

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date of Request: February 17, 2011
Name: Michael Baldwin

LUC Section/Citation: 1.2.3 Definitions, COTTAGE HOUSING DEVELOPMENTS:
definition

Summary of Issue or Problem - Current square footage of 1,000 square feet in definition for cottage housing development does not agree with specification in cottage development requirements in Section 7.6.2, Applicability

Possible Recommendation for Change or Suggested Text - Revise square footage in 1.2.3 Definitions, COTTAGE HOUSING DEVELOPMENTS: to read as follows:
"COTTAGE HOUSING DEVELOPMENTS: A cluster of detached structures which are no larger than 1,100 square feet and which share common driveways, yards, and other exterior facilities."

Disposition: Planning Board voted unanimously to approve changes to definition to be consistent with Cottage Housing guidelines in Section 7.6.2; February 28, 2011:

- a. COTTAGE HOUSING DEVELOPMENTS: A cluster of detached structures which are no larger than ~~1,000~~ *1,100 square feet* and which share common driveways, yards, and other exterior facilities."

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date: April 26, 2010 – July, 2010

Name: Elizabeth Teague; Rebecca Eberhardt

LUC Section/Citation: 1.2.3 Definitions, and Section 4 Use by Districts

1. **Summary of Issue or Problem** – Recent situation on Blue Ridge Road indicates that the “wood and yard waste” processing should be defined separately from “recycling.”

2. **Possible Recommendation for Change or Suggested Text** -

WOOD AND YARD WASTE FACILITY: An operation which collects, stores and/or processes waste and accumulation of tree branches, tree limbs, bushes, shrubbery, cuttings or clippings usually created as refuse in the trimming or cutting of trees, shrubs or bushes, including parts of trees, plant clippings, prunings, leaves and other discarded vegetative material from yards and gardens. Processing may include chipping or mulching to reduce woody material by mechanical means into small pieces to be used for mulch or fuel.

Allow in Heavy Industrial District; and as a Conditional Use in Light Industrial District.

Disposition: Board voted unanimously to approve.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date Requested: January 24, 2011

Name: Elizabeth Teague (from Housing Commission)

LUC Section/citation: Section 4.6 Zoning Regulations by District

1. Summary of Issue or Problem

Group Homes are defined in our Ordinance but are not included in the Tables of Permitted Uses for our Districts. North Carolina considers adult care or domiciliary homes and multi-unit, assisted housing residences as a use that must be allowed within a jurisdiction and must be licensed, according to North Carolina General Statute 131 D-10.3, to provide a safe, secure and helpful atmosphere. We must add group homes to our permitted uses tables in Districts as appropriate.

2. Possible Recommendation for Change or Suggested Text

Suggested that the Board add Group homes to the permitted uses tables for TR4, UR8, and Mixed Use and Commercial Districts.

Disposition: Planning Board requested by consensus on 1/24/11 that nursing homes and assisted living facilities should be defined separately from the term "group home." Concerns from Board were expressed for location of large facilities providing medical services within residential districts. Revised definition for group homes is suggested:

~~GROUP HOME or Group Care Facility:~~ A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals ~~are disabled, aged, or are undergoing rehabilitation~~ provided services to meet their needs such as halfway houses and foster homes so long as they house seven or more individuals *and are distinct from Group Homes from Developmentally Disabled Adults or Adult Care Homes. Similar facilities providing care for less than seven individuals shall be treated as a single family residence under zoning district regulations.*

Allow in O-I, ICD, NMU, HB, LI.

Further discussion tabled until Ames Tryon can bring in additional information that is specific to assisted living and nursing homes in order to develop distinct definitions for those types of facilities.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date Requested: January 24, 2011

Name: Elizabeth Teague (from WNC Green Building Council)

LUC Section/citation: Section 2.1.11.B.1. Building Regulations Fee Incentives

1. Summary of Issue or Problem

The WNC Green Building Council (WNCGBC) has updated their rating materials and criteria since the Town introduced a fee rebate for "NC Healthy built Homes Program or a Certified Level in the LEED Rating system."

2. Possible Recommendation for Change or Suggested Text

Include link to WNCGBC website for up to date information within Section Text as "see www.wncgbc.org" and include Healthy Built Home and LEED brochures in appendices.

Disposition: Planning Board voted unanimously in favor, January 24, 2011

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

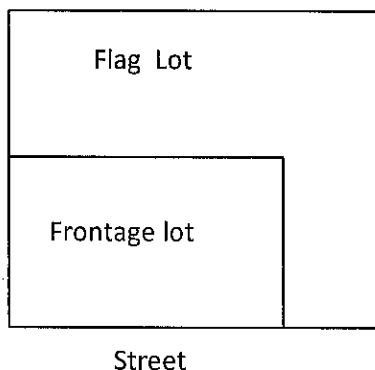
Date of Request: January 24, 2011

Name: Joe Scheider

LUC Section/citation: Section 5.2.E Regarding Accessory Structures

1. Summary of Issue or Problem

In residential and mixed use districts, accessory structures may only be located in the side or rear yards. However, the Land Use Code has now allowed for “flag lots” where a lot can be located off of the street and connected by a minimum 15’ driveway, creating situations where the “front” yard of the flag lot is actually behind another lot and not adjacent to the street (see drawing below). At the November Meeting, Joe Scheider asked for the Planning Board’s consideration in allowing accessory structures in the front yard of flag lots.



2. Possible Recommendation for Change or Suggested Text

Add definition to Section 1.2.3: FLAG LOT or INTERIOR LOT: A lot meeting the minimum lot requirements of the underlying zoning district but where access to the public road is by a portion of land adjacent to the lot between the “flag lot” – known as a frontage lot - and the street in a way that that creates a private driveway. The driveway area therefore looks somewhat like a “pole” or “staff” connecting the lot to the street and can be referred to as the Flag Pole or Flag Staff of the Flag Lot.

Amend E sub-paragraph 2e: “For lots that are adjacent to Town or State roadways, accessory structures shall be located only in side or rear yards. For lots that are not adjacent to roadways, but only connected by a driveway (such as with a flag lot or interior lot that has been subdivided from a larger parcel), then accessory structures may be located in what is determined as the front yard. The accessory structure may be located no further forward than the primary structure furthest from the road of any adjacent properties never to be less than the existing setback requirements.

All other Sections of Paragraph E would remain the same.

Disposition: Planning Board voted 4-2 to adopt the wording, February 28, 2011 and verified 3/23/11.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date: September 27, 2010

Name: Elizabeth Teague (from Planning Board Discussion and ZBA case)

LUC Section/citation: 5.4 Agriculture and Animals

Summary of Issue or Problem

Paragraph C-8 states that livestock should be fenced so that they are no closer than 150' from a dwelling unit, but not applying to residences constructed after the containment area. A recent complaint regarding flies and smell arose where horses were kept within 65' of a residence. A recent letter and discussion at the Planning Board and ZBA indicated concern that this limitation may be too restrictive for property owners who would like to use open land for pasture.

Possible Recommendation for Change or Suggested Text

"All livestock except for chickens may be contained in any land that is currently, or is land that has been utilized in the past, as pasture according to the provisions of this section. Newly constructed containment areas for the purpose of the introduction of livestock onto land, must be set back thirty (30) feet from abutting property boundaries which contain a residential dwelling unit. Containment areas adjacent to roadways or commercial property do not have to meet this requirement. This requirement shall not apply to residences constructed after the establishment of such livestock containment area."

Disposition: Planning Board agreed by consensus (9/27/10) to keep paragraph C-8 as is with a minor modification to clarify that the rule only applies to introduction of new livestock and new containment areas:

Amend: Section 5.4 paragraph C-8 to read: All livestock *introduced onto a property where there is no pre-existing containment area (such as a fence, paddock, or enclosed pasture)*, except for chickens, shall be fenced so that they are no closer than 150 feet from an adjacent living unit...

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date: February 17, 2011

Name: Michael Baldwin

LUC Section/Citation: Section 7.6 Special Use: Cottage Housing Development (CHD's),
7.6.4 General Design requirements, Requirement I.

1. **Summary of Issue or Problem** – Cottage housing development requirements for parking are inconsistent with requirements for single family residences. Current regulation requires that parking be screened from public streets and adjacent residences by landscaping or architectural screening. This is not a known requirement for single family residences.
This places a hardship fully utilizing a lot as a cottage housing development by reducing the available area for parking and limiting access paths to the street.
Cottage housing developments are no more intrusive than single family residences in terms of density, measured in units/acre, and setbacks, measured from property boundaries, which are the same for both single family residences and cottage housing developments.
2. **Possible Recommendation for Change or Suggested Text** – Revise the text as suggested: I. Parking spaces may be spread out through the development, connected to each cottage or clustered into a shared parking lot, or some combination thereof, at a minimum ratio of two (2) spaces per unit. ~~Parking must be screened from public streets and adjacent residential uses by landscaping or architectural screening.~~

Disposition: Planning Board unanimous vote to require screening for Parking areas that contain more than 6 vehicles February 28, 2011:

1. 7.6.4 General Design requirements, Requirement I.

Amend to: Parking spaces may be spread out through the development connected to each cottage, clustered in a shared parking lot or some combination thereof at a minimum ratio of 2 spaces per unit; *clustered parking for more than 6 vehicles must be screened from public streets and adjacent residential uses by landscaping or architectural screening.*

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date Requested: October 25, 2010

Name: Elizabeth Teague and Rea Eberhardt

LUC Section/citation: Section 8.3.2 Regarding Buffers in Landscaping

1. Summary of Issue or Problem

Adjustments made regarding screening of dumpsters and loading zones in the general provisions of the zoning ordinance where not carried over consistently to the language regarding buffers in the landscape ordinance. Some parts of the landscape ordinance still call for structural screening in addition to vegetation (not as a choice) for dumpsters and for screening at parking lots and loading zones (which in many locations in town is impossible to achieve and conflicts with the line of site provisions at corner lots). The rest of the landscape ordinance may remain the same.

2. Possible Recommendation for Change or Suggested Text:

Amend Landscape requirements to be consistent with changes to screening requirements in the general zoning requirements (Chapter 4).

1. Amend: Section 8.3.2 Regarding Buffers and Screening in Landscaping

8.3.2 General Provisions

2. ~~All public parking and loading areas within 50 feet of a public right-of-way must include a buffer that meets the buffer standards as described below. (strike altogether)~~

8.3.2.1 Location and Width Required

Buffers shall be located entirely on the property of the new development *along the property boundary line, but not including where roadways separate districts*, where a commercial or industrial use abuts a non-commercial residential district are required. Buffers shall be made of an opaque fence or wall that is at least 8 feet high ~~and~~ *or* evergreen vegetation to provide a buffer growing to a *minimum height to be above the fence and completely of 8' high to within 3 years according to the following chart.*

New Development Adjacent to residentially zoned property (CR-1, SR-2, TR-4, UR-8):

New or Expanding Development	Minimum Buffer Width
Civic	10 feet
Commercial	15 feet
Industrial	30 feet
Mixed Use	10 feet
Multi-family Residential	10 feet

8.3.2.4 Composition for Parking lot perimeters ("Type B")

Type B landscaping functions to provide a vegetative area between parking lots and adjacent uses ~~and may be used as part of stormwater management planning. as a semi-opaque screen with a minimum height of three (3) feet for screening of cars and glare from adjacent properties. The minimum height for a Type B buffer area adjacent to street right of way is two (2) feet.~~ Composition of the Type B landscaping may include a planted *swale*, wall, fence, planted vegetation, existing vegetation, or any appropriate combination of *landscaping*. Shrub plantings shall have no unobstructed openings wider than four (4) feet. ~~At least 75 percent of the required shrubs shall be evergreen species.~~ The use of existing vegetation to satisfy this requirement is encouraged but supplemental planting may be required in addition to existing materials.

8.3.2.10 Screening Requirements for All Zoning Districts

The following uses must be screened from abutting *residential* property and from a public street by an opaque screen consisting of a fence, wall, landscaping, or appropriate combination thereof *in accordance with Chapter 4*, unless they are within the Heavy Industrial District (HI-0):

- Dumpsters or trash handling areas;
- where automobiles are stored before and after repairs, manufacturing parts, or scrap materials or equipment that are being stored;
- ~~Loading docks or spaces.~~

Disposition: Board voted unanimously to approve changes for consistency between Chapter 8 and Chapter 4.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date Requested: November 22, 2010

Name: Rea Eberhardt, Zoning Administrator

LUC Section/citation: Section 9.5 Prohibited Signs

1. Summary of Issue or Problem

Clarification of staff's ability to confiscate and dispose of illegal signs that we pick up from the street.

2. Possible Recommendation for Change or Suggested Text

Empower staff to dispose of signs .

Disposition: Adopted unanimously with wording:

Add: "Illegal posting of signs include any freestanding sign located in a DOT right-of-way, or located within four (4) feet of pavement of any town street or posted to a utility pole or government sign. Any illegal posting of signs, placed or attached, will be removed by Town authority and will become the property of the Town. The Town will retain such signs for seven days, during which period first-time offenders may pay \$25.00 to reclaim their sign. After those seven days and for a second or repeated offense, illegal signs shall be disposed of.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date: September 27, 2010

Name: Elizabeth Teague (from Planning Board Discussion)

LUC Section/citation: Section 9.3 Signs Allowed Without a Permit and Section 9.4 Signs Allowed With a Permit.

Summary of Issue or Problem

Concern with supporting local businesses who are “off the beaten track.” Prohibition of off-premise signage is a problem for several businesses who are located off major thoroughfares or away from the Cherry Street area of downtown.

Possible Recommendation for Change or Suggested Text

1. Amend Section 9.3, Paragraph I to read: “One, temporary and removable outdoor menu, exhibition, or event sign used in conjunction with restaurants, galleries, performing arts or music hall uses, may be placed on the abutting sidewalk or on a strategic location for directional purpose on private or Town property with permission. Such signs cannot exceed 6 square feet per side including sign face and support elements, must maintain a 48” or four feet of clear travel area between back of the curb and the sign, and must be removed after business hours.

2. Amend section 9.4, Paragraph A to include “8. One, off-premise sign adjacent to US70, Old US70 and NC9, placed with permission of property owners to indicate location or direction to a business that is not adjacent to these major thoroughfares. Such signs cannot exceed 6 square feet per side including sign face and support elements, must maintain a 48” or four feet of clear travel area between the back of the curb and the sign on sidewalks and be off of the NCDOT right-of-way. Such signs can be attached to or included with on-premise signage for planned unit developments or existing businesses that are located on street frontage to these thoroughfares. Only one off-premise directional sign per business.

Other Recommendation is to incorporate directional signage to shopping and dining areas as part of “Wayfinding” type signage ,such as what Business to Business and the Chamber are doing, or as the Town finds opportunity as part of other directional and wayfinding signage initiatives.

Disposition: Planning Board voted unanimously to recommend a text amendment for directional signage along main thoroughfares to provide immediate relief to business owners – later adopted by the Board of Aldermen.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date: September 27, 2010

Name: Elizabeth Teague (from Planning Board Discussion and ZBA case)

LUC Section/citation: 5.4 Agriculture and Animals

Summary of Issue or Problem

Paragraph D states that only household pets and chickens are allowed in the Central Business District, Neighborhood Mixed-Use District and Urban Residential District. A recent ZBA case found that livestock that was present before the LUC went into effect could remain in the UR8 District as a pre-existing nonconforming use. Does the PB want to specify a period of time after which pre-existing livestock operations should comply with the ordinance – ie, pre-existing livestock in these zones should be removed – and if so what is a reasonable amount of time?

Possible Recommendation for Change or Suggested Text

Add "All property owners with pre-existing nonconforming ownership of these zoning regulations shall come into compliance with this requirement by March 1, 2015."

Disposition: Planning Board determined not to pursue amortization and to retain the current wording but encouraged better animal control and nuisance abatement.

**Town of Black Mountain Planning Board
Land Use Code Text Amendment Worksheet**

Date: October 25, 2010

Name: Spencer Elliott Fire Inspector Black Mountain Fire Department

LUC Section/citation: This would apply within both Section 3 Regarding Subdivisions and Chapters 6 and 7 regarding CUPs and SUPs.

1. Summary of Issue or Problem

On July 1st 2009 the NC Office of the State Fire Marshal issued three Fire Prevention Code Interpretations that conflict with some sections of our LUC. I have attached copies of these interpretations to this document for review. Simply put we are not at this time meeting the requirements of the NC Fire Prevention Code, however because the way in which it has been taught to Code Enforcement Officials it wasn't known we are deficient until recently.

2. Possible Recommendation for Change or Suggested Text

My recommendation for changes to the LUC is as follows.

- A) Require fire sprinklers in all buildings where we cannot provide the required fire flow.
- B) Require fire sprinklers where the minimum required road grade cannot be met.
- C) Require fire sprinklers where the minimum water pressure cannot be met.
- D) Require fire sprinklers where fire hydrant placement requirements cannot be met.

Understand first that my recommendations are already an approved alternate method to each of the Fire Code issues mentioned above. By putting this in the LUC it simply becomes a required alternate method to meet the provisions of the NC Fire Prevention Code. In other words you would simply meet the code or install sprinklers instead for certain requirements that cannot be met. Also I must make it clear that in one and two family dwellings we can use the NFPA 13D requirements for fire sprinklers.

Disposition: Planning Board did not support the request and did not vote on it.