. The Board shall adopt rules governing its organization and for all proceeding before it. A copy of any adopted rules of procedure shall be maintained by the town clerk and posted on the town's Web site if one exists.
- B. At the first meeting, or the first meeting after the membership of the board has been changed through the expiration of one or more terms, the Board shall elect a chairman and a vice-chairman from within its membership. The chairman or the vice-chairman in the chairman's absence shall preside at all meetings. The chairman of the board or the vice-chairman is authorized in his official capacity to administer oaths to witnesses in any matter coming before the board.
- C. The Board shall appoint a secretary and such other officers as may be authorized by the Town Board. Said secretary may be an employee of the town upon approval of the mayor of Sharpsburg.

606.5 Minutes; written orders

- A. The Board shall keep minutes of its proceedings in a book maintained for the purpose showing the vote of each member upon each question, and if absent or failing to vote, an indication of such fact. Final disposition of all cases considered by the board shall be by written order with the findings of facts stated, and the reasons therefore, all of which shall be a matter of public record.
- B. Unless otherwise specified, any order or decision of the board shall expire and become void if a building permit and/or Certificate of Occupancy/Compliance for such use is not obtained within one year from the date of said order or decision.

606.6 Conduct of meetings

- A. All evidence and testimony shall be presented publicly, and the board may consider all relevant facts within the personal knowledge of any member of the board, but such facts should be stated publicly in the hearing.
- B. All meetings of the board shall be held at a regular time and place, and at such other times and places as the board may determine. All meetings of the board shall be open to the public. Due notice shall be given to all parties of interest and public hearings shall be advertised when required under the provisions of this ordinance. Any interested party may appear in person, by agent or by attorney, offer evidence and testimony and cross-examine witnesses.

606.7 Hearing procedures for quasi-judicial decisions

Applications for special use permits, administrative appeals, and variances require that the Board of Adjustment hold an evidentiary hearing on the application.

- A. Notice of the evidentiary hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the Town of Sharpsburg. The said notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before such hearing. A sign shall be posted on the subject property in the same time frame as the notice (not less than ten (10) days or more than twenty-five (25) days before such quasi-judicial hearing).
- B. The Town Clerk shall give due notice to the applicant of any meetings at which the application will be considered.
- C. Quasi-Judicial Nature of Proceedings: All hearings by the Board of Adjustment for administrative appeals, special uses and variances shall be conducted as evidentiary hearings in accordance with NC G.S.160D-705. More specifically, any interested party with standing must be given the opportunity to present evidence or testimony, to cross-examine witnesses, to inspect documents, and to offer evidence or testimony in explanation or rebuttal. Findings shall be based on substantial evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based on sworn evidence or testimony unless the party or parties before the Board stipulate the facts or waive this requirement. Even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. The Board shall not impose conditions on special use permits that the Town of Sharpsburg does not otherwise have statutory authority to impose.

606.8 Participating and Voting on quasi-judicial decisions

- A. The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment is necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this ordinance, or to grant a variance from the provisions of this ordinance.
- B. The concurring vote of a simple majority of the members of the Board of Adjustment is necessary to grant a special use permit. Vacancies and recusals are not included when computing the majority.

- C. The chairperson, or the vice-chairperson in his/her absence, shall vote in all matters coming before the board.
- D. A member of any board exercising quasi-judicial functions 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.
- E. If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- F. No member shall be excused from voting except upon matters involving Impermissible violations of due process which preclude impartial consideration of the issue in question. A failure to vote by any member who is eligible shall be recorded as an affirmative vote.
- G. Alternates may serve on individual matters based on a member's temporary disqualification or recusal.
- C. Every decision of the Board of Adjustment shall be filed in the office of the Zoning Administrator and a written copy thereof shall be delivered to the appellant by personal service or registered mail.

606.9 Appeals of quasi-judicial decisions

Because all decisions by the Board of Adjustment for administrative interpretation appeals, special use permits, and variances are quasi-judicial decisions they are subject to review in Superior Court by proceeding in the nature of certiorari. Any appeal to the Superior Court shall be made within thirty (30) days after the written decision of the Board is delivered to the owner or other party by personal service or registered mail or certified mail, return receipt requested, or first-class mail, whichever is later. If the notice is sent by first-class mail, in the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal.

606.10 Conflicts of interest

In accordance with NC G.S. 160D-109, members of governing bodies, appointed boards, administrative staff, and boards making quasi-judicial decisions shall avoid conflicts of interest in regards to development decisions, as follows:

- A. A town board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- B. Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- C. No staff member shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the town as determined by the town.
- D. Familial Relationship. - For purposes of this ordinance, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (N.C.G.S. 160D-109.)

608. PERMITS

608.1 Zoning Permit

- A. A zoning permit must be issued by the Zoning Administrator or their authorized representative prior to the construction, extension, enlargement, or other structural alteration, location or relocation of any building or structure, including signs and fences; or any part thereof.
- B. A fee in accordance with the town's adopted fee schedule shall be charged for the issuance of each zoning permit.
- C. All applications shall be in a form prescribed by the Zoning Administrator and shall be accompanied by a site or plot plan in accordance with section 602.6 below.

608.2 Building Permit

The NC State Building Code inspections services, including issuance of building permits and certificates of occupancy, are provided for the Town of Sharpsburg and its extraterritorial jurisdiction through Interlocal Agreements with the counties of Edgecombe, Nash, and Wilson.

608.3 Certificate of Occupancy/Compliance

- A. No land shall be used or occupied, and no building or structure that has been erected or altered shall be used or changed in use until a Certificate of Occupancy/Compliance has been issued by the Zoning Administrator stating that the building and/or the proposed use complies with the provisions of this ordinance and all necessary inspections have been completed and approved.
- B. A certificate of the same shall be required for the purpose of changing any existing use; as well as for maintaining, reviewing, changing, or extending any nonconforming use.
- C. The Certificate of Occupancy/Compliance shall be issued within ten (10) working days after the construction or alterations of such building or part have been completed in conformity with the provisions of this ordinance.
- D. A record of all such certificates shall be kept on file and open to the public, subject to State law.

608.4 Special Use Permit

- A. The provisions of this ordinance permit some uses to be established by right in the appropriate district while other uses must meet certain conditions. These uses are termed special uses and require a special use permit issued by the Sharpsburg Board of Adjustment. Special uses may be compatible with and desirable in the districts in which they are designated as special uses, but they may also have characteristics which could have detrimental effects if not properly designed and controlled.
- B. Public Hearing Required: All special use permit requests require a public hearing in accordance with section 606.7 and must meet the conditions of section 608.4(D). Some uses due to their nature require development standards in addition to the general conditions listed below. Development standards for individual uses are found in section 406 of this ordinance.
- C. Site Plan Required: Applications for a Special Use Permit shall be accompanied by a site plan prepared in accordance with section 608.8(C) in the number of copies specified by the Zoning Administrator, along with any other information required by the Zoning Administrator for proper review of the application.
- D. General Conditions which must be met by Special Uses:
 - In order for any special use to be granted, the applicant, at the hearing, shall present sufficient evidence to enable the Board to find that the following conditions exist where applicable:
 - (a) All applicable specific conditions as described in section 406 pertaining to the proposed use have been or will be satisfied.
 - (b) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

- (c) Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
- (d) Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.
- (e) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts.
- (f) The type, size, and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

E. Additional conditions:

- (a) If the appropriate board approves a special use, it may, as part of the terms of such approval, impose any additional reasonable conditions and safeguards as may be necessary to insure that the criteria for the granting of such a permit will be complied with and to reduce or minimize any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community.
- (b) Where appropriate, such conditions may include requirements that street and utility right-of-way be dedicated to the public and that provision be made of recreational space and facilities.

608.5 Temporary Use Permit

- A. Certain uses of a temporary nature are permitted within the Town of Sharpsburg, provided a temporary use permit is obtained from the Zoning Administrator. See section 406.36 for more information.
- B. Manufactured homes as a temporary accessory use must meet the development standards described in section 406.28. The permit must be approved by the Board of Adjustment and an evidentiary hearing is required.

608.6 Expiration of permits

Unless a different period is specified by this ordinance for shorter periods of use for temporary land uses, special events, temporary signs and similar development or under an approved development agreement, or longer periods for specified types of development approvals, an issued zoning permit, special use permit or building permit (pursuant to NC G.S. 160D-403) shall expire one year after the date of issuance if the work authorized by the permit has not been substantially commenced. If after commencement, the work is discontinued for a period of 12 months or more, the permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured. Nothing herein limits any vested rights secured under G.S. 160D-108 or G.S. 160D-108.1.

608.7 Record of zoning permits

A record of all zoning and special use permits shall be kept on file in the office of the town clerk and open to the public, subject to State law.

608.8 Conformance with site or plot plans

Permits or certificates issued on the basis of site or plot plans and applications shall authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction shall take place.

608.9 Site and plot plan requirements

- A. Site or plot plans shall be required as part of the application process for any of the following:
1. New structures
 2. Expansions to existing structures
 3. A Special Use
 4. Any new use not contained within an existing building except:
 - (a). Agricultural uses which do not involve the construction of buildings, containment pens for livestock, swine, or poultry, or the construction of sediment or animal waste lagoons;
 - (b). Temporary or seasonal uses unless the Zoning Administrator cannot otherwise determine compliance with parking or screening requirements.
 - (c). Any significant change in required landscaping or buffer areas.
 - (d). An expansion to parking areas requiring a landscaping plan in accordance with Section 404.
- B. Plot Plan Requirements. A plot plan shall be required for any single family or duplex residential use, and any other situation determined by the Zoning Administrator to require such a plan. A plot plan does not require the seal of a professional engineer, architect, landscape architect, or surveyor, but shall be drawn to scale and signed by the preparer. It shall consist of the following elements, except that the Zoning Administrator has the authority to waive any application requirement where the proposed type or scale of use makes that information unnecessary or impractical.
1. The date the plan was drafted along with the name, signature, address and phone number of the preparer.
 2. The zoning classification of the subject property and all immediately adjacent properties.
 3. Property lines, lot dimensions, and total acreage.
 4. The location and extent of rights-of-way and easements.

5. The location and type of natural water features (e.g., streams, ponds, rivers, wetlands, etc.)
 6. The location and dimensions of driveways
 7. The approximate location and dimension of structures including signs.
 8. The location and dimension of parking lots/areas and internal circulation drives.
 9. The location and dimension of private streets.
 10. The approximate location and dimensions of landscaping, buffering, screening, fences, and walls.
 11. Septic tank systems and wells (including dimensions of each).
 12. The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade).
- C. Site Plan Requirements. A site plan shall be required for all commercial, industrial and multi-family projects, Planned Unit Developments, manufactured home parks, special uses and any other situations determined by the Zoning Administrator or planning board to require such a plan. A site plan shall require the seal of a professional engineer, architect, or landscape architect, except that surveyors may also seal plans for projects that do not include any engineering stormwater control structures. The plan should be drawn to a scale such that all features are clearly legible. A site plan shall consist of the following elements:
1. A location map that shows the project in relation to the larger planning area.
 2. The names, addresses, and telephone numbers of owners, mortgages, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the development.
 3. The name of the development.
 4. Date of plan preparation.
 5. A north arrow, legend and scale (including a bar scale)
 6. Environmental Features. A site plans shall show existing and proposed features of the site, including (where applicable):
 - (a) Natural cover (wood, pastureland, etc.).
 - (b) Streams, ponds or rivers.
 - (c) Historic sites.
 - (d) Fragile environmental areas.
 - (e) The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade)
 - (f) Contour lines shown as dotted lines at no more than two-foot intervals (this may be modified by Zoning Administrator depending upon topography).
 - (g) The location, size, and dimensions of all recreational areas and areas intended to remain as permanent open space, clearly indicating whether such open space areas are intended to be offered for dedication to the public.

7. Dimensions and layouts of all parking and loading areas including properly designated handicapped spaces.
 8. Public and private streets and alleys, including planned points of ingress and egress. Driveway approval procedures as required by the NC Department of Transportation shall be initiated.
 9. Stormwater structures and conveyances
 10. Utilities, including water, sewer, electric, power, and telephone.
 11. The location and dimensions of all structures, including freestanding signs including:
 - (a) The number of dwelling units the building is designed to accommodate, if applicable.
 - (b) The height and number of stories of the structure.
 12. Lighting plan.
 13. All sidewalks, trails, and pedestrian paths.
 14. Landscaping Plan. A landscaping plan in accordance with section 404.13.
 15. Legal features including:
 - (a) The zoning of the property and adjacent properties, including zoning district lines.
 - (b) Property lines.
 - (c) Project phase lines.
 - (d) Street rights-of-way.
 - (e) Utility easements (including water, sewer, electric, power, stormwater, and telephone).
 - (f) Lot dimensions.
 16. Sign detail required. Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations shall be required as part of a complete application.
 17. In addition to the information required above, manufactured home parks shall provide the following information on the site plan:
 - (a) Location of all manufactured home spaces with dimensions
 - (b) All recreation and convenience areas including parks, laundry facilities, swimming pools etc.
 - (c) Location of park office
 - (d) Location of dumpsters and sanitation facilities.
- D. Plan Exemption. The Zoning Administrator may, in writing, exempt the applicant from meeting any plan requirement which is clearly inapplicable to the proposed use.

610. FEES

A fee in accordance with the town's adopted fee schedule shall be paid to the town for each application for an administrative review, variance, or special use permit not initiated by an officer or agency of the town, to cover the costs of advertising and other administrative expenses involved. No application will be processed until the above fee has been paid.

612. ZONING AMENDMENTS

This zoning ordinance, including the zoning map, may be amended only by the Board of Commissioners of the Town of Sharpsburg, according to the procedures of this Article. Proposed amendments may be initiated by the Board of Commissioners, Planning Board, or Board of Adjustment of the Town of Sharpsburg. Proposed amendments to the text of this ordinance may also be initiated by any resident or property owner within the jurisdiction covered by this ordinance, and any property owner within the jurisdiction covered by this ordinance may initiate a request for a change in the zoning classification of their property.

In accordance with G.S.160D, no amendment to the zoning ordinance or zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town of Sharpsburg.

612.1 Applying for a zoning amendment

- A. Map Amendment. An application for a zoning amendment must be made on a form provided by the town before any proposed amendment shall be considered by the Town Board or a public hearing held. The application shall contain the following information:
1. A statement of the present zoning regulations or district boundary
 2. The name and signature of the applicant
 3. The tax parcel number of the lot proposed to be rezoned,
 4. The names and addresses of the owners of the lot in question,
 5. A map of the proposed amendment showing tax parcel number of the subject property and adjacent properties shall be attached to the application. The map shall show ownership of adjacent lots along with the use of each adjacent property.
- The applicant shall provide any additional information related to the proposed amendment requested in writing by the Planning Board or Board of Commissioners. The Zoning Administrator shall transmit the original application to the Town Board and the original application shall be filed in the office of the Town Clerk after consideration by the Town Board. A fee shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.
- B. Text Amendments. An application for amendment to the text of this ordinance shall consist of:
1. A completed application form.
 2. A written justification for the requested amendment including consistency of the proposal with town planning policies.
 3. Any other information deemed necessary by the Zoning Administrator or the Board.
- C. Application Fee: A fee in accordance with the adopted fee schedule shall be paid to the Town for each application not initiated by an officer or agency of the Town to cover the

costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.

612.2 Notice and public hearing requirements

- A. Published Notice. The Board of Commissioners must hold a legislative hearing on any proposed amendment before it may be adopted. Notice of the legislative hearing shall be published in a newspaper of general circulation in the Sharpsburg area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included. In the case of large scale rezonings involving more than 50 parcels and at least 50 different landowners, the Town has the option of forgoing individual mailed notices in favor of publishing in a newspaper of general circulation in the Sharpsburg area, a half-page notice at least once a week for two (2) successive calendar weeks prior to the hearing. Property owners living outside of the circulation of the newspaper must still receive mailed notice.
- B. Mailed Notice. Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. The person or persons mailing such notices shall certify to the Sharpsburg Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.
- C. Posted Notice. The Town shall prominently post a sign on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The sign shall indicate the proposed action, the date of the hearing and the date of posting. The sign shall be posted not more than twenty-five (25) nor less than ten (10) days prior to the hearing date.

612.3 Planning Board review

All proposed zoning amendments must be referred to the Planning Board for their review, prior to the legislative hearing. The Board of Commissioners shall give the Planning Board at least thirty (30) days before the legislative hearing to review and make a recommendation concerning the amendment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Town Board may proceed in its consideration of the amendment without the planning board report. The Town Board is not bound by the recommendations, if any, of the planning board.

612.4 Consistency with adopted plans

- A. The Planning Board must comment in writing on the consistency of the proposed amendment with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. These comments must be in the form of a report signed by the chair of the Planning Board. The written statement must address plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town

Board.

- B. All zoning amendments considered by the Town Board of Commissioners must submit into public record a written statement explaining the consistency of the amendment with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. This is required regardless of rejection or adoption of the proposed amendment.

612.5 Amendment and withdrawal of petition

- A. A petitioner may amend or withdraw their petition. However, requests for amendment or withdrawal must be made at least 10 business days prior to the date established for the public hearing or petitioners will be subject to penalties. If the 10-day window has closed, petitioners may not amend their petition for consideration on the established public hearing date. They must either go forward with the petition or withdraw it and be subject to the penalties described in 612.5 (B).
- B. The Town Board may grant a request to withdraw a petition after the 10-day window described in 612.5 (A) has closed, but the petitioner will be required to reimburse the Town for the costs associated with fulfilling the notice requirements as described in section 612.2; and will be subject to the one-year waiting period for resubmitting the petition, as described in 612.5 (D).
- C. The Town Board shall not permit an amendment which would delete a portion of the land originally included in the petition for rezoning when the effect of such deletion would be to change the percentage of votes required for approval of the rezoning.
- D. A petition for an amendment that has been denied shall not be again instituted sooner than one year from the date of the denial, unless the Town Board, after considering the advice of the Planning Board, shall find that there have been substantial changes in conditions or circumstances bearing on the application. This waiting period shall not apply to any application for approval of a special use permit nor to any proposed amendment, supplement, change, modification or repeal of any provision contained in the text of this ordinance, it being the express intent that such waiting period shall only apply to rezoning (i.e., map amendment) requests.

614. ENFORCEMENT

614.1 General enforcement

Violations of this ordinance shall constitute a misdemeanor and/or at the election of the town, shall subject the violator to civil penalties and/or where permitted by law, equitable remedies for said violation as hereinafter provided.

614.2 Injunction and order of abatement remedies

- A. Any provision of this ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the general court of justice. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. All inspections shall be conducted during reasonable hours upon presentation of credentials. The inspecting official must have the permission of the premise's owner or an administrative search warrant to inspect areas not open to the public.
- B. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the Judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the Judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- C. Abandonment of Intent to Repair. - If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the

persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

614.3 Civil penalties

- A. **Notice of Violation.** Upon determination of a violation of any section of this ordinance the penalty for which is a civil penalty, the town shall cause a notice of violation to be issued to the violator and the property owner (if different) by the appropriate official of the town and served on the violator or their agent and the property owner (if different), either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator and the property owner (if different) as contained in the records of the town or as obtained from the violator or his agent. The appropriate town official serving the notice of violation shall sign and have notarized an affidavit describing the type of service and the date of service. The violator shall be deemed to have been served upon the mailing or personal service of the notice of violation. The notice of violation can also be served by hand delivery or by posting the property on-site. The official serving the notice will certify the notice of violation to the file.
- B. The notice of violation shall set out the nature of the violation, the Code section or ordinance violated, the date or dates of the violation, and shall contain an order to immediately cease the violation. The notice of violation shall specify that a second and subsequent citations will assess a civil penalty, together with costs, attorney fees, and such other relief as provided by law. The notice of violation shall also inform the violator of the violator's appeal rights. If the violation is in the nature of an offense for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated within which the violation must be abated.
- C. **Appeals.** The violator must file an appeal from a notice of violation within 10 days from the service date of the notice of violation as indicated on the affidavit of service. An appeal is deemed filed when it is received by the Town Clerk. Forms and instructions for filing an appeal shall be made available at the office of the Town Clerk. A violator who fails to file an appeal within the time period described above is deemed to have forfeited the appeal for the violation, the notice of violation, the civil citations, and the civil penalties assessed for the violation. Appeals shall be heard by the Board of Adjustment or other administrative process established by the Town. The decision of the Board of Adjustment is subject to review in the Superior Court of the county where the property is located in the nature of certiorari.

- D. Extensions Allowed. Where the town determines that the period of time stated in the original notice of violation is not sufficient for abatement based upon the work required or based on a consent agreement, the town may amend the notice of violation to provide for additional time.
- E. Civil Citation. Upon failure of the violator and the property owner (if different) to comply with the notice of violation within 10 days of service, a civil citation in the amount of fifty dollars (\$50.00) shall be issued by the appropriate official of the town and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the town or obtained from the violator or his agent.
- F. Citation Contents and Repeat Violations. The civil citation shall direct the violator to immediately cease the violation, shall inform the violator of the penalty amount, and shall direct the violator to make payment at Town Hall within 10 days of the date of the civil citation, or alternatively to pay the citation by mail postmarked within 10 days of service of the civil citation. Once a notice of violation has been issued and the 10-day warning period has expired, civil citations in the amount of fifty dollars (\$50.00) may be issued for each day the same or similar violation continues until the prohibited activity is ceased or abated. If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a notice of violation or civil citation has been issued by the town.
- G. Settlement of Civil Claim. If the violator fails to respond to a civil citation within 10 days of its service, and pay the penalty prescribed therein, the town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Court of Justice for the collection of the penalty, costs, attorney fees and such other relief as permitted by law.