

TITLE XV: LAND USAGE

CHAPTER 153: ZONING CODE

Part B

Section

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**GENERAL USE REQUIREMENTS**

**153.020 CONFORMANCE REQUIRED.**

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

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

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(B) Rights-of-way or easements for streets and roads shall not be considered a part of a lot or open space, or front, side, or rear yard for the purpose of meeting yard requirements. (Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.021 MINIMUM REGULATIONS.**

Regulations set forth in this chapter shall be minimum regulations. If the district requirements set forth in this section are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern. (Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.022 LOT REDUCTION PROHIBITED.**

No yard or lot existing at the time of the passage of this chapter shall be reduced in dimension or area below the minimum requirement set herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements set by this chapter. (Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.023 LOT MUST HAVE ACCESS TO STREET.**

(A) No building, structure or use of land for other than agricultural purposes shall be established on a lot which does not have access to a dedicated and accepted public street. Access shall be a strip of land with a minimum width of twelve (12) feet connecting any lot that does not abut a street with the nearest reasonable accessible street to said lot. The strip shall be under the same ownership as the lot to which it provides access, or shall be an easement of record and appurtenant to the lot for which it provides access. (Am. Ord. 0-97-11, passed 12-8-97)

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(B) If the street or road serving the proposed development does not meet the town street standards, the developer shall make the necessary improvements to bring the street or road up to Town standards or shall make a payment to the Town to cover the cost of such improvements. The town may waive this requirement for street or road improvements if the Town determines that the improvement will cause more community disruption than justified by the increased traffic from the proposed development.

### **153.024 MINIMUM LOT AREA.**

In areas not served by a public or community sewer system, the minimum lot area shall be determined by the County Health Department. This minimum lot area shall be that necessary for safe on-site waste disposal system, but in no case, shall the lot be smaller than the required area for the zoning district in which it is located.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

### **153.025 HEIGHT AND DENSITY.**

No structure shall be erected or altered so as to exceed the density and height regulations of this chapter for the district in which it is located. See also Sections 153.130 through 153.036.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

### **153.026 ONE PRINCIPAL BUILDING PER LOT.**

Every building erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot. This shall not include Unified Business and Housing Developments as provided for in Sections 153.093 and 153.094.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

### **153.027 ACCESSORY BUILDINGS.**

(A) Number of accessory buildings. In residential districts, no more than two accessory buildings or uses shall be permitted per lot. See also Section 153.079 concerning accessory uses.

(B) Location of accessory buildings. Accessory buildings shall be located only in side or rear yards. In no case shall an accessory building be located closer than five feet to the nearest property line or within 20 feet of the nearest street line. If the accessory building contains a dwelling unit, then it shall be located at least 10 feet from the nearest property line and 20 feet from the primary dwelling unit.

(C) Lot coverage. Accessory buildings shall not cover more than 30 % of the required side or rear yards.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord., O-99-02, passed 1-11-99, Am. Ord. 0-99-03, passed 4-12-99) Penalty, see Section 153.999

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**153.028 CORNER LOTS.**

Any structure on any corner lot shall comply with the minimum setback (front yard) requirements of the street which it faces, and shall comply with 50% of the minimum front yard setback requirements, if applicable, on any other street which the corner lot abuts. Where a structure faces a corner formed by two streets having different setback requirements, the structure shall comply with the more restrictive requirements. In case of doubt as to which street a structure faces, or if a structure is built so as not to face any street, the Zoning Administrator shall determine which setback, side yard and rear yard requirements apply.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.029 LOCATION OF BUILDING LINES ON IRREGULARLY SHAPED LOTS.**

Locations of front, side and rear building lines on irregularly shaped lots shall be determined by the Zoning Administrator. Such determinations shall be based on the spirit and intent of the district regulations to achieve appropriate spacing and location of buildings or group of buildings on individual lots.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.030 DOUBLE FRONTAGE LOTS.**

On lots having frontage on two streets, but not located on a corner, the minimum front yard shall be provided on each street in accordance with the provisions of this chapter. On lots having a frontage on more than two streets, the minimum front yard shall be provided in accordance with the regulations set forth in this chapter on a least two of the street frontages. The minimum front yard on the other frontage or frontages may be reduced along the other streets in accordance with the street side yard requirements of this district.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.031 SPECIAL FRONT YARD REQUIREMENTS IN DEVELOPED AREAS.**

(A) The setback requirements of this chapter shall not apply to any lot where the average setback on already built upon lots located wholly or in part within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the setback on such a lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots. However, in no case shall setbacks be less than 15 feet, except in the C-1 Central Business District.

(B) The building shall face the street.

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(C) The yard requirements for the district for which the development is proposed shall be met, except that the Town may require a lesser or greater front setback to harmonize with surrounding structures.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord., O-97-09, passed 6-9-97, Am. Ord. 0-00-20, passed 12-11-00) Penalty, see Section 153.999

### **153.032 NONCONFORMING USES.**

Any building, structure, or use of land existing at the time of the enactment of this chapter, or any amendment thereto, that does not conform to the requirements of the district in which it is located may be continued or maintained subject to the following provisions. They shall not be:

- (A) Changed to another nonconforming use.
- (B) Enlarged or extended except in conformity with this chapter.
- (C) Reestablished after a discontinuance of one year.

(D) The erection of a single-family dwelling unit or mobile home, meeting the criteria set forth in this chapter, shall be permitted on any residentially zoned lot of record which contains an area or width less than the required minimum for a single-family dwelling in the district in which a lot is located. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership on the effective date of this chapter. Variance of any district regulations other than area and width shall be obtained through the action of the Zoning Board of Adjustment.

(E) Maintenance and repair necessary to keep a nonconforming structure in sound condition are permissible.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

### **153.033 USES OF RIGHT.**

Uses not designated as permitted by right or subject to additional conditions, shall be prohibited. Conditional uses are permitted upon compliance with the additional regulations imposed as may be specified by this chapter or the appropriate governing board.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

### **153.034 LAND COVENANTS.**

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

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

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**153.035 PARKING AND STORAGE OF UNREGISTERED VEHICLES.**

Automotive vehicles shall not be parked or stored on any residentially zoned property other than in enclosed buildings, so long as those vehicles are not registered with the state and licensed as such.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

**153.036 NONRESIDENTIAL USE OR HOME OCCUPATION  
CONSTITUTING NUISANCE, HAZARD.**

In no case shall any nonresidential use or home occupation consist of operations or conditions resulting in noise, odors, smoke, glare, dust, gases, excessive traffic, electrical or other radiation, or other characteristics of a type or to an extent which the Zoning Administrator shall determine to be a nuisance or a hazard to adjacent or neighboring properties.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. 0-99-16, passed 8-9-99) Penalty, see Section 153.999

**153.037 MOBILE HOMES.**

(A) Purpose. To establish review guidelines for mobile homes in order to insure that the homes will meet certain specifications and will provide pleasant living conditions while protecting adjacent property.

(B) Location. Any mobile home established as a residence within the town after the adoption of this chapter may be located either on an individual residential lot, or in an existing mobile home park. Mobile homes used as residences on individual lots shall be considered principal uses for the purposes of this chapter and shall be subject to the criteria set forth in division (C). Mobile homes on individual lots may be exempt from the below criteria under the following circumstances:

(1) When fire, flood, or other natural catastrophe makes an existing one-family dwelling uninhabitable, the Zoning Administrator shall allow a mobile home to be used on the same lot as a temporary residence for a period not to exceed six months.

(2) During the active construction period of any one-family dwelling, the Zoning Administrator shall allow a mobile home on the same lot by the owner of the lot for a period not to exceed 12 months or the active construction period, whichever is less.

(3) During the active construction period of a construction project, the Zoning Administrator shall permit a mobile home on the same lot for a period not to exceed 24 months or the active construction period, whichever is less.

(4) During the active promotion of any residential subdivision or unified housing development, the Zoning Administrator shall permit a mobile home within the development to be used solely for the purpose of a temporary sales office for a period of up to 12 months. The mobile home may not serve as a residence.

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(5) Mobile homes may be permitted when used as a caretaker residence in conjunction with a rest home or convalescent home, provided that the rest or convalescent home existed prior to the adoption of this chapter, and provided that said rest or convalescent home is required by state law to have a caretaker residence adjacent to the home. The mobile home shall be placed in the rear yard unless specific circumstances indicate otherwise in the judgment of the Zoning Administrator.

(6) Any mobile home, existing as a nonconforming use on the date of enactment of this chapter, shall be allowed to be replaced with an upgraded model mobile home as defined below, without adhering to the new regulations set forth herein. All mobile home replacement upgrades must be approved by permit and must adhere to all other provisions within this chapter.

(a) An upgraded model mobile home shall be defined as a mobile home meeting all U. S. Department of Housing and Urban Development requirements for the year constructed. Said mobile home shall be of a newer model and/or of better quality and condition than the existing mobile home to be replaced as determined by the Building Inspector.

(C) Class of Mobile homes. For the purposes of this chapter, mobile homes shall be classed as follows:

A mobile home must meet all of the restrictions outlined under a particular class before it may be classified either A, B or C.

(1) Class A. This class of mobile home shall be allowed as a permitted use in R-20, R-10 and O-I districts. In order for a mobile home to be placed within this class it must adhere to the following standards:

(a) The unit must comply with National Mobile Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development.

(b) The unit must comply with the appearance criteria set forth in division (D).

(c) The unit must not exceed a length to width ratio of 3:1.

(2) Class B. This class of mobile home shall be allowed as a permitted use in R-10 and O-I districts. In order for a mobile home to be placed within this class it must adhere to the following standards:

(a) The unit must comply with National Mobile Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development.

(b) The unit must comply with the appearance criteria set forth in division (D) with the exception of division (D) (3).

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(c) The unit must not exceed a length to width ratio of 4:1.

(3) Class C. This class shall be allowed only in existing mobile home parks and shall include all mobile homes which cannot be classified as either a Class A or Class B mobile home.

(D) Appearance criteria. Class A and Class B mobile homes must meet the following criteria before a Certificate of Occupancy is issued for a Class A or a Class B mobile home.

(1) Chassis removal. The home shall have wheels, axles, transporting lights and towing apparatus removed.

(2) Foundation. Mobile homes shall rest on a permanent masonry foundation. All foundations shall comply with all local and state building code requirements.

(3) Roofing. The home shall have a pitched roof and the roofing material must be compatible with residential construction within the area in which it is located.

(4) Exterior finish. The exterior materials shall be of a color, material, and scale comparable with those existing in residential construction and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint. Siding, trim, and features should be compatible.

(5) Skirting and underpinning. This shall be constructed of materials that meet all existing requirements for mobile homes as set forth in the State Building Code. All materials must be approved by the Building Inspector prior to installation.

(E) Mobile home parks.

(1) Purpose. To establish additional review guidelines for mobile home parks as conditional uses to insure that such parks will meet certain specifications and will provide pleasant living conditions for residents while protecting adjacent property.

(2) Mobile home park requirements. The location of three or more mobile homes on a parcel of land shall constitute a mobile home park and shall be subject to the provisions of this section.

(3) General plan. Each application for a mobile home park as a conditional use shall be accompanied by general plans, including contoured site plans (five-foot intervals) using true elevations. The general plan shall show the circulation pattern, mobile home spaces, permanent structures and other site design requirements as may be considered essential by the Planning Board. The general plan shall also show that all improvements would meet the following minimum standards.

(4) Standards.

(a) Mobile home park (entire parcel).

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1. Minimum lot area - three acres.
2. Minimum lot width - 75 feet at front lot line.
3. Minimum front yard - 50 feet to nearest mobile home or permanent building.
4. Minimum side yard - 40 feet
5. Minimum rear yard - 40 feet to nearest mobile home or permanent structure.

(b) Mobile home space.

1. Minimum lot area:
  - (A) Single-wide space - 4,000 square feet.
  - (B) Double-wide space -5,400 square feet.
2. Minimum lot width:
  - (A) Single-wide space - 40 feet.
  - (B) Double-wide space - 54 feet.
3. Minimum front yard - 10 feet from edge of internal street to mobile home.

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4. Minimum rear yard - 10 feet from mobile home space lot line and 20 feet between mobile homes and/or permanent structure.

5. Minimum side yard:

(A) Between mobile homes - 25 feet

(B) Between mobile homes and a permanent structure - 25 feet

6. Detached structures must be at least five (5) feet from any mobile home or other structure.

7. All structures attached to a mobile home, including storage buildings, carports, covered porches, open decks and porches will be considered part of a mobile home for purposes of determining separation requirements, except that open decks and porches may extend up to three (3) feet into the required yards.

(5) Improvements within the town. The town reserves the right to inspect, reject, stop or otherwise close the construction of all service facilities or improvements in the event the same are not being constructed in accordance with the plans, specifications, standards, policies, or other requirements of the town set forth in this chapter.

(a) Intent of specifications. The intent of these specifications is to prescribe minimum requirements for street improvements to be undertaken by the developer within the town. Satisfactory completion of these improvements will qualify streets in the town to be accepted for maintenance.

(b) Grading. All streets shall be graded to their full pavement width of 18 feet and for an additional five feet on each side of the pavement width. Finished grade, cross-section and profile shall be approved by the Planning Board. Cul-de-sacs or permanent dead-end streets shall not exceed 500 feet in length unless exception is granted by the Planning Board, and shall be provided with a turnaround having a roadway diameter of at least 70 feet and a right-of-way diameter of at least 90 feet. Temporary dead-end streets shall be provided with a turnaround having a 40-foot radius. Cul-de-sacs shall not be used to avoid the extension of an important street. Due to special topographical conditions, deviation from the above will be allowed only as a variance by the Board of Adjustment.

1. Preparation. Before grading is started, the required grading width shall be first cleared of all stumps, roots, brush, and other objectionable material and all trees not intended for preservation.

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2. Cuts. All trees, stumps, boulders, and other obstructions within the proposed pavement width shall be removed to a depth of one foot below the sub-grade. Rock, when encountered, shall be scarified to a depth of one foot below the grade. Cut slopes shall not exceed a ratio of greater than 1 ½:1.

3. Fill. All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. The fills shall be spread in layers not to exceed 12 inches loose and compacted by a sheep's foot roller. The filling of utility trenches shall be with a suitable material and compaction of at least 95% and shall be rolled or mechanically tamped. Fill slopes shall not exceed a ratio of greater than 2:1.

4. Pavement base. After preparation of the subgrade, the roadbed shall be surfaced with material of no lower classification than crushed rock, stone, or gravel. The size of the crushed rock or stone shall be that generally known as "crusher run stone" from 1 ½" down including dust. Spreading of the stone shall be done uniformly over the area to be covered by means of appropriate spreading devices and shall not be dumped in piles. After spreading, the stone shall be rolled until thoroughly compacted. The compacted thickness of the stone roadway shall be no less than six inches. The developer shall be responsible for the preparation of the roadbed.

5. Pavement. Pavement shall be of no lower classification than a Double Bituminous Surface Treatment applied in a thickness of no less than 1 ½ inches I-2. Minimum pavement width shall be 18 feet wide. The developer shall be responsible for the paving of the prepared roadbed.

6. Installation of utilities, driveways and parking areas. After grading is completed and approved and before any base is applied, all of the underground work (water mains, gas mains, and the like,) and all service connections shall be installed completely and approved throughout the length of the road. All driveways for the mobile home sites to be built by the developer shall be prepared, if necessary, for a minimum 15-inch culvert, and paved in accordance with division (E)(5)(b)4. and 5.

A. All driveways for the mobile home sites to be built by the developer shall be prepared, if necessary, for a minimum 15-inch culvert.

B. Parking areas for motor vehicles shall be provided at a ratio of two parking spaces for each mobile home. Each parking space shall have a minimum width of 9 feet and a minimum length of 18 feet. Parking spaces shall, at a minimum, be constructed using four inches of crushed stone of a well-compacted sub-base.

C. One or more common parking areas shall be provided in the mobile home park primarily to provide for parking spaces for visitors' automobiles. Overall, one parking space for each four (4).

(c) Water supply system. Water mains properly connected with the community water supply system or with an alternate supply approved by the Department of

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Health Services shall be constructed in such a manner as to serve adequately, for both domestic use and fire protection, all spaces shown on the plan.

(d) Sanitary sewer.

1. When the subdivision is located within the service area of a public sewerage system, sanitary sewer shall be installed in such a manner as to serve adequately all lots with connection to the public system.

2. Where lots cannot be economically connected with a sewerage system they must contain adequate area for the installation of approved septic tank and disposal fields and must be approved in writing by the county health officer.

(e) Whenever an extension of a water and sewer line is necessary in a mobile home park, , the developer shall be responsible for the cost of labor, materials, and appurtenances to install the water or sewer extensions in accordance with the specification of the Town (for water systems) or the Metropolitan Sewerage District (for sewer systems). The developer shall be responsible for the operation and maintenance of the water system for at least one year following the acceptance of the system by the town. The town will not accept or maintain any water system which does not contain a pressure of 30 P.S.I. based upon the existing main tank level. All water taps shall be made by the town. The town may require the installation of increased line sizes if it is determined that such increase is necessary to serve adjacent property.

(f) Erosion control. The developer shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be mulched, seeded, sodded, or otherwise protected to comply with the North Carolina Sedimentation Pollution Control Act, Article 4 of N.C.G.S. 113.

(g) Existing flora. All developers of mobile home parks shall make every effort to protect and retain existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage-ways, driveways, etc. wherever possible. Trees are to be protected and preserved during construction in accordance with sound conservation practices. All such trees are to be preserved by well islands or retaining walls wherever abutting grades are altered.

(h) Recreation. Each mobile home park shall have a minimum of 2% of the total area set aside and developed for recreational purposes. The Planning Board may require up to 5% of the total area be set aside for recreational purposes. Covered space, including a community building, shall be permitted in the recreation area as long as it does not occupy more than half of the total recreation area. If a swimming pool is provided, it shall be separated from other uses by a fence having a gate which is capable of remaining closed.

(i) Refuse. Operators of mobile home parks shall provide adequate refuse containers located at least 40 feet from any mobile home unit and at least ten feet away from internal residential streets, or refuse will be picked up if placed in an approved proper container according to the refuse schedule by the town.

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(j) Appearance criteria. Skirting and underpinning shall be required on mobile homes before a Certificate of Occupancy can be issued. The skirting and underpinning shall be constructed of materials that meet all existing requirements for mobile homes as set forth in the N. C. Building code. All materials must be approved by the Building Inspector prior to installation.

(k) Expansion. Any expansion of mobile home parks in existence on the effective date of this chapter shall comply with the provisions of this division.

(l) Building Code requirement. All installations and set ups shall meet all existing state insurance requirements for mobile homes. Mobile homes manufactured prior to 1978 are restricted in mobile home parks.

(m) Landscaping. Landscaping shall be provided as specified in Section 153.043.

(n) Lighting Requirements.

1. Street lights shall be installed along streets in the mobile home park to ensure the security of property and the safety of persons using such streets. The street lights shall be placed along the street at a rate of one light every 200 feet, and the lights should be placed on alternating sides of the street.

2. Where ownership of street lighting facilities will be retained by the electrical power supplier, the type of street lighting facilities to be installed shall be acceptable to both the Town of Black Mountain and the electrical power supplier.

3. Fixtures. All street lighting fixtures shall be “cut-off” fixtures as defined by the Illuminating Engineering Society of North America (IESNA). If necessary, fixtures shall include “house side shields” to minimize light directed to the rear of the fixtures.

4. Mounting heights of fixtures shall not exceed 15 feet.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-87-1, passed 5-11-87; Am. Ord. O-88-10, passed 9-12-88; Am. Ord. O-89-1, passed 1-17-89; Am. Ord. O-95-05, passed 6-19-95; Am. Ord. O-99-05, passed 4-12-99) Penalty, see Section 153.999

### **153.038 CUT AND FILL SLOPES.**

In order to insure and protect the environmental quality of property being developed in the town, cut and fill slopes shall not exceed the following specifications:

(A) Cut slopes shall not exceed a ratio of greater than 1:1.

(B) Fill slopes shall not exceed a ratio of greater than 2:1.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83) Penalty, see Section 153.999

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**153.039 FLOOD FRINGE AREA REGULATIONS. Delete – See Chapter 151.**  
(Ordinance 0-07-03, passed 5-14-07)

**153.040 VISIBILITY AT INTERSECTIONS.**

On any lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision, between a height of two and one-half (2 ½) and ten (10) feet, for a distance of seventy-five (75) feet in either direction from the intersection of two public streets or the intersection of a private driveway with a public street, within ten (10) feet of the curb or pavement edge of the public street.

(Ord., passed 2-13-84; Am. Ord. O-97-08, passed 8-11-97) Penalty, see Section 153.999

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**153.041 PEDESTRIAN ACCESS.**

All developments in the Town shall provide for sidewalks proposed to be constructed along public rights-of-way consistent with Town construction specifications. Unified developments shall additionally provide for pedestrian circulation within the development. All requirements of the Americans with Disabilities Act shall be met. The town may waive sidewalk requirements upon a determination by the Planning Board that such facilities are not in harmony with surrounding uses and that no need exists for such facilities at the proposed site.

(Ord. O-97-09, passed 6-9-97) Penalty, see Section 153.999

**153.042 STORM AND SANITARY SEWERAGE.**

Storm and sanitary sewerage shall be provided, as approved by the Town and in accordance with the regulations set forth by the State of North Carolina. Provided however, that storm water facilities shall be provided which will control any increase in the rate of storm water runoff as a result of development. In particular, provisions shall be made to minimize the impact of storm water runoff on adjoining properties.

**153.043 LANDSCAPING REGULATIONS.**

(A) Purpose. The intent of this section is to improve the appearance, quality and quantity of landscaped areas that are visible from public roadways in accordance with the following purposes:

(1) to assist in providing adequate light and air and in preventing overcrowding of land;

(2) to provide visual buffering and to enhance the beautification of the Town;

(3) to safeguard and enhance property values and to protect public and private investment;

(4) to preserve, protect and restore the unique identity and environment of the Town of Black Mountain and to preserve the economic base attracted to the Town;

(5) to encourage the preservation of existing trees and vegetation;

(6) to aid in stabilizing the environment by contributing to the process of air purification, ground water recharge, and storm water runoff retardation, while at the same time aiding in noise, glare, and heat reduction;

(7) to conserve energy; and

(8) to protect the public health, safety and general welfare of the Town.

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(B) Definitions. For the purposes of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

*BUFFER.* A landscaped strip of land that minimized the potential conflicts between adjoining land uses.

*CALIPER.* The diameter of a tree trunk four and one-half (4 ½) feet above the ground.

*CERTIFICATE OF OCCUPANCY.* A document issued by the Building Inspector which permits a new or modified structure to be occupied.

*DRIP LINE.* An imaginary line on the ground formed by water falling from the end of tree branches that extend the furthest from the trunk in all direction.

*LANDSCAPED AREA OF A LOT.* All pervious surfaces of a lot not including roofs, driveways, roads, parking areas, and sidewalks.

*SCREENING.* A fence, wall, hedge or landscaping that minimized the potential conflicts between adjoining land uses.

*STREET TREE.* A tree located along a roadway in compliance with section 153.043 (F).

(C) Applicability. The requirements of this subchapter apply to all public and private land in the town of Black Mountain's zoning jurisdiction except the following land uses:

- (1) Single family residences
- (2) Two family residences

None of the uses authorized in Sections 153.070 through 153.099 of this ordinance shall be permitted until the requirements of this subchapter are met or guaranteed as provided in Section 153.043 (E) (2)

(D) Landscape Plan Required. The landscape plan required by this subchapter shall accompany any request for a building permit form or plat approval by the Town of Black Mountain. No building permit shall be issued nor plat approved until the landscape plan is approved by the Zoning Administrator. The Zoning Administrator may request any additional information needed to determine compliance with this subchapter.

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### (E) General Provisions.

(1) All plant materials used to comply with the requirements of this subchapter should be native or appropriate species for this geographic area. A list of recommended species for landscaping is provided in Appendix A.

(2) A temporary certificate of occupancy may be issued to a developer/owner if the landscaping cannot be planted at the time the use opens or is re-established due to inappropriate timing for the growing season. A temporary certificate of occupancy shall specify the date that the landscaping will be planted. The Building Inspector shall have the authority to revoke the temporary certificate of occupancy if the landscaping is not planted by the date specified. The developer/owner shall also guarantee in writing that he/she or his/her successors, shall provide the required landscaping within the time period specified in the temporary certificate of occupancy.

(3) Whenever any landscaping areas required by this subchapter are adjacent to parking or vehicular circulation areas, the planted areas shall be protected by curbing or other parking barriers.

(4) Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard.

(5) All landscape planting areas shall be stabilized from dust and soil erosion immediately upon planting and shall be so maintained for the duration of the premises.

(6) The property owner is responsible for maintaining all required plant material in good health. Any dead, unhealthy or missing plants must be replaced with locally adapted plants which conform with planting standards of this subchapter within 120 days. In the event that plant material is severely damaged due to unusual weather occurrence or other acts of God, the owner shall have one (1) year to replant.

(7) Credit for existing trees. The Zoning Administrator may waive the requirement to provide the new trees required by this ordinance if large trees existing on the site are protected and maintained before, during and after construction in accordance with sound conservation practices. The Zoning Administrator must certify that the same buffer or screening function will be provided by the saved trees as would be provided by an equivalent number of newly planted trees. If a saved tree dies at any time, it shall be replaced with a tree (or trees) that will provide similar buffering or screening.

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(8) Landscaping in the Central Business District. The Zoning Administrator shall review the landscaping requirements of this article with each development proponent or applicant for a building permit in the C-1 district. Where meeting the requirements of this subchapter is clearly impractical, the Board of Aldermen may authorize the use of portions of the public rights-of-way for permanent or container plantings. The Zoning Administrator is authorized to waive specific landscape requirements, or portions thereof, if meeting the requirements will cause insurmountable difficulties for a development proposal in the C-1 district.

(F) Landscape Plan Contents. The landscape plan required in Section 153.041 shall contain the following elements:

- (1) Existing and proposed landscaping;
- (2) Any buffers required by Sections 153.070 through 153.099;
- (3) Any screening required by Sections 153.070 through 153.099;
- (4) Existing and proposed land uses within 200 feet of the site and the zoning of those properties;
- (5) Existing vegetation intended to be saved under the provisions of 153.043 (E) (7);
- (6) Any barriers proposed to protect vegetation during or after construction as specified in 153.043 (E) (3);
- (7) Topographic contours at intervals of not more than five feet, indication of the direction of storm water flow, and a description of all storm water control facilities.

(G) Landscaping Required for All Sites. No less than five percent (5%) of the lot or parcel which is the subject of the required landscape plan shall be landscaped. This requirement shall be met in addition to any area required for street trees, buffers, or screens; provided that the total area of the site devoted to landscaping shall not be required to exceed forty percent (40%) of the site.

(H) Street Trees Required. Landscaping shall be required on the site adjacent to all public rights-of-way. A planting strip for street trees averaging ten feet in width with a minimum width of five feet shall contain one tree for each 40 feet of right-of-way frontage. Street trees shall be at least one and one half inch (1 ½”) caliper. The width of the planting strip and tree placement may be varied except that street trees must be at least fifteen feet apart. Other types of plant materials shall be provided to complement street trees subject to approval by the Zoning Administrator.

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(I) Off-Street Parking and Loading Areas. Landscaping shall be required in and around all new or redesigned off-street parking and loading areas. Landscaping shall be provided in these areas as follows:

(1) For parking lots less than 2,500 square feet in parking area, no landscaping is required by this subsection. However the provisions of subsection 153.043 (I) (6) apply to all parking lots. For parking lots greater than 2,500 square feet in size, the following overall requirements apply:

<u>Total area of parking lot (square feet)</u>	<u>Percent of parking lot area that must be landscaped</u>
2,500 - 9,999	3%
10,000 - 49,999	5%
50,000 - 149,999	8%
150,000 or larger	10%

(2) At least 50% of the required parking lot landscaping shall be provided as islands within the parking lot. One planting island is recommended for every 10 to 15 spaces.

(3) One tree of at least one and one half inch (1 ½”) caliper and an initial height of at least four feet shall be provided for each fifteen parking spaces. The expected height at maturity of these trees shall be at least eight feet.

(4) No parking space shall be more than 50 feet from a tree or 75 feet from plantings of more than one tree.

(5) Shrubs and other types of plant materials shall be used which will complement the tree plantings subject to approval by the Zoning Administrator.

(6) All public parking and loading areas within 50 feet of a public right-of-way must include a visual screen that meets the following standards:

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(a) At least 75% of vertical plane between the right-of-way and the parking area up to a height of 3 ½ feet shall be screened. Plant materials shall be provided which can reasonably be expected to meet this standard within three years.

(b) The screen may be composed of vegetated earth berms, plant materials or a combination.

(c) No screen is required at parking lot entrances or exits.

(d) No screen shall obstruct vision within 50 feet of an entrance, exit or intersection consistent with subsection 153.043 (E) (4).  
(Ord. O-99-01, passed 1-11-99)

**(See “APPENDIX A”, List of Recommended Species for Landscaping)**

**TITLE XV: LAND USAGE**

**APPENDIX A –  
LIST OF RECOMMENDED SPECIES FOR LANDSCAPING –BLACK MOUNTAIN**

<b>TYPE/SIZE</b>	<b>GENUS</b>	<b>SPECIES</b>	<b>VARIETY</b>	<b>COMMON NAME</b>	<b>EVER-GREEN</b>	<b>NATIVE</b>
Groundcover	Ajuga	Reptans		Bugleflower	*	
Groundcover	Cotoneaster	Dammeri		Bearberry cotoneaster	*	
Groundcover	Festuca	Ovina		Blue fescue	*	*
Groundcover	Helleborus	Orientalis		Lenten-rose	*	
Groundcover	Hemerocallis	Hybrida or fulva		Daylily		
Groundcover	Hosta	Many species		Hosta, plantain		
Groundcover	Juniperus	Horizontalis		Creeping juniper	*	
Groundcover	Pachysandra	Alleghaniensis or procumbens		Alleghany spurge	*	*
Groundcover	Pachysandra	Terminalis		Japanese spurge	*	
Groundcover	Phlox	Subulata		Thrift	*	
Low shrub	Callicarpa	Dichotoma		Beautyberry		
Low shrub	Ceanothus	Americana		New Jersey tea		*
Low shrub	Cotoneaster	Horizontalis		Rockspray cotoneaster	*	
Low shrub	Deutzia	Gracilis		Slender Deutzia		
Low shrub	Diervilla	Sessilifolia		Southern bush-honeysuckle		*
Low shrub	Euonymus	Americana		Evergreen bittersweet	*	
Low shrub	Hydrangea	Arborescens	Grandiflora	Snowhill Hydrangea		*
Low shrub	Hypericum	Prolificum		Shrubby St. John's Wort		*
Low shrub	Juniperus	Communis	Depressa	Prostrate juniper	*	*
Low shrub	Leucothoe	Fontanesiana		Drooping leucothoe	*	*
Low shrub	Mahonia	Aquifolium		Oregon holly-grape	*	
Low shrub	Potentilla	Fruticosa		Bush cinquefoil		
Low shrub	Viburnum	Acerifolium		Maple-leaf Viburnum		*
Med shrub	Abelia	x grandiflora		Glossy Abelia	*	
Med shrub	Callicarpa	Americana		American beautyberry		*
Med shrub	Clethra	Acuminata		Sweet pepperbush		*
Med shrub	Cornus	Sericea		Redtwig dogwood		*
Med shrub	Fothergilla	Major		Large Fothergilla		*
Med shrub	Hydrangea	Quercifolia		Oakleaf Hydrangea		*
Med shrub	Hypericum	Densiflorum		Dense Hypericum		*
Med shrub	Ilex	Montana or ambigua		Mountain winterberry		*
Med shrub	Ilex	Verticillata		Common winterberry		*

**TITLE XV: LAND USAGE**

**APPENDIX A -  
LIST OF RECOMMENDED SPECIES FOR LANDSCAPING – BLACK MOUNTAIN, NC**

<b>TYPE/SIZE</b>	<b>GENUS</b>	<b>SPECIES</b>	<b>VARIETY</b>	<b>COMMON NAME</b>	<b>EVER GREEN</b>	<b>NATIVE</b>
Med shrub	Itea	Virginica	Henry's Garnet	Virginia sweetspire		*
Med shrub	Kalmia	Latifolia		Mountain laurel	*	*
Med shrub	Kerria	Japonica		Kerria		
Med shrub	Mahonia	Bealei		Leatherleaf Mahonia	*	*
Med shrub	Pieris	Floribunda		Mountain andromeda	*	*
Med shrub	Pieris	Japonica		Japanese andromeda	*	
Med shrub	Pyracantha	Coccinea		Scarlet firethorn	*	
Med shrub	Rhododendron	Calendulaceum		Flame azalea		*
Med shrub	Rhododendron	Carolinianum		Carolina Rhododendron	*	*
Med shrub	Rhododendron	Catawbiense		Mountain rosebay	*	*
Med shrub	Rhododendron	Minus		Piedmont Rhododendron	*	*
Med shrub	Rhododendron	Nudiflorum		Wild or Pinxter azalea		*
Med shrub	Symphoricarpus	Orbiculatus		Coral berry		*
Med shrub	Viburnum	Alnifolium		Hobblebush		*
Med shrub	Viburnum	Cassinoides		Witherod Viburnum		*
Med shrub	Viburnum	x burkwoodii		Burkwood Viburnum		
Tall shrub	Aesculus	Parviflora		Bottlebrush buckeye		
Tall shrub	Alnus	Serrulata		Common alder		*
Tall shrub	Rhododendron	Hybrida	Exbury	Exbury hybrid Azalea		
Tall shrub	Rhododendron	Indica		Indian Azalea	*	
Tall shrub	Rhododendron	Periclymendoide		Pinxterbloom Azalea		
Tall shrub	Buddleja	Davidii		Butterfly bush		
Tall shrub	Calycanthus	Floridus	Laevigatus	Sweetshrub		*
Tall shrub	Chimonanthus	Praecox		Wintersweet		
Tall shrub	Deutzia	Scabra		Pride of Rochester		
Tall shrub	Euonymus	Alata		Winged Euonymus		
Tall shrub	Ilex	Decidua		Possumhaw		*
Tall shrub	Ilex	Vomitorea		Yaupon Holly	*	*
Tall shrub	Lonicera	Fragrantissima		Winter honeysuckle		*
Tall shrub	Rhododendron	Maximum		Rosebay Rhododendron	*	*
Tall shrub	Rhododendron	Prinophyllum (roseum)		Rosy Azalea		*
Tall shrub	Rhododendron	Prunifolium		Plumleaf azalea		*
Tall shrub	Salix	Sericea		Silky willow	*	*
Tall shrub	Sambucus	Canadensis		Elderberry		*
Tall shrub	Spiraea	Prunifolia	Plena	Bridleweath Spirea		
Tall shrub	Syringa	Vulgaris		Common lilac		
Tall shrub	Syringa	x persica		Persian lilac		
Tall shrub	Taxus	Cuspidata		Japanese yew	*	
Tall shrub	Viburnum	Plicatum	Tomentosum	Doublefile Viburnum		
Tall shrub	Viburnum	Rhytidophyllum		Leatherleaf Viburnum	*	

**TITLE XV: LAND USAGE**

**APPENDIX A -  
LIST OF RECOMMENDED SPECIES FOR LANDSCAPING – BLACK MOUNTAIN, NC**

<b>TYPE/SIZE</b>	<b>GENUS</b>	<b>SPECIES</b>	<b>VARIETY</b>	<b>COMMON NAME</b>	<b>EVER GREEN</b>	<b>NATIVE</b>
Small tree	Amelanchier	Arborea		Serviceberry		*
Small tree	Castanea	Pumila		Chinquapin		*
Small tree	Cercis	Canadensis		Eastern redbud		*
Small tree	Chionanthus	Virginicus		Fringetree		*
Small tree	Cornus	Alternifolia		Pagoda dogwood		*
Small tree	Cornus	Florida		Flowering dogwood		*
Small tree	Cornus	Kousa		Kousa dogwood		
Small tree	Halesia	Carolina		Carolina silverbell		*
Small tree	Hamamelis	Virginiana		Common witch-hazel		*
Small tree	Ilex	Opaca		American holly	*	*
Small tree	Magnolia	Fraseri		Umbrella tree		*
Small tree	Ostrya	Virginiana		Eastern hophornbeam		*
Small tree	Oxydendrum	Arboreum		Sourwood		*
Small tree	Pistacia	Chinensis		Pistachio		
Small tree	Prunus	Pensylvanica		Pin cherry		*
Small tree	Prunus	Serotina		Black cherry		*
Small tree	Ptelea	Trifoliata		Hoptree		*
Small tree	Sassafras	Albidum		Common sassafras		*
Small tree	Sorbus	Americana		American mountain ash		*
Small tree	Stewartia	Ovata		Mountain Stewartia		*
Small tree	Tilia	Cordata		Littleleaf linden		
Small tree	Viburnum	Rufidulum		Blackhaw Viburnum		*
Large tree	Acer	Rubrum		Red maple		*
Large tree	Acer	Saccharum		Sugar maple		*
Large tree	Aesculus	Flava		Yellow buckeye		*
Large tree	Betula	Allegheniensis (lutea)		Yellow birch		*
Large tree	Betula	Lenta		Sweet birch		*
Large tree	Betula	Papyrifera		Paper birch		*
Large tree	Carya	Cordiformis		Bitternut hickory		*
Large tree	Carya	Glabra		Pignut hickory		*
Large tree	Cladrastis	Lutea		Yellowwood		*
Large tree	Fagus	Grandifolia		Beech		*
Large tree	Liriodendron	Tulipifera		Tulip tree		*
Large tree	Magnolia	Acuminata		Cucumber tree		*
Large tree	Nyssa	Sylvatica		Black tupelo		*
Large tree	Picea	Rubens		Red spruce	*	*
Large tree	Quercus	Alba		White oak		*
Large tree	Quercus	Montana		Chestnut oak		*
Large tree	Quercus	Palustris		Pin oak		*
Large tree	Quercus	Phellos		Willow oak		*
Large tree	Quercus	Rubra		Red oak		*
Large tree	Quercus	Stellata		Post oak		*

