



**TITLE XV: LAND USAGE**

**DISTRICTS AND BOUNDARIES; ZONING MAP**

**153.060 ESTABLISHMENT OF DISTRICTS.**

For the purposes of this chapter, the town is divided into use districts as follows:

- F-1 Floodway District
- R-10 Residential District
- R-20 Residential District
- O-I Office-Institutional
- C-1 Central Business District
- C-2 General Business District
- C-3 Neighborhood Business District
- I-1 Light Industrial
- I-2 General Industrial
- TND Traditional Neighborhood Development
- WP-O Wellhead Protection District
- MU Mixed Use District
- ICU Institutional Campus Development District
- HD Historic District Overlay
- CD Downtown Conservation District Overlay

**153.061 ZONING MAP; INTERPRETATION OF DISTRICT BOUNDARIES.**

(A) The boundaries of the zoning districts are hereby established as shown on the Official Zoning map of the town which, together with all explanatory matters, is adopted by reference and declared to be a part of this chapter.

(1) The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the Seal of the Town under the words: "Official Zoning Map, Town of Black Mountain, North Carolina", together with the date of the adoption of this chapter.

(2) If, in accordance with the provisions of this chapter and G. S. Section 160A-381 through 160A-394, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map by the Zoning Administrator within seven days after the amendment has been approved by the Board of Aldermen.

(3) No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered as a violation of this chapter.

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(4) Regardless of the existence of any purported copy of the Official Zoning Map, the Zoning Map which shall be located in the office of the town shall be the final authority as to the current zoning status of land, buildings, and other structures in the town.

(B) Rules for interpretation of district boundaries. When uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets, highways, alleys or public utility easements shall be construed as following such center lines.

(2) Boundaries indicated as approximately following platted lot or tract lines shall be construed as following such lines, whether public or private.

(3) Boundaries indicated as approximately following the town limits shall be construed as following the town limits.

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) Boundaries indicated as approximately following the center lines of streams, rivers, channels, lakes, or other lines shall be construed as following the center line.

(6) Boundaries indicated as approximately following topographic elevations shall be construed as following such elevations.

(7) Boundaries indicated as parallel to or extensions of features indicated above shall be so construed.

(8) Where a district boundary appears to divide a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale on the map. In the event that a district boundary line on the Zoning Map divides a platted lot held in one ownership on the date of passage of this chapter, the district requirements for the least restricted portion of said lot shall be deemed to apply to the whole, provided that such extensions shall not include any part of such lot more than 35 feet beyond the district boundary line.

(9) If the boundary location cannot be resolved according to any of the above criteria, the Board of Adjustment shall interpret the intent of the map as to the location of district boundaries.

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

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**ZONING DISTRICTS**

**153.070 R-10 RESIDENTIAL DISTRICTS.**

(A) Purpose. This district is established to protect areas in which the principal use of the land is medium density, single-, double-, and multi-family dwellings as well as for the related recreational, religious, and educational facilities normally required to provide for an orderly and attractive residential area. Any use which, because of its characteristics, would interfere with the development of or be detrimental to the residential nature of the area is excluded.

(B) Permitted uses. See 153.079.

(C) Conditional uses. See 153.079 and 153.090 through 153.097.

(D) Minimum lot area.

(1) Single-family dwellings - 7,500 square feet.

(2) Two-family dwellings - 10,000 square feet.

(3) Zero lot line dwellings – 6,500 square feet.

(4) Multi-family dwellings having three or more units shall have a minimum of 20,000 square feet, plus an additional 3,000square feet for each unit in excess of four. (See also 153.094 and 153.095.)

(5) Steep hillside single-family dwellings - 30,000 square feet

(6) All other uses - 15,000 square feet.

(E) Minimum lot width.

(1) Single-family dwellings - 60 feet.

(2) Two-family and Multi-family dwellings - 75 feet.

(3) Steep hillside single-family dwellings - 100 feet.

(4) All other uses - 75 feet.

(F) Minimum lot depth - 100 feet.

(G) Minimum front yard (Note - for developed areas refer to 153.031).

(1) Single-family and two-family dwellings - 30 feet.

(2) Multi-family dwellings - 40 feet.

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- (3) All other uses - 30 feet.
- (H) Minimum side yard.
  - (1) Single-family and two-family dwellings - 10 feet.
  - (2) Zero lot line dwellings – 10 feet on one side.
  - (3) All other uses - 30 feet.
- (I) Minimum rear yard.
  - (1) Single-family and two-family dwellings - 20 feet.
  - (2) All other uses - 30 feet.
- (J) Maximum building height - 35 feet. (See also 153.130 through 153.136.)
- (K) Off-street parking and loading regulations. See 153.110 through 153.117.
- (L) Accessory buildings. See 153.027 and 153.079.
- (M) Signs. See 153.130 through 153.136.  
(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-87-1, passed 5-11-87; Am. Ord., O-99-02, passed 1-11-99; Am. Ord., O-99-17, passed 8-9-99) Penalty, see 153.999

**153.071 R-20 RESIDENTIAL DISTRICTS.**

(A) Purpose. This district is established to protect areas in which the principal use of the land is for lower density, single-family and multi-family dwellings as well as for the related recreational, religious, and educational facilities normally required to provide for an orderly, attractive residential area. Any use which, because of its characteristics, would interfere with the development of or be detrimental to the residential nature of the area is excluded.

- (B) Permitted uses. See 153.079.
- (C) Conditional uses. See 153.079 and 153.090 through 153.097.
- (D) Minimum lot area.
  - (1) Single-family dwellings on lots serviced by municipal water and sewer - 12,500 square feet.
  - (2) Zero lot line dwellings on lots serviced by municipal water and sewer – 11,000 square feet.
  - (3) Two-family dwellings on lots serviced by municipal water and sewer - 15,000

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square feet.

(4) Single-family and two-family dwellings on lots not serviced by municipal water and sewerage - 25,000 square feet. In addition, the minimum standard may be increased in order to comply with the County Health Department requirements. (See also 153.094.)

(5) Steep hillside single-family dwellings on lots serviced by municipal water and sewer - 40,000 square feet.. In addition, for lots not serviced by municipal water and sewer, the minimum standard may be increased in order to comply with the County Health Department requirements. (See also 153.094.)

(6) Multi-family dwellings shall have a minimum of 30,000 square feet, plus an additional 3,000 square feet for each unit in excess of four. In addition, for lots not serviced by municipal water and sewer, the minimum standard may be increased in order to comply with the County Health Department requirements as necessary. (See also 153.094.)

(7) All other uses - 20,000 square feet. In addition, for lots not serviced by municipal water and sewer, the minimum standard may be increased in order to comply with the County Health Department requirements as necessary. (See also 153.094.)

(E) Minimum lot width.

(1) Single-family dwellings- 75 feet.

(2) Two-family and multi-family dwellings - 100 feet.

(3) Single-family dwellings, steep hillside - 100 feet.

(4) All other uses - 100 feet.

(F) Minimum lot depth - 100 feet.

(G) Minimum front yard.

(1) Single-family and two-family dwellings - 35 feet.

(2) Multi-family dwellings - 50 feet.

(3) Single-family dwellings, steep hillside - 25 feet.

(4) All other uses - 35 feet.

(H) Minimum side yard.

(1) Single-family and two-family dwellings - 15 feet.

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- (2) Zero lot line dwellings – 15 feet on one side.
- (3) Single-family dwellings, steep hillside - 15 feet.
- (4) All other uses - 40 feet.
- (I) Minimum rear yard.
  - (1) Single-family and two-family dwellings - 20 feet.
  - (2) Single family dwellings, steep hillside - 20 feet. .
  - (3) All other uses - 40 feet.
- (J) Maximum building height - 35 feet. (See also 153.130 through 153.136.)
- (K) Off-street parking and loading regulations. See 153.110 through 153.117.
- (L) Signs. See 153.130 through 153.136.
- (M) Accessory buildings. See 153.027 and 153.029.  
(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-87-1, passed 5-11-87; Am. Ord. O-92-3, passed 6-8-92; Am. Ord., O-99-02, passed 1-11-99; Am. Ord., O-99-17, passed 8-9-99)  
Penalty, see 153.999

**153.072 O-I OFFICE-INSTITUTIONAL DISTRICT.**

(A) Purpose. The purpose of the Office-Institutional District is to provide for a zone of transition between purely residential and purely business districts or to serve as a major institutional district to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety, and to provide for protected property values.

- (B) Permitted uses. See 153.079.
- (C) Conditional uses. See 153.079 and 153.090 through 153.097.

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(D) Minimum lot area.

(1) Single-family dwellings - 7,500 square feet.

(2) Zero lot line dwellings – 6,500 square feet.

(3) Two-family dwellings - 10,000 square feet.

(4) Multi-family dwellings having three or more units shall have a minimum of 20,000 square feet plus an additional 3,000 square feet for each unit in excess of four. (See also 153.094 and 153.095.)

(5) All other uses - 7,500 square feet.

(E) Minimum lot width.

(1) Residential uses - 75 feet

(2) All other uses - 100 feet at building line.

(F) Minimum lot depth - 100 feet.

(G) Minimum front yard.

(1) Single-family and two-family dwellings - 30 feet.

(2) All other uses - 40 feet.

(H) Minimum side yard.

(1) Single-family and two-family dwelling units - 10 feet.

(2) Zero lot line dwellings – 10 feet on one side.

(3) All other uses - 30 feet.

(I) Minimum rear yard.

(1) Single-family and two-family dwellings - 20 feet.

(2) All other uses - 30 feet.

(J) Maximum building height - 35 feet. (See also 153.130 through 153.136.)

(K) Off-street parking and loading regulations. See 153.110 through 153.117.

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(L) Screening regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:

(1) Where a commercial use abuts a non-commercial use or a residential district an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(2) All dumpsters, loading areas and accessory storage buildings visible from a public street or adjacent property line shall be screened with an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(M) Accessory buildings. See 153.027 and 153.079.

(N) Signs. See 153.130 through 153.136.

(O) Plan approval.. Prior to the issuance of a building permit for any non-residential structure in this district, a site plan showing compliance with all yard and other site requirements shall be approved in writing by the Zoning Administrator. Failure to comply with all particulars of the approved plans shall render the permit null and void. Building permits for interior work only are exempt from this site plan submission requirement.  
(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-87-1, passed 5-11-87; Am. Ord., O-99-02, passed 1-11-99; Am. Ord., O-99-17, passed 8-9-99) Penalty, see 153.999

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**TABLE 1. Minimum Lot Requirements Summary Table for R-10, R-20 and O-I Zoning Districts**

ZONING DISTRICT and USE	Minimum Lot Dimensions			Minimum Yard/Setback		
	Size (s.f.)	Width (feet)	Depth (feet)	Front (feet)	Side (feet)	Rear (feet)
<b>R-10</b>						
Single Family	7,500	60	100	30	10	20
Zero Lot Line	6,500	60	100	30	10	20
Two Family	10,000	75	100	30	10	20
Multifamily*	20,000	75	100	40	30	30
Steep Hillside	30,000	100	100	30	10	20
Other	15,000	75	100	30	30	30
<b>R-20</b>						
Single Family**	12,500	75	100	35	15	20
Zero Lot Line	11,000	75	100	35	15	20
Two Family**	15,000	100	100	35	15	20
Multifamily*	30,000	100	100	50	40	40
Steep Hillside	40,000	100	100	25	15	20
Other	20,000	100	100	35	40	40
<b>O-I</b>						
Single Family	7,500	75	100	30	10	20
Zero Lot Line	6,500	75	100	30	10	20
Two Family	10,000	75	100	30	10	20
Multifamily*	20,000	75	100	40	30	30
Other	7,500	100	100	40	30	30

**153.073 C-1 CENTRAL BUSINESS DISTRICT.**

(A) Purpose. This district is the central business district for the community. Normally found in this district are major stores offering comparison shopper's goods, specialty stores, business services, banks and other financial institutions, offices, theaters, hotels and motels, and government buildings. The use of the land is intensive and this intensity of use is one of the main determinants of the vitality of the Central Business District. In addition, provisions are made for single family, two-family and multi-family residences to be established in this district to be used principally as dwelling units above existing businesses. Due to the high level of pedestrian activity in this district, buildings located where sidewalks exist shall be designed with the main entrance on the highest volume thoroughfare, abutting the sidewalk or a landscaped pedestrian courtyard abutting the sidewalk; and off-street parking, if provided, shall be located on the side or rear of the building not facing the highest volume thoroughfare.

(B) Permitted uses. See 153.079.

(C) Conditional uses. See 153.079 and 153.090 through 153.097.

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(D) Minimum lot area - none. (See also 153.024.)

(E) Minimum lot width - None.

(F) Minimum lot depth - None.

(G) Minimum front yard - See 153.031.

(H) Minimum side yard - Setbacks could be required as per the NC Building Code depending on materials used for construction.

(I) Minimum rear yard - Setbacks could be required as per the NC Building Code depending on materials used for construction.

(J) Maximum building height - 40 feet. (See also 153.130 through 153.136.)

(K) Off-street parking and loading regulations - None. However, if off-street parking is provided on the lot, it should be located to the side or the rear of the building and regulations in 153.110 through 153.115 shall be followed.

(L) Screening regulations - It shall be the responsibility of the property owner or lessee to provide the following screening measures:

(1) Where a commercial use abuts a non-commercial use or a residential district – an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(2) All dumpsters, loading areas and accessory storage buildings visible from a public street or adjacent property line shall be screened with an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(M) Signs. (See also 153.130 through 153.136)

(N) Plan approval. Prior to the issuance of a building permit for any non-residential structure in this district, a site plan showing compliance with all yard and other site requirements shall be approved in writing by the Zoning Administrator. Failure to comply with all particulars of the approved plans shall render the permit null and void. Building permits for interior work only are exempt from this site plan submission requirement.

See 153.130 through 153.136. (Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-92-1, passed 4-13-92; Am. Ord. 0-95-11, passed 8-14-95; Am. Ord. 0-00-19, passed 12-11-00) Penalty, see 153.999.

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**153.074 C-2 GENERAL BUSINESS DISTRICT.**

(A) Purpose. This district is established to provide goods and services which normally complement primary retail trade operations in the town. Because of the objectives and characteristics of this district, it should be located contiguous to major streets or within proximity to primary commercial districts. In no case shall any use be allowed that is significantly objectionable in terms of noise, odor, vibration, smoke or suspended particulate matter, and radiation to surrounding properties. In addition, provisions are made for single or multi-family residences to be established in this district to be used principally as dwelling units appurtenant to existing businesses. Provision is also made for single or multi-family residences in this district wherein there is a predominately residential nature to the immediate area. In this case, the terms "predominately" and "immediate" shall mean at least 51% residential within 500 feet of the subject property.

(B) Permitted uses. See 153.079.

(C) Conditional uses. See 153.079 and 153.090 through 153.100. Requirements for multi-family dwellings shall comply with all the requirements specified in 153.070 (R-10) rather than those specified in this Section. (Ord. O-99-16 Adopted 8-9-99)

(D) Minimum lot area - None. (See also 153.024.)

(E) Minimum lot width - 50 feet.

(F) Minimum lot depth - None.

(G) Minimum front yard - 40 feet.

(H) Minimum side yard.

(1) Automobile service station - 10 feet to pumps on an interior lot, 20 feet to pumps on corner lots.

(2) Corner lot - 10 feet.

(3) Interior lots.

(a) Abutting a residential district - 20 feet.

(b) Abutting a commercial or industrial district - Setbacks could be required as per the NC Building Code depending on materials used for construction.

(I) Minimum rear yard.

(1) Abutting a residential district - 40 feet.

(2) Abutting a commercial or industrial district - 20 feet.

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(J) Maximum building height - 40 feet. (See also 153.130 through 153.136.)

(K) Off-street parking and loading regulations. See 153.110 through 153.117.

(L) Screening regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:

(1) Where a commercial use abuts a non-commercial use or a residential district – an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(2) All dumpsters, loading areas, accessory storage buildings, and areas where automobile repair garages store automobiles before and after repairs that are visible from a public street or adjacent property line shall be screened with an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(M) Signs. (See C-1)

(N) Plan approval.. Prior to the issuance of a building permit for any non-residential structure in this district, a site plan showing compliance with all yard and other site requirements shall be approved in writing by the Zoning Administrator. Failure to comply with all particulars of the approved plans shall render the permit null and void. Building permits for interior work only are exempt from this site plan submission requirement.

See 153.130 through 153.136. (Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-84-7, passed 8-13-84; Am. Ord. O-92-2, passed 6-8-92; Am. Ord. passed 8-14-95; Am. Ord. O-99-16, passed 8-9-99) Penalty, see 153.999.

**153.075 C-3 NEIGHBORHOOD COMMERCIAL DISTRICT.**

(A) Purpose. This district is established primarily to serve the needs of the surrounding residential neighborhood by providing goods and services that are day-to-day needs, generally classed by merchants as "convenience goods and services." Businesses which might tend to be a nuisance to the immediately surrounding residential developments are excluded, even though the goods or services offered might be in the convenience classification. Since this district contains businesses which are intended to serve the surrounding residential area, they should be designed with adequate, safe pedestrian, bicycle and automobile access. This district is most likely to be located at or near the intersection of major residential streets.

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(B) Permitted uses. See 153.079.

(C) Conditional uses. See 153.079 and 153.090 through 153.097.

(D) Minimum lot area - None. (See also 153.024.)

(E) Minimum lot width - None.

(F) Minimum lot depth - None.

(G) Minimum front yard - 30 feet.

(H) Minimum side yard.

(1) Abutting a residential district - 20 feet.

(2) Abutting a commercial or industrial district - Setbacks could be required as per the NC Building Code depending on materials used for construction.

(I) Minimum rear yard - 20 feet.

(J) Maximum building height - 35 feet. (See also 153.130 through 153.136.)

(K) Off-street parking and loading regulations. See 153.110 through 153.117.

(L) Screening regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:

(1) Where a commercial use abuts a non-commercial use or a residential district – an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(2) All dumpsters, loading areas and accessory storage buildings visible from a public street or adjacent property line shall be screened with an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(3) Barriers shall be in place before beginning of construction on any structure.

(M) Signs. (See C-1)

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(O) Plan approval.. Prior to the issuance of a building permit for any non-residential structure in this district, a site plan showing compliance with all yard and other site requirements shall be approved in writing by the Zoning Administrator. Failure to comply with all particulars of the approved plans shall render the permit null and void. Building permits for interior work only are exempt from this site plan submission requirement.

See 153.130 through 153.136. (Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. passed 8-14-95) Penalty, see 153.999.

**Section 153.076 I-1 LIGHT INDUSTRIAL DISTRICT.**

(A) Purpose. This district is designed to provide areas in which the principal use of the land is for light manufacturing, materials processing, warehousing, and retail operations incidental thereto. It is the intent that permitted uses be conducted so that noise, odor, dust and glare of each operation is completely confined within an enclosed building, insofar as is practical. New residential development is excluded from these districts, both to protect residents from an undesirable environment and to ensure the reservation of adequate areas for industrial development. Community facilities and convenience trade establishments which provide needed services to industrial development are permitted.

(B) Permitted uses. See 153.079. Section 153.079 includes examples of permitted uses and is therefore not inclusive of all uses which will be allowed in this district. In those situations where a use is desired and such use is not listed, the Planning Board shall be responsible for deciding whether or not to permit such a use.

(C) Conditional uses. See 153.079 and 153.090 through 153.097.

(D) Minimum lot area - (See 153.024.)

(E) Minimum lot width - None.

(F) Minimum lot depth - None.

(G) Minimum front yard - 25 feet from right-of-way or 50 feet from centerline, whichever is greater. If the area directly across from the right-of-way is zoned residential, then 50 feet from right-of-way or 100 feet from centerline, whichever is greater.

(H) Minimum side yard.

(1) Abutting a residential district - 40 feet.

(2) Abutting a commercial or industrial district - 20 feet.

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(I) Minimum rear yard.

(1) Abutting a residential district - 40 feet.

(2) Abutting a commercial or industrial district - 20 feet.

(J) Maximum building height - 55 feet. (See also 153.130 through 153.136.)

(K) Off-street parking and loading regulations. See 153.110 through 153.117.

(L) Screening regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:

(1) Where a commercial use abuts a non-commercial use or a residential district – an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(2) All dumpsters, loading areas, accessory storage buildings, and areas where automobile repair garages store automobiles before and after repairs that are visible from a public street or adjacent property line shall be screened with an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(3) Barriers shall be in place before beginning construction on any structure.

(M) Signs. See 153.130 through 153.136.

(N) Plan approval. Prior to the issuance of a building permit for any structures in an industrial district, site plans showing compliance with all yard and other site requirements shall be approved in writing by the Zoning Administrator. Failure to comply with all particulars of the approved plans shall render the permit null and void. Building permits for interior work only are exempt from this site plan submission requirement.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. passed 8-14-95; Am. Ord. O-99-16, passed 8-9-99; Am. Ord. 0-07-09, passed 7-09-07) Penalty, see 153.999.

**153.077 I-2 GENERAL INDUSTRIAL DISTRICT.**

(A) Purpose. This district is designed primarily for general industrial land uses and a broader variety of operations including manufacturing, processing and assembling of parts and products and distribution of products at wholesale or retail. The standards established for general industrial areas are designed to promote sound, permanent industrial development.

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(B) Permitted uses. See 153.079. Section 153.079 includes examples of permitted uses which will be allowed in this district. In those situations where a use is desired and such use is not listed, the Planning Board shall be responsible for deciding whether or not the desired use conforms with the purpose and intent set forth in Section 153.078 (A) and thus be allowed.

(C) Conditional uses. See 153.079 and 153.090 through 153.097.

(D) Minimum lot area - (See 153.024.)

(E) Minimum lot width - None.

(F) Minimum lot depth - None.

(G) Minimum front yard - 25 feet from right-of-way or 50 feet from centerline, whichever is greater. If the area across from the right-of-way is zoned residential, then 50 feet from right-of-way or 100 feet from centerline, whichever is greater.

(H) Minimum side yard.

(1) Abutting a residential district - 80 feet.

(2) Abutting a commercial or industrial district - 25 feet.

(I) Minimum rear yard.

(1) Abutting a residential district - 80 feet.

(2) Abutting a commercial or industrial district - 25 feet.

(J) Maximum building height - 48 feet. (See also 153.130 through 153.136.)

(K) Off-street parking and loading regulations. See 153.110 through 153.117.

(L) Screening regulations. It shall be the responsibility of the property owner or lessee to provide the following screening measures:

(1) Where a commercial use abuts a non-commercial use or a residential district – an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(2) All dumpsters, loading areas, accessory storage buildings, and areas where automobile repair garages store automobiles before and after repairs that are visible from a public street or adjacent property line shall be screened with an opaque fence or wall that is at least 6 feet high or evergreen vegetation of sufficient density to serve the purpose of an opaque fence.

(3) Barriers shall be in place before beginning construction on any structure.

(M) Signs. See 153.130 through 153.136.

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(N) Plan approval. Prior to the issuance of a building permit for any structures in an industrial district, site plans showing compliance with all yard and other site requirements shall be approved in writing by the Zoning Administrator. Failure to comply with all particulars of the approved plan shall render said permit null and void. Building permits for interior work only are exempt from this site plan submission requirement.

(Ord., passed 12-13-82; Am. Ord., passed 7-11-83; Am. Ord. O-99-16, passed 8-9-99);  
Am. Ord. 0-08-02, passed 1-14-08)

Penalty, see Section 153.999

**Section 153.078 F-1 FLOODWAY DISTRICT. – Delete – See Chapter 151.**

(Ordinance 0-07-03, passed 5-14-07)

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**Section 153.079 PERMITTED USES TABLE.**

(A) The following table establishes what uses will be allowed in which districts in the town. The uses in this table will be permitted as indicated and shall conform with all regulations of the applicable district.

(B) When shown with an asterisk (\*), the use is permitted only as a conditional use and will be approved in accordance with the provisions of Sections(s) 153.090 through 153.098 of this chapter. When shown with a double asterisk (\*\*), the use is permitted only as an accessory use and will be approved in accordance with the provisions of Section 153.027.

(Ord., O-89-9, passed 10-9-89; Am. Ord., passed 7-8-96; Am. Ord. 0-00-01, passed 1-10-00; Am. Ord. 0-01-07, passed 9-10-01; Am. Ord. 0-03-07, passed 10-13-03; Am. Ord. 0-08-01, passed 1-14-08; Am. Ord. 0-08-03, passed 2-11-08)

Penalty, see Section 153.999

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Use	R-10	R-20	O-I	C-1	C-2	C-3	I-1	I-2	F-1
Agriculture or farming including farm enterprises		X*					X	X	X
Airports								X*	
Amusements, commercial - i.e., miniature golf, skating rinks and pools			X*		X		X		
Animal hospitals (w/boarding), kennels and shelters					X*		X	X	
Art galleries			X	X	X				
Auction sales					X*		X	X	
Auditorium					X		X	X	
Automobile establishment, fuel, tires & oil				X*	X	X	X	X	
Automobile rental				X*	X		X	X	
Automobile repair garage					X		X	X	
Automobile sales, retail and wholesale - including inside repair					X		X	X	
Automobile salvage and junk yard (see also Section 153.096)							X*	X*	
Automobile washing establishment				X*	X	X	X	X	
Bakeries, retail				X	X	X			
Bakeries, wholesale							X	X	
Banks			X	X	X	X	X	X	
Barber and beauty shops			X	X	X	X			
Bed and breakfast homes	X	X	X		X				
Bed and breakfast inns	X*	X*	X		X				
Boats - retail sales, repair & storage					X		X	X	
Brewery or MicroBrewery							X	X	
Broadcasting studios, radio or television			X*	X	X		X	X	
Broadcasting towers					X	X	X	X	
Builders supply				X*	X		X	X	

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Use	R-10	R-20	O-I	C-1	C-2	C-3	I-1	I-2	F-1
Bus/railroad station				X	X				
Campgrounds					X*	X*	X*		X*
Camps, summer	X*	X*							
Carnival and fair grounds					X*		X	X	
Cemeteries, mausoleums or crematories	X*	X*	X*						
Chick hatcheries								X	
Churches and temples (see also private clubs)	X*	X*	X	X	X	X	X	X	
Clubs and lodges			X*	X	X		X	X	
Communication towers (see also Section 153.098)	X*	X*	X*	X*	X*	X*	X*	X*	X*
Contractor's office, excluding materials and equipment			X*	X	X		X	X	
Contractor's office, including materials and equipment							X	X	
Copying and duplicating service			X*	X	X		X	X	
Cultural or community facility	X*	X*	X	X*	X		X	X	
Dairy farms							X	X	X
Dairy product distribution and processing							X	X	
Dancing / martial arts instruction			X*	X	X	X			
Day care centers (See also Section 153.095)	X*	X*	X*		X*	X*			
Drug stores and pharmacies			X	X	X	X*			
Dwellings - single family	X	X	X	X					
Dwellings - two family	X	X	X	X					
Dwellings - multi-family (see also Section 153.094 [D], and 153.095)	X*	X*	X*	X*	X*				
Dwellings, secondary	X**	X**							
Electric power substations		X*	X*	X*	X*	X*	X*	X*	

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Use	R-10	R-20	O-1	C-1	C-2	C-3	I-1	I-2	F-1
Emergency services facilities	X*	X*	X	X	X	X	X	X	X*
Exterminator services					X		X	X	
Extractive uses - mining & quarrying								X	
Family care homes	X*	X*	X						
Farm supply					X		X	X	
Fish hatcheries							X*	X*	X*
Flowers, shrubs, trees - display and sales only			X*	X	X	X*	X	X	X*
Freight terminals, moving equipment, and large bulk storage					X		X	X	
Funeral homes			X*	X	X				
Garages and carports - private	X*	X*	X**	X**	X**				
Garden supply and seed stores				X	X		X	X	
Golf courses and associated uses					X*		X	X	
Golf driving range					X*		X	X	
Governmental facilities	X*	X*	X	X	X	X	X	X	X*
Governmental offices			X	X	X	X	X	X	
Greenhouses - commercial				X	X		X	X	X*
Greenhouses - non-commercial	X*	X**	X**	X					
Grocery stores - convenience				X	X	X			
Grocery stores - major				X*	X				
Group care facility	X**	X*	X*		X*				
Home occupations	X**	X**	X**						
Hospitals			X*		X		X		
Junkyards (See also Section 153.096)								X*	
Laboratories - analytical, experimental testing or industrial processes			X*		X		X	X	

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USE	R-10	R-20	O-1	C-1	C-2	C-3	I-1	I-2	F-1
Landscaping/mulching								X	
Laundries, dry cleaning and linen supply services - retail				X	X	X*	X*		
Laundries, dry cleaning and linen supply services - industrial							X	X	
Laundries, self-service				X	X	X			
Libraries, public			X	X	X	X			
Lumber - dimensional								X	
Machinery and equipment, sales & service						X*	X	X	
Manufacturing - assembly, processing, warehousing and product material							X*	X	
Manufacturing, fabrication								X	
Medical and dental clinics			X	X	X	X*			
Meeting halls - social and fraternal			X	X	X				
Mini-warehouses					X		X	X	
Mobile homes - single-wide (see also Section 153.037)	X*	X*	X*						
Mobile homes - double-wide (see also Section 153.037)	X	X	X						
Mobile home parks	X*	X*	X*						
Mobile home sales and accessories					X		X	X	
Motels and hotels				X	X				
Museums			X	X	X				
Nurseries, day care centers, kindergartens or pre-schools (see also Section 153.095)	X*	X*	X*		X*	X*			
Nursing homes, rest homes, homes for the aged and similar establishments	X*	X*	X*						
Outdoor storage - construction materials, except salvage yards					X*		X	X	
Parking for garbage trucks							X*	X	

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Use	R-10	R-20	O-I	C-1	C-2	C-3	I-1	I-2	F-1
Parks or other public recreational facilities		X*	X*	X	X	X	X	X	
Pawn shops				X	X				
Physical fitness salons			X	X	X				
Printing, publishing, blueprinting, photostating newspaper and job printing					X		X	X	
Private clubs					X				
Professional offices, including but not limited to medical, dental, law or realtor			X	X	X	X*			
Public parking lots, garages and facilities			X*	X*	X				
Public utility - office excluding shops and warehouses				X	X		X	X	
Public utility - office including shops and warehouses							X	X	
Public utility stations or substations	X*	X*	X*	X*	X*	X*	X	X	X*
Public utility transmission lines	X*	X*	X*	X	X	X*	X	X	X*
Recycling operations							X*	X	
Religious complexes	X*	X*	X	X*	X*				
Rental of equipment					X		X	X	
Restaurants - eat in, sit-down			X*	X	X	X	X	X	
Restaurants - drive-ins & drive through					X		X	X	
Retail sales and service				X	X	X*	X		
Rooming houses	X*	X*	X*						
Schools - public or private - elementary, secondary or college	X*	X*	X*		X*	X*			
Schools - vocational or professional			X*		X		X	X	
Signs - subject to Sections 153.130 through 153.137	X	X	X	X	X	X	X	X	
Small engine repair			X		X		X	X	
Social services offices			X*	X	X				

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Use	R-10	R-20	O-I	C-1	C-2	C-3	I-1	I-2	F-1
Storage shed - non-commercial	X**	X**	X**	X**	X**				
Studios for artists, etc.			X**	X	X				
Swimming pools - private	X**	X**	X**	X**	X**				
Swimming pools - public	X**	X*	X**		X	X			
Taxi stands				X	X	X*			
Telephone exchange				X	X	X*			
Theatres - enclosed buildings	X*	X*	X	X	X	X*	X	X	
Theatres - outdoor				X	X				
Unified business development (see Section 153.093)			X*	X*	X*	X*	X*	X*	
Unified housing development (see Section 153.094)	X*	X*	X*		X*				
Veterinarians					X*		X	X	
Warehouses				X	X		X	X	
Welding or other metal working					X*		X	X	
Well drilling service							X	X	
Wholesale storage sales or storage service - any item not otherwise prohibited by law or ordinance							X	X	
Wrecker service - not associated with salvage or junkyards					X*		X*	X	
Wrecker service - associated with salvage or junkyards							X*	X*	
(Am. Ord. O-90-1, passed 2-12-90)	(Am. Ord. 0-03-07, passed 10-13-03)								
(Am. Ord. O-96-11, passed 8-12-96)	(Am. Ord. 0-08-01, passed 1-14-08)								
(Am. Ord. O-99-11, passed 7-12-99)	(Am. Ord. 0-08-03, passed 2-11-08)								
(Am. Ord. 0-00-12, passed 9-11-00)									
(Am. Ord. 0-00-16, passed 10-09-00)									
(Am. Ord. 0-01-07, passed 9-10-01)									

**TITLE XV: LAND USAGE**

**153.080 WEST ZONE.**

(A) All minimal standards set out in the Zoning Code, as amended, shall apply throughout the West Zone. The least restrictive residential requirements shall apply to any residential development or construction, and the least restrictive commercial requirements shall apply to any commercial development or construction.

**153.081 TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT.**

(A) Purpose. The purpose of this district is to allow for the development of fully integrated, mixed-use pedestrian oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation. The provisions of this district are based on urban design and development conventions which were widely used in the United States from colonial times until the 1940's and were based on the following principles:

- (1) All neighborhoods have identifiable centers and edges.
- (2) The center of the neighborhood is easily accessed by non-vehicular means from lots on the edges (i.e. approximately ¼ mile from center to edge, or a 5-minute walk).
- (3) Uses and housing types are mixed and in close proximity to one another.
- (4) Street networks are interconnected and blocks are small.
- (5) Civic buildings are given prominent sites throughout the neighborhood.

(B) Requirements. It is recommended that a Master Plan in compliance with TND Design Standards (listed and described in 153.081 (D) ) be provided with any application to reclassify a property to TND zoning. A rezoning request for TND zoning is contingent upon the approval of a Master Plan; if a Master Plan is not approved for the property, then it reverts to its previous zoning classification(s). No use or development of any property located in a TND district shall be permitted until a Master Plan, showing the proposed uses and development of the property, has been approved by the Board of Aldermen, upon a recommendation made by the Planning Board. Once the Master Plan has been approved, the developer must follow the processes and regulations set forth in the Town of Black Mountain's Subdivision Regulations (Chapter 152) to proceed with development of the property.

If a developer proposes to construct the subdivision in phases, then the Master Plan shall be prepared for the entire property, and shall show the proposed phases of development. Each phase of development shall be preceded by the submission and approval of a preliminary plat for that phase as outlined in 152.25, followed by the submission and approval of a final plat as outlined in 152.26.

## TITLE XV: LAND USAGE

The Master Plan shall:

- (1) show the topography of the site using 5 foot contours and showing elevations as well as slopes in excess of 20 percent,
- (2) show floodplain and floodway boundaries,
- (3) show natural features such as wooded areas, rock outcrops, marshes, water bodies and any other natural features affecting the site, and show plans to preserve the unique features of the property,
- (4) show the location and hierarchy of streets and public open spaces,
- (5) show the location of residential, commercial and civic building lots, street sections and/or plans,
- (6) provide an outline of any additional regulatory intentions,
- (7) show intended phasing of development, and
- (8) include any other information, e.g. conceptual building prototypes, which may be required to evaluate the interior pedestrian environment and conditions at project edges.

The Master Plan shall be certified by a registered architect, registered landscape architect or certified planner.

### (C) Development Parameters

- (1) No minimum development size; however 40 acres is the recommended minimum size.
- (2) No maximum development size; however 200 acres is the recommended maximum size.
- (3) Maximum permitted densities and total number of dwelling units shall be established during the Master Plan review process.
- (4) Buffer requirements shall be established during the Master Plan review process. Property located on the perimeter of the TND district shall have setbacks and buffers that are consistent with the setbacks and buffers of the adjoining zoning district.

## TITLE XV: LAND USAGE

### (D) Design Standards

#### (1) Neighborhood Form.

(a) Dwellings at the edge of the neighborhood shall be roughly a five-minute walk to the center of the neighborhood.

(b) A great variety of housing types and price ranges shall exist in the neighborhood, with the highest density of housing located towards the center of the neighborhood.

(c) Within a neighborhood the following land uses shall be arranged to serve the needs of the residents in a convenient walking environment: open space/recreational areas, civic buildings, low and high density residential, retail/commercial, business/workplace, and parking.

(d) The area of the TND shall be divided into blocks, streets, lots and open space.

(e) Similar land uses shall generally enfront across each street. Dissimilar land uses shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.

(f) Along existing streets, new buildings shall respect and be compatible with the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

(g) The appearance of the neighborhood should blend in with existing neighborhoods and feature the use of natural materials in construction.

#### (2) Land Uses and Allocation of Different Uses.

(a) Permitted Uses. Permitted uses shall be based on the general category of use that has been established for a lot or group of lots in the Master Plan.

**TITLE XV: LAND USAGE**

(1) The general land use categories are listed below with particular uses allowed and suggested amounts for each, expressed as a percentage of the total gross area of the neighborhood:

Use	Amount	Allowable Uses
Public	at least 5%	Parks, squares, greenbelts, sidewalks/ walkways, streets, alleys and civic uses
Civic	at least 2%	Community buildings including meeting halls, libraries, post offices, schools, child care centers, clubhouses, religious buildings, recreational facilities, museums, performing arts buildings, and municipal buildings
Shop front	2% to 20%	Residential and commercial uses; approximately 50% of the building area shall be designated for residential use.*
Attached Homes (Multi-Family)	15% to 30%	Buildings for residential use and limited commercial use, such as a coffee house, home occupation or bed and breakfast inn
Detached Homes	30%	Buildings for residential uses, customary home occupational uses and bed and breakfast inns
Business	5% to 15%	Office, retail, including eating establishments, and other commercial uses provided they produce little or no noise, odor, dust or vibration **

\* Residential uses are not permitted on the ground floors of shop front buildings.

\*\* Business uses shall be grouped together as follows: office and retail may be grouped with shop front buildings to form town centers. All other business uses shall be grouped together outside town and neighborhood center.

(b) Conditional Uses:

- (1) Cemeteries, mausoleums or columbaria
- (2) Churches
- (3) Electric power and public utility stations or substations and public utility transmission lines
- (4) Fairgrounds
- (5) Fast food franchises
- (6) Gasoline service stations
- (7) Group care facilities
- (8) Laboratories
- (9) Nurseries, day care centers, day care homes, kindergarten or pre-school (see Section 153.095)
- (10) Outdoor theaters
- (11) Public or non-residential swimming pools
- (12) Rooming house
- (13) Schools – public or private
- (14) Stalls or merchandise stands for outdoor sale of goods at street front
- (15) Veterinarian offices

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(c) Prohibited Uses:

- (1) Any commercial use which encourages patrons to remain in their automobiles while receiving goods or services, except service stations
- (2) Carting, moving, or hauling terminal or yard
- (3) Chemical manufacturing, storage or distribution as a primary use
- (4) Enameling, painting or plating, except artist's studios
- (5) Kennels
- (6) Landfills
- (7) Manufacturing, storage or disposal of hazardous waste materials
- (8) Mobile homes
- (9) Outdoor advertising or billboard as a principle use
- (10) Parking lot as principal use
- (11) Prisons, detention centers, or half-way houses
- (12) Sand, gravel, or other mineral extraction
- (13) Scrap yards
- (14) Any use which produces the following adverse impacts; noise at a level greater than typical street or traffic noise, offensive vibration, emission of noxious solids, liquids, or gases.

\* Accessory structures may be used for rental housing on attached and detached home lots.

\* Large-scale, single use facilities (e.g. conference centers, theaters, athletic facilities) shall generally occur above or behind smaller scale street front space.

(3) Lots and Buildings

(a) All lots shall share a frontage line with a street or public space; lots fronting on a public space shall have access to a rear alley.

(b) Consistent build-to lines shall be established along all streets and public space frontages.

(c) All buildings, except accessory structures, shall have their main entrance opening on a street or public space.

(d) No structure shall exceed 35 feet in height.

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### (4) Streets, Alleys and Pathways

(a) Designs shall permit comfortable use of the street by motorists, pedestrians, and bicyclists. Pavement widths, design speeds and the number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the building types which front on the street and the relationship of the street to the overall town street network.

(b) Public streets shall provide access to all tracts and lots.

(c) Streets and alleys shall, wherever practical, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development. Cul-de-sacs and dead-end streets are discouraged and should only occur where absolutely necessary due to natural conditions.

(d) No block face should have a length greater than 500 feet without dedicated alley or pathway providing through access.

(e) To prevent the build-up of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided.

(f) A continuous network of rear alleys is recommended for all lots in a TND.

(g) Utilities shall be underground and shall run along alleys wherever possible.

(h) Streets shall be organized according to a hierarchy based on function, size, capacity and design speed. Streets and rights-of-ways are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted Master Plan and each street type shall be separately detailed in the Master Plan.

(i) Every street, except alleys, shall have a sidewalk on at least one side that is at least 5 feet wide. In shop front areas, sidewalks shall be at least 10 feet wide.

### (5) Parking

(a) On-street parking should be provided on all streets. Occasional on-street parking can be accommodated without additional pavement width. For streets which serve workplace and storefront buildings, on-street parking is required and should be marked as such. On-street parking should be parallel to street unless the street lends itself to other parking layouts.

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(b) Parking lots shall generally be located at the rear or at the side of buildings and shall be screened from public rights-of-way and adjoining properties by land forms or evergreen vegetation so as to provide a barrier that will be at least three feet high and provide a 75 percent visual barrier within two years.

(c) To the extent practicable, adjacent parking lots shall be interconnected.

(d) Small and strategically placed parking areas are recommended.

(e) Parking areas shall be paved as required in Section 153.111 and all parking areas and traffic lanes shall be clearly marked.

(f) The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.

(g) Off-street parking and loading requirements, outlined in Sections 153.110 through 153.117, may be used as guidelines.

(h) The developer shall demonstrate the provision of adequate parking and off-street loading areas for different areas of the development, based on the uses allowed and the density of development.

(i) In addition to landscaping provided for screening above, trees should be planted around the perimeter and interior of parking lots to provide shade.

(6) Landscaping

(a) Trees shall be planted within right-of-ways parallel to the street along all streets except alleys.

(b) Tree spacing shall be determined by species type. Large maturing trees shall be planted a minimum of 40 feet and a maximum of 50 feet on center. Small and medium maturing trees shall be planted a minimum of 10 feet and a maximum of 30 feet on center.

(c) Large maturing trees shall generally be planted along residential streets and along the street frontages and perimeter areas of parks, squares, greenbelts and civic structures.

(d) Small maturing trees shall generally be planted along non-residential streets, interior portions of parks, squares, greenbelts and civic lots. Storefronts shall not be obstructed by the planting pattern.

(e) The natural features of the landscape shall be incorporated into the landscaping plan.

(f) All plantings shall be with native or appropriate species (refer to list in Appendix A).

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(E) Master Plan Application and Approval Process.

(1) The owner or developer shall submit ten copies of the Master Plan to the Zoning Administrator for consideration by the Planning Board at least ten (10) working days prior to the next scheduled meeting of the Planning Board.

(2) The Zoning Administrator shall submit to the Planning Board at its next meeting any Master Plan that is in compliance with the Design Standards specified in 153.081 (D) and elsewhere in this Chapter.

(3) A filing fee shall be paid as specified in Section 153.998. Any Master Plan re-submitted within one year for substantially the same property shall not pay an additional filing fee. (O-99-09 Adopted 06-14-99)

(4) The Planning Board shall review a Master Plan submission or re-submission for no more than 180 days from the first meeting it is presented, in order to make a recommendation to the Board of Aldermen. Failure to make a recommendation accordingly shall cause the Master Plan to be forwarded to the Board of Aldermen without a recommendation. The applicant may withdraw a Master Plan by a written request to the Zoning Administrator. A withdrawn Master Plan may be re-submitted to the Planning Board for further reconsideration at a later time.

(5) Due to the general nature of the requirements for Traditional Neighborhood Developments, the Board of Aldermen may refuse to approve a master land use plan (or phase thereof) for any of the following reasons:

- (a) Failure to comply with any specific requirement of this chapter.
- (b) Failure to protect nearby properties from the adverse effects of higher intensity uses.
- (c) Failure to protect the public from dangerous volumes and arrangements of vehicular traffic.
- (d) Failure to provide a unity of development with other properties.

(6) Master Plans not approved by the Board of Aldermen and subsequently revised shall be re-submitted through the approval process.

(7) Approved Master Plans shall not be revised without re-submission through the approval process. However, minor amendments at the site plan level for specific land uses or developments may be approved by the Zoning Administrator, provided:

- (a) building floor areas are not changed by more than 20 percent,
- (b) building or structure heights are not increased by more than 20 percent,
- (c) parking areas or spaces are not diminished by more than 20 percent,
- (d) relocated buildings or uses maintain the same general building relationships, landscaping and utility standards, and

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(e) the amendment preserves compliance with any specific requirement of this Chapter.

(8) Once a Master Plan has been approved, the project may proceed through the subdivision and other review and permitting processes outlined in this Chapter and in Chapter 152 (Subdivision Regulations).  
(Ord., 0-98-10, passed 8-10-98; Am. Ord., 0-99-09, Passed 6-14-99)

**153.082 WELLHEAD PROTECTION DISTRICT (WP-O).**

- (A) Purpose. The purpose of the Wellhead Protection Overlay District is to:
- (1) to promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Black Mountain;
  - (2) to preserve and protect the public, municipal water supply for the Town of Black Mountain;
  - (3) to conserve the natural resources of the Town; and
  - (4) to prevent temporary and permanent contamination of the environment.

(B) Scope. The Wellhead Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Wellhead Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Wellhead Protection District.

(C) Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:

**AQUIFER**. A water-bearing geologic formation or formations that will yield water in a usable quantity to wells and/or springs.

**HAZARDOUS SUBSTANCE**. Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town. Hazardous Substances include all Regulated Substances.

**IMPERVIOUS SURFACE**. Material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**POTABLE WATER**. Water that is intended for drinking, culinary and domestic purposes, subject to compliance with County, State or Federal drinking water standards.

**RECHARGE AREA**. An area that collects precipitation or surface water and carries it to an aquifer.

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**REGULATED SUBSTANCE.** Regulated Substances are those defined in the Superfund Amendments and Reauthorization Act (SARA) in the U.S. Code at Title 42, Section 9601(14) except that Regulated Substances shall not include hazardous air pollutants referenced therein.

**RESTRICTED USE PESTICIDE.** All those pesticides which have been designated as such by the North Carolina Pesticides Board, as authorized in N.C. G.S. § 143-440.

**UNDERGROUND STORAGE TANK or UST.** Any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of UST regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. This term does not include any:

- (a) septic tank;
- (b) surface impoundment, pit, pond or lagoon;
- (c) storm water or wastewater collection system;
- (d) flow-through process tank;
- (e) storage tank situated in an underground area (such as a basement, cellar, etc.) if the storage tank is situated upon or above the surface of the floor;
- (f) farm or residential tank of 1000 gallons or less capacity used for storing motor fuel for noncommercial purposes; or
- (g) tank used for storing heating oil or fuel for consumptive use on the premises where stored.

**WELLHEAD.** The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

**WELLHEAD PROTECTION AREA.** The surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field. (Safe Drinking Water Act)

## TITLE XV: LAND USAGE

(D) Establishment and Delineation of Wellhead Protection District. For the purposes of this district, there are hereby established within the Town certain wellhead protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is entitled "Wellhead Protection Districts, Town of Black Mountain," dated 8-9-99. This map is hereby made a part of the Town Zoning Regulations and is on file in the office of the Zoning Administrator.

The Wellhead Protection Areas were delineated as part of the Black Mountain Wellhead Protection Project, in 1994 and 1995, using the Calculated Fixed Radius (CFR) method (see "Black Mountain Wellhead Protection Project: Planning Phase, Final Report," September 1995 for more information). The CFR method uses well yield, expressed as the pumping rate, and the recharge rate for the area to determine the radius of the Wellhead Protection Area around each well.

The Wellhead Protection Areas may be modified from time to time, when new wells are drilled and based on the recommendation of the Public Works Director, Town Manager or the Zoning Administrator. Any modifications to these areas shall be made to the Wellhead Protection Districts official map and passed by a resolution of the Board of Aldermen.

(E) District Boundary Disputes. If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Zoning Board of Adjustment. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner for all or part of the cost of the investigation.

(F) Use Regulations.

- (1) Permitted Uses. The permitted uses, bulk and yard requirements within the Wellhead Protection District shall be those of the underlying zoning district. Site plans submitted for permitted and conditional uses shall include additional details as outlined in (G) (1) of this Section.
- (2) Prohibited Uses. The following uses and structures which pose known groundwater contamination threats are specifically prohibited, except in accordance with (G) (2) below:
  - (a) Use or production of Hazardous Substances in industrial, processing, manufacturing or commercial operations;
  - (b) Any waste treatment or disposal activity requiring a permit under any of the following State regulations:
    1. 15A NCAC 13B, Solid Waste Management Permits, primarily landfills;

## TITLE XV: LAND USAGE

2. 15A NCAC 13A, Hazardous Waste Management Permits;
  3. 15A NCAC 1E, Construction and Operation of an Oil Refining Facility;
  4. 15A NCAC 5B, Mining Permit;
  5. 15A NCAC 5D, Permit to Drill Exploratory Oil or Gas Well;
  6. 15A NCAC 2H, Pretreatment Permit; and
  7. 15A NCAC 2H.0202, Waste Not Discharged to Surface Waters, including waste lagoons, spray and infiltration systems, and the land application and subsurface disposal of wastes, but excluding sewer system extension lines.
- (c) Animal feed lots;
  - (d) Automobile junkyards;
  - (e) Battery recycling and reprocessing;
  - (f) Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within six (6) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the U.S. Geological Survey, except for excavations for building foundations, roads, or utility works;
  - (g) Impervious surfaces covering more than 15% of the lot.
  - (h) Industrial and commercial uses which discharge processed wastewater on-site;
  - (i) Manufacturing and production of paving, roofing, and other construction materials, using asphalt- and petroleum-based coating and preserving materials;
  - (j) Primary and secondary metal industries that manufacture, produce, smelt, or refine ferrous and non-ferrous metals.
  - (k) Retail gas stations and truck stops;
  - (l) Septic tanks, unless used only for domestic waste and pumped out at least once every five years and are 1200 gallons or less in size;
  - (m) Storage of animal manure unless covered or contained in accordance with the specifications of the United States Natural Resources Conservation Service;
  - (n) Storage or application of Restricted Use Pesticides;
  - (o) Wood-preserving operations using formulations of Chrome-Copper-Arsenate (CCC), pentachlorophenol (PENTA), creosote and related chemicals;
  - (p) Underground Storage Tanks, unless equipped with secondary containment structures;
- (3) Use List Not Exhaustive. The uses prohibited by this district represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, these shall be added to the list of uses prohibited by this district.
  - (4) Changing Technology. The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, that causes the uses as a

## TITLE XV: LAND USAGE

class to be groundwater pollution risks. As the technology of identified uses classes changes to non-risk materials or methods, upon petition from such a use, and after conferring with expert geological and other opinion, it is the intention to delete uses from the prohibited list, or allow them conditionally, those which demonstrate convincingly that they no longer pose a pollution hazard.

(5) Limited Exemptions. The following activities or uses are exempt from the provisions of this Ordinance:

- (a) The transportation of any Hazardous Substance through a Wellhead Protection Overlay District, provided the transporting vehicle is in transit;
- (b) The use of any Hazardous Substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle;
- (c) Retail sales establishments that store and handle Hazardous Substances for resale in their original unopened containers.
- (d) Office supplies that are used solely for the operation of on-site administrative offices, provided such supplies are prepackaged in a form ready for use.
- (e) Hazardous substances which are packaged for personal or household use and present in the same form and concentration as packaged for use by the general public. The aggregate inventory of such substances shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time.

(6) Requirements for Existing Prohibited Uses. All uses and structures specifically prohibited in Subsection 153.082 (F) (2) may continue beyond the effective date of this Ordinance only if, within ninety (90) days after the effective date of this Ordinance, the Mayor and Board of Aldermen approve an Operating and Monitoring Plan for each prohibited use or structure.

(G) Plan Submission and Approval for New and Expanding Structures or Uses.

(1) Site Plan Requirements. In addition to the requirements specified in § 153.182, the following materials or information shall be provided on the site plan when it is submitted to the Zoning Administrator for review:

- (a) The location of public water supply wells within 1,000 feet of the site.
- (b) The location of adjacent (within 200 feet of a property line) private drinking water supply wells.
- (c) A complete list of the types and volumes of all Hazardous substances (including fuels) used, stored, processed, handled or disposed, other than those volumes and types associated with normal household use.
- (d) Description of types of wastes generated and method of disposal including: solid wastes, hazardous wastes, sewage and non-sewage wastewater discharges.
- (e) Provisions for management of storm water runoff.

## TITLE XV: LAND USAGE

- (2) Operating and Monitoring Plan Requirements. At a minimum, an Operating and Monitoring Plan (or “Plan”) shall contain the following elements, for approval by the Town Board of Aldermen:
- (a) General Information
    1. Name, title and address of owner of the land on which the prohibited use or structure is located.
    2. Name, title and address of the operator, authorized agent or other responsible person if different from the owner of the land.
    3. Name of the business.
    4. Address of the prohibited use or structure.
    5. Type of facility, operation or site.
    6. Size of the prohibited use or structure, including, where applicable, lot acreage, square footage of any buildings, number of employees, etc.
  - (b) Operating or Performance Standards.
    1. The Plan must specify under what standards the prohibited operation, facility or site will be operated or performed. These standards must ensure that all possible efforts are made to reduce the likelihood of contamination of the groundwater supply.
    2. If any state or federally promulgated environmental protection standards exist for a particular site, industry, business, facility or operation, then the Plan must specify what those standards are, and how they will be implemented.
    3. If no state or federally promulgated standards exist, or in addition to such standards, the Plan must indicate what the most current Best Management Practices (BMP) are for that particular site, industry, business, facility or operation and how those Best Management Practices will be implemented.
  - (c) Monitoring Provisions.
    1. If state or federal laws, rules or regulations require groundwater monitoring by a particular site, industry, business, facility or operation then the plan must specify what those requirements are and how they will be implemented.
    2. If no state or federal laws, rules or regulations require groundwater monitoring by a particular site, industry, business, facility, or operation, then the Plan must specify by whom, by what method, where and how frequently the groundwater under the property will be monitored.
  - (d) Reporting Schedule.
    1. The owner/operator of any prohibited use or structure shall submit a report to the Zoning Administrator annually summarizing the monitoring results for the year, including any contamination that may

## TITLE XV: LAND USAGE

have occurred and the remedies that were undertaken to protect the groundwater.

2. No annual report is required for septic tanks or impervious surfaces located within Wellhead Protection Overlay Districts. These uses will be allowed to continue indefinitely, although no future expansion will be allowed, provided that the other requirements of this Section are met.

(e) Performance Bond.

The owner/operator of any prohibited use or structure is required to engage an accredited Performance Bondsman to ensure complete compliance with the terms of the approved Operation, Monitoring and Amortization Plan. The Plan must specify the name and address of the Bondsman, as well as the amount of the insurance obtained.

(f) Other Requirements.

Additional requirements may be imposed if further protection of the Town's groundwater supply to the public well system is warranted, including groundwater monitoring beyond the amortization period specified in the Plan. Factors which shall be considered include but are not limited to the toxicity of the substance, the amount of the substance, proximity of the condition to the well, soil conditions, topography and other factors pointing to the degree of risk posed to the public water supply.

(3) Approval Process for Operating and Monitoring Plans.

- (a) *Plan Submission.* The owner or developer shall submit ten copies of the Operating and Monitoring Plan to the Public Works Director for consideration by the Board of Aldermen.
- (b) *Plan Review.* The Public Works Director shall review the Operating and Monitoring Plan and prepare a recommendation for the Board of Aldermen, based on the Plan's compliance to the regulations specified in this Ordinance and the potential threat to the Town's public water supply. The recommendation shall be made within thirty (30) calendar days of the Plan's submission date.
- (c) *Plan Approval.* The Board of Aldermen shall approve the Plan if it is in compliance with this Ordinance and contains sufficient precautions and remedies to protect the Town's public water supply. Operating and Monitoring Plans not approved by the Board of Aldermen shall be revised and resubmitted within 30 days.

(H) Administration and Enforcement. The policies and procedures for administration of any wellhead protection overlay zone established under this Ordinance, including without limitation those applicable to non-conforming uses, exceptions, enforcement and penalties, shall be the same as provided in the Town of Black Mountain's Zoning Ordinance (Chapter 153).

(Ord. O-99-15 Adopted 8-9-99)

**TITLE XV: LAND USAGE**

**153.083 MIXED USE DISTRICT**

**PURPOSE.** The purpose of this district is to provide a zone where low impact commercial businesses can operate in harmony with residential development. The primary focus of such areas will be to retain the residential character while allowing businesses that have low impact in noise, light, and traffic. New buildings built should strive to retain this residential character by both appearance and scale.

**REQUIREMENTS OF THE MIXED USE ZONING DISTRICT**

1) Non-Residential Use Determination

Any existing or proposed building considered for a non-residential use shall be required to comply with all requirements of the mixed use zoning district. A building shall be deemed non-residential if any of the following apply:

A) The use of the building is clearly not incidental and subordinate to its use for residential purposes by its occupants, and 51% or more of the floor area of the building is used in the conduct of a non-residential use.

B) There is a change in the outside appearance of the building or premises, or other visible evidence of the conduct of a non-residential use.

C) A request for any non-residential provision (example - larger sign than allowed for a residential use) of a building in the mixed use zoning district is granted.

2) Uses

A) Permitted Uses. This shall include single and two family dwelling units only. Development of single and two family dwelling unit type dwellings in the mixed use zoning district shall comply with the R-10 residential zoning, and all lighting requirements as required provided in this ordinance. See use table 153.079.

B) Permitted use with staff site plan review. This shall include all uses deemed permitted which are not included in section (A) above. See use table 153.079.

C) Conditional Uses – This shall include all uses deemed conditional, and shall include multi-family dwellings (triplexes and beyond) which shall also comply with all standards of the R-10 zoning if approved. See use table 153.079.

1) Site plan –

A) A site plan shall be required for all uses under (B) and (C) above.

## TITLE XV: LAND USAGE

B) These plans shall show compliance with the following elements as listed: lighting, landscaping, parking, loading regulations, signage, screening regulations, solid waste, impervious surface area and conversion regulations.

C) Plans - required to show:

- 1) All plans drawn shall be neat, legible, and to scale.
- 2) Plans shall be submitted on paper sheets of no less than 8 ½ by 11 inches.
- 3) Any plan submitted shall, *on every sheet*, show all existing and/or proposed building footprints and existing paved surface areas.
- 4) A separate sheet for each part of the plan, unless shown together, shall be required for:  
a) lighting, b) landscaping, c) parking, d) signage and e) screening. (Each sheet submitted shall include # 3 above also.)
- 5) If new construction, significant alterations to a building, or if the existing grading is changed, a new grading and drainage plan shall be required. A new survey may be required at the discretion of the planning director or his designee.

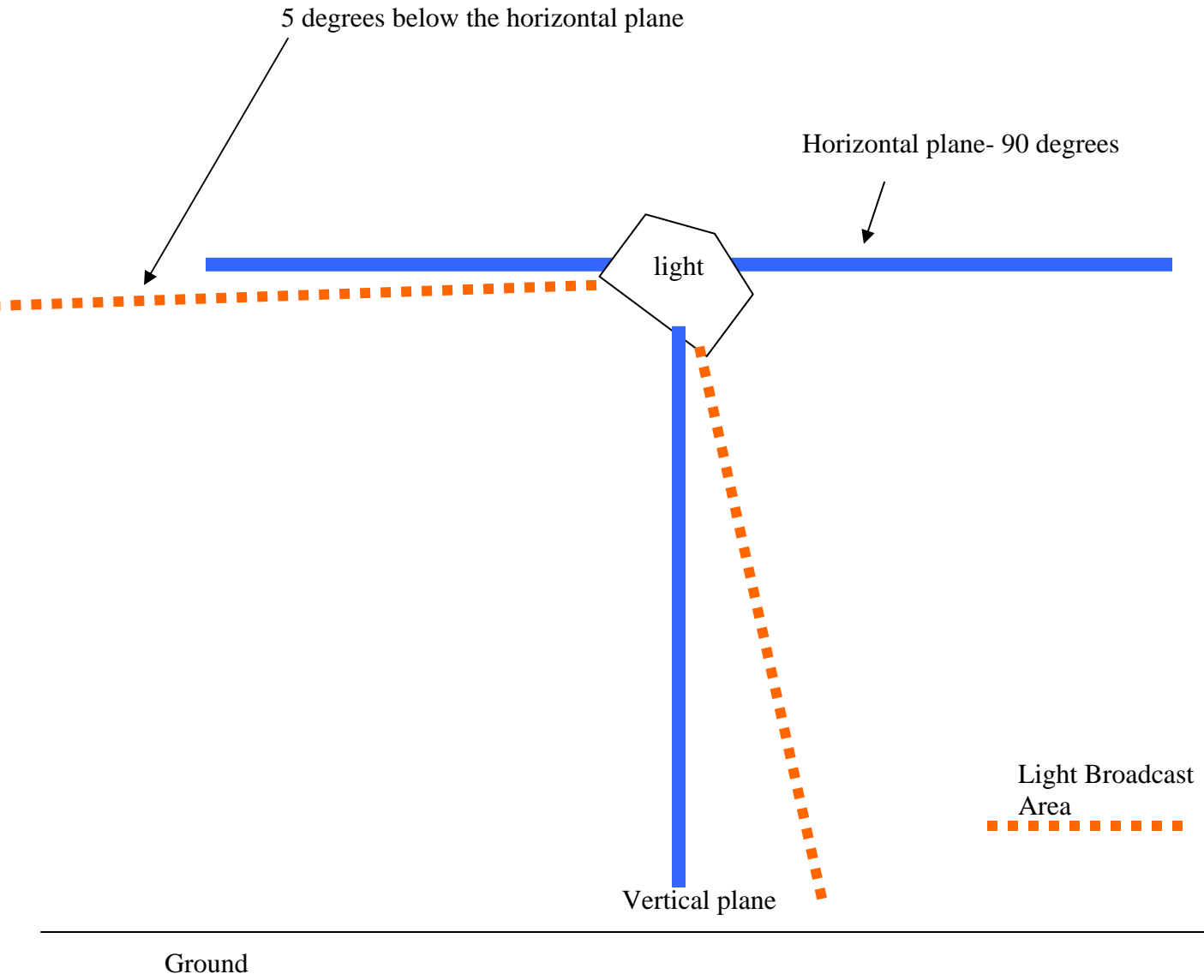
### LIGHTING

A) Lighting - Lighting shall be such that it is not intrusive into the residential character of the neighborhood and that light trespass on adjoining properties is minimized.

B) No lighting shall be angled so that light shining directly from the luminaire shines higher than 5 degrees below the horizontal plane. (See graphic # 1).

C) Exterior building-mounted fixtures, using lamps of 60 watts or less for frosted incandescent or compact fluorescent bulbs of 25 watts for clear lamps, such as porch lights shall be allowed. Other types of lights including, but not limited to, low pressure sodium (LPS), high pressure sodium (HPS), metal halide (MH), mercury vapor (MV), fluorescent tubes (F) or quartz (Q) shall not be allowed. Wattage shall not exceed 120 total watts for any singular bulb or combination of bulbs used.

# Graphic #1



**TITLE XV: LAND USAGE**

**D) Security lighting**

1) Motion activated security lights; unshielded flood and spotlights, with 45 watts or less, installed for security and activated by motion sensor, are permitted. These unshielded lights must be mounted and aimed in a manner that minimizes up-lighting and light trespass.

2) All other flood and spot light fixtures shall be shielded so that no light shining directly from the luminaire shall shine higher than 5 degrees below the horizontal plane. (See graphic # 1).

3) Landscape and decorative lighting using incandescent lighting of 40 watts or less is permitted, provided that the light is installed and aimed to prevent lighting build up and light trespass and shielded to prevent view from the public right of way.

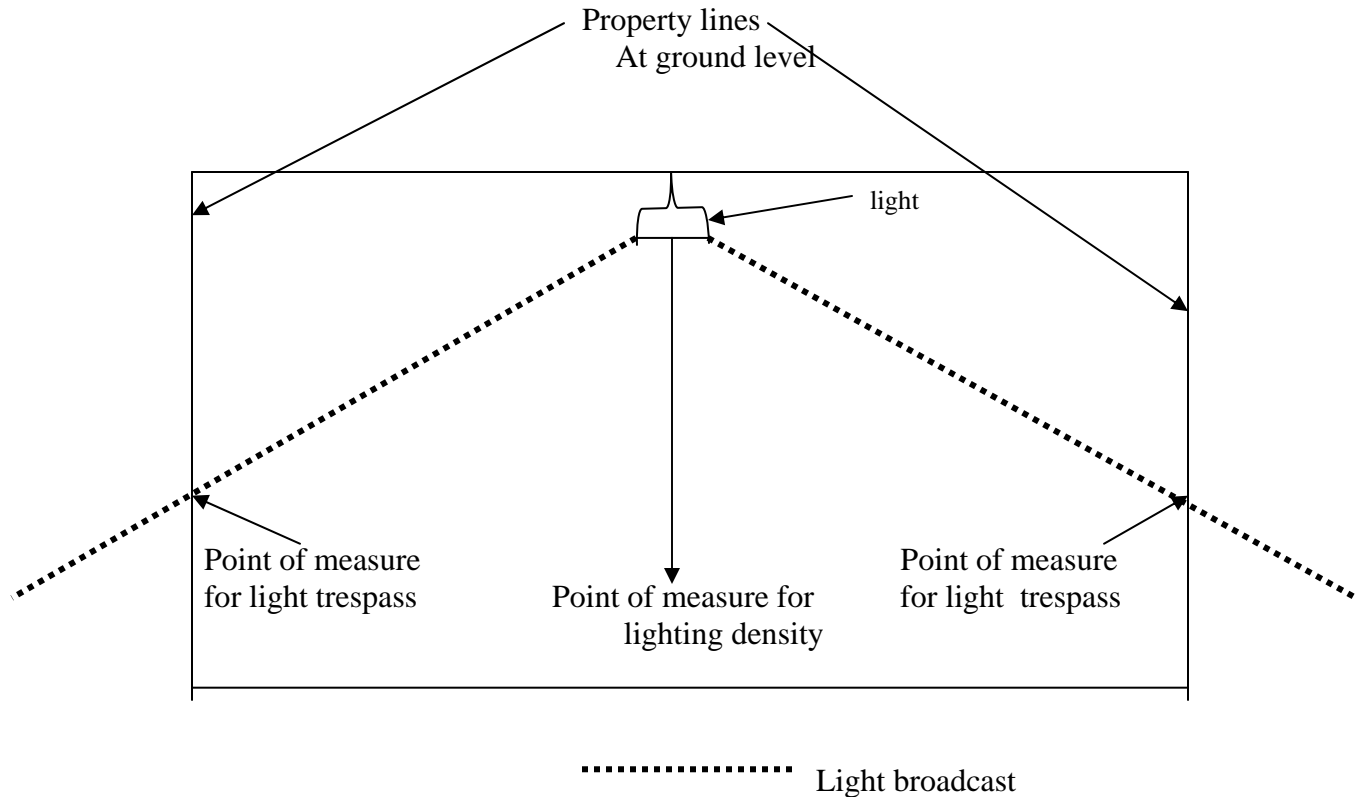
E) Area “dusk to dawn” lights are permitted. These lights must be fully shielded. They shall be fluorescent, sodium or incandescent lighting of 60 watts or less. Other types including, but not limited to, metal halide (MH), mercury vapor (MV), or quartz (Q) shall not be allowed for this purpose.

F) Lighting types including metal halide (MH), mercury vapor (MV), or quartz (Q) shall not be allowed for any purpose.

G) Light trespass - Under no circumstance shall light crossing the adjacent property boundary exceed 1 foot/candle as measured by an illuminance meter held vertically at ground level at such property boundary. Under no circumstance shall light density measured at the ground beneath a light fixture exceed 10 foot/candles as measured by an illuminance meter held horizontally at ground level. (See graphic #2).

H) These requirements shall in no way limit the Town of Black Mountain’s ability to erect street lighting for security purposes in any area deemed fit according to the Black Mountain Statement of Policy under (A) - Residential streets.

## Graphic #2



### LANDSCAPING

A) Requirements for landscaping shall include Section 153.043 (A) through (I) of the current zoning ordinance with following exceptions:

1) Section 153.043 (C) shall apply to all buildings in the mixed use zoning district including single and two family dwellings. In other words that single and two family dwellings shall not be exempt in the mixed use zoning district from the landscape ordinance.

2) Section 153.043 (F) 2, 3, 4 and 7 shall not be required for the landscape plans of single and two family dwellings. This exempts these dwellings from the more extensive requirements of the landscape plans that must be submitted.

## TITLE XV: LAND USAGE

3) Section 153.043 (G) shall apply in full, except that, if plants listed in Section 153.043 – Appendix A, are used as part of the buffer, they can apply toward the minimum percentage lot coverage requirement in the landscape plan for any residential or non-residential use.

### PARKING

A) Parking for non-residential buildings shall be:

1) In compliance with the required amount of parking spaces for the proposed use as outlined in section 153.116, but in no case more than twelve (12) percent of total lot area or more than 20 spaces for any lot in the mixed use zoning, whichever results in fewer total parking spaces. Such spaces shall comply with specific parking space size requirements as outlined in subsection C) 4) below.

2) Limited to the side and rear yard.

3) Required to have at least one van accessible handicapped parking space built according to the North Carolina Accessibility Code.

B) Parking for residential, including multifamily, buildings shall:

1. Comply with all residential parking requirements as listed in the R-10 zoning.

C) Other – residential and non-residential

1) On-street parking shall not be used to accommodate required parking unless specifically allowed by ordinance.

2) No lots shall be created, developed or allowed for the sole purpose of parking for adjoining or nearby businesses.

3) No shared parking shall be allowed.

4) Sizes for individual non-residential parking spaces shall be nine (9) feet wide and eighteen feet (18) long, and shall be required to have sufficient area for maneuverability such that all spaces are accessible when all required spaces are full. Parking sizes for individual residential spaces shall be nine (9) feet wide and eighteen (18) long with no additional area for maneuverability required.

## TITLE XV: LAND USAGE

### 5) Surfaces used:

a) Parking areas shall be constructed of non-durable, non-dustless surface (except for handicapped parking-see B below), unless in the opinion of the planning director or his designee, that a durable dustless surface, as defined in Section 153.11 (B) shall be needed because of slope, drainage or other factors. Non-durable, non-dustless parking areas shall be well maintained in good condition and free from potholes and ruts. A surface application of gravel or other similar material shall be required which shall maximize permeability, while minimizing erosion. Other methodologies for achieving a suitable non-durable, non-dustless surface shall be allowed at the discretion of the planning director or his designee.

b) Handicapped spaces shall be of a fixed, firm and non-slip, surface, typically paved or asphalt.

### LOADING ZONES

A) All loading shall be done off street. Exceptions for moving vehicles and other one-time or infrequent (less than once a month) use shall be allowed.

### SIGNAGE

A) Signs for non- residential uses shall:

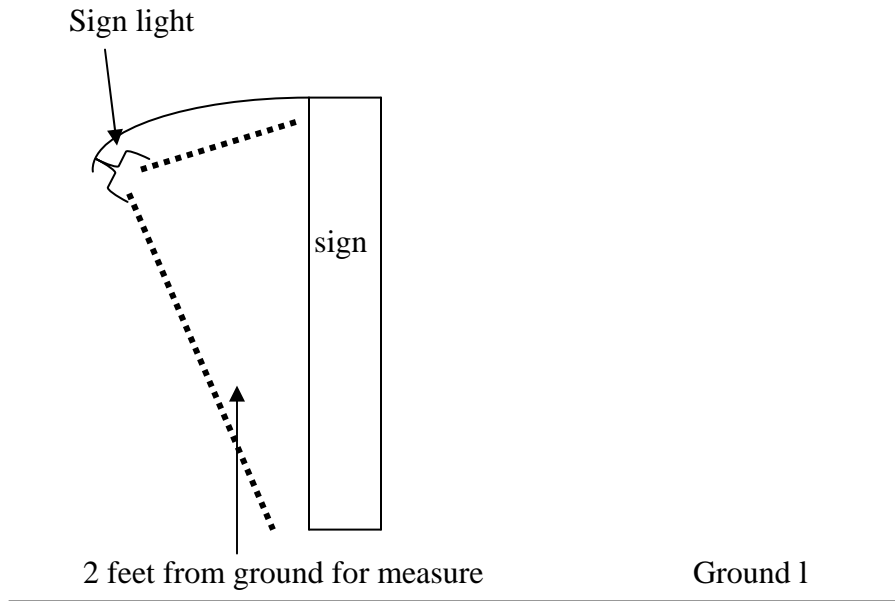
1) Be limited to one eight (8) square feet free standing sign and one four (4) square feet wall mounted sign. Signs shall be illuminated from the top with no internal illumination. (Graphics #3 & # 4 for yard sign).

2) Be limited to five (5) feet in height as measured from the highest point of the sign or mounting bracket. (Graphic #4).

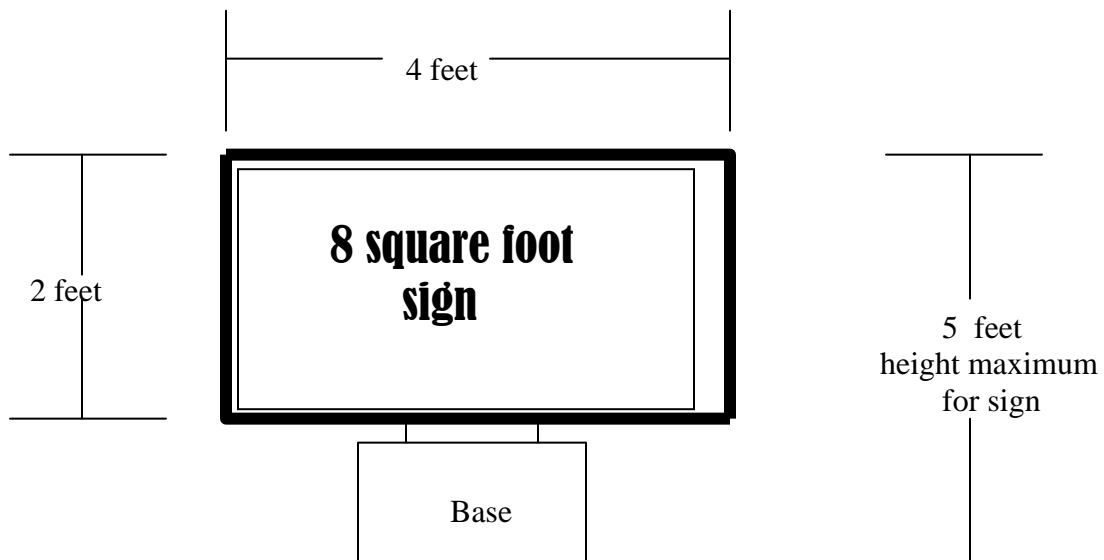
3) If illuminated, signage lighting shall be shielded on all sides except where directly illuminating the sign itself. Sign lighting shall be included in the overall measure of light trespass.

4) Be allowed to be illuminated until 9:00 pm, or if use is open past 9:00 pm, or until one hour past the closing time of the use. After this time, the sign lighting output shall be required to be reduced by 50 percent as measured at least two (2) feet directly above ground level between the sign and the light itself, or turned off. Light height shall not exceed sign height. (See Graphics 3 & 4).

### Graphic #3



### Graphic # 4



## TITLE XV: LAND USAGE

5) Free standing signs shall be located behind the required front yard setback in their entirety.

6) In the case of wall-mounted signs, be located flush on only one of the building's walls and in no case allowed above the lowest point of the roof.

B) Signs for all residential uses, including multifamily, shall

1) Be allowed as set forth in the R-10 zoning requirements.

### SCREENING REGULATIONS

A) Screening shall be required for a non-residential use:

1) Any time a non-residential use is located adjacent to a residential use. Such screening shall be located on the non-residential use.

2) Such screening shall be of such height - 6 feet minimum - and density that an adequate visual barrier is provided.

3) Materials used for screening may include vegetation or fencing. Vegetative screening used shall be required to reach sufficient height and density within a two-year period of planting to meet screening requirements. Such buffer shall be maintained in good condition and disease free so that a visual barrier is maintained. Vegetative buffers shall be of a plant type that maintains a sufficient visual barrier even with any seasonal shedding of leaves. Such material shall be noted on the site plan as either being a broad leaf type plant or needle leaf type plant. Fencing materials allowed include wood or other natural materials. Chain link fencing shall only be allowed in combination with vegetative screening of equal height.

4) Plant materials used may be included toward the five (5) percent requirement for landscaping purposes if on the list of approved plants as listed in the landscape ordinance Section 153.043 – Appendix A.

5) Extend from the front yard setback, or no closer than five (5) feet to the edge of pavement, to the rear property line.

### SOLID WASTE

A) Residential garbage service will be available for the entire mixed use zoning district. Requirements for nonresidential uses are as follows:

1) Receptacles for garbage shall be of metal, plastic or of other substantial construction to minimize odor associated with any use. Objectionable odors shall not be permitted and can be considered grounds for business closure. Additionally the receptacles must be

## TITLE XV: LAND USAGE

water tight with tight-fitting lids, provided with handles, and be kept in a serviceable condition with the lid in place.

2) A maximum of six (6) thirty (30) gallon receptacles shall be permitted, and all receptacles must be stored in an enclosure located on the side or rear yard with the exception of the day of garbage pick-up.

3) DUMPSTERS SHALL NOT BE ALLOWED.

### IMPERVIOUS SURFACE AREA

A) Impervious surface area, (structure, paved driveway, and accessory structures) shall be limited as follows:

1) Up to a maximum of 35 percent of the total lot area without other requirements.

2) To between 36 percent and 60 percent with Black Mountain Public Works Department approval and an approved engineer designed detention pond. Such pond shall be designed to detain water flow created by the impervious surface areas above 35 percent of the total lot area.

3) To not allow impervious surface areas of greater than 60 percent.

### RESIDENTIAL CONVERSION REQUIREMENTS

All residences, which are converted to any type of non-residential use, are required by North Carolina State Law to have a building inspection done. Any converted building shall also be required to comply with required site plan submittal.

(Ord. 0-01-05, passed 7-09-01)

**TITLE XV: LAND USAGE**

“Mixed Use District”

<b>TYPE</b>	<b>PERMITTED BY RIGHT</b>	<b>PERMITTED W/STAFF SITE PLAN REVIEW+A50</b>	<b>CONDITIONAL USE W/STAFF &amp; BOARD’S SITE PLAN REVIEW</b>
Dwellings – single family	X		
Dwellings – two family	X		
Home occupations	X		
Art Galleries		X	
Bakeries		X	
Banks		X	
Barber and Beauty Shops		X	
Bed and Breakfast Homes and Inns		X	
*Broadcasting Studios, Radio or TV		X	
Churches, Temples, *Clubs, or *Lodges		X	
Contractor’s Office, Excluding Equipment		X	
Copying and Duplicating Service		X	
Cultural or Community Facilities		X	
Dancing Instruction		X	
Dental Laboratories		X	
*Exterminator Services		X	
Greenhouses – Non-Commercial		X	
Libraries, Public		X	
Medical and Dental Clinics		X	
Museums		X	
Nurseries and Day Care Centers		X	
Professional Office		X	
Retail Sales and Services		X	
Rooming Houses		X	
Social Services Offices		X	
Studios for Artists, etc.		X	
*Veterinarians		X	
Cemetery or Mausoleum			X
Dwellings – Multi-Family			X
*Eating Establishments – seating 25 persons or less			X
Nursery, Garden Center, Florist (whole/retail)			X
Grocery Stores – Convenience (no gas)			X
Group Care Facilities			X
*Manufactured Housing			X

**TITLE XV: LAND USAGE**

<b>TYPE</b>	<b>PERMITTED BY RIGHT</b>	<b>PERMITTED W/STAFF SITE PLAN REVIEW+A50</b>	<b>CONDITIONAL USE W/STAFF &amp; BOARD'S SITE PLAN REVIEW</b>
Meeting Halls (Social, Fraternal)			X
Nursing and Rest Homes			X
Parks or Other Recreational Areas			X
Public Utility – Office Excluding Shops			X
Swimming Pools – Private			X
Unified Housing Development			X
Vocational Services			X

\*To be reviewed by the Planning Board and Board of Aldermen for further clarification, per Board meeting 7-9-01.

**153.084 INSTITUTIONAL CAMPUS DEVELOPMENT DISTRICT TO BE KNOWN AS ICD**

**PURPOSE.**

This district is intended to allow for the continued and future use, expansion, and new development of academic, religious, government, and similar type uses where such campus or facilities qualify for location. The purpose of this district is to maintain the overall design integrity of the campus or facility setting while minimizing any adverse impacts on the neighboring residential and historic areas.

**REQUIREMENTS.**

In the attempt to meet this goal, numerous requirements are included. These requirements will include, but are not limited to, buffers, landscaping, outdoor lighting, parking, signs, building height (limited to 35 feet), setbacks, and the like.

The Master Plan may be submitted and approved in separate phases in order to facilitate the long term development of the overall campus.

**In order to develop within this district, the following minimum criteria must be met:**

A master plan shall be required (the master plan process is out lined in part E).

The total campus or facility land area will be two (2) or more contiguous acres whether in one parcel or not.

The land area of an existing campus may be expanded by the addition of contiguous property, and/or properties having at least one boundary within 100 feet of the original core campus property.

**A. Permitted Uses.**

The following uses include all accompanying facilities and accessory uses associated with their development that do not significantly impact the existing infrastructure (i.e., street capacity, water and sewer capacity, police or fire protection, or other service related Town functions as described in the master plan). No use or building shall be permitted which is over 35 feet in height.

**1. Academic Institutions.** This will include, but is not limited to, primary, secondary, college, or specialized education organizations including technical schools.

**2. Art Galleries and Museums.**

## TITLE XV: LAND USAGE

**3. Assembly Facilities.** This will **include** totally enclosed meeting rooms, chapels, sanctuaries, and auditoriums, **but not include** sports stadiums or coliseums. Facilities are not to exceed size required to seat two times the student or institutional enrollment for the school, college, or institution.

**4. Campus Services.** These may include a bookstore or retail store generally intended for, but not limited to the sale of school or institution related books and supplies; CD's, videos, gifts, greeting cards, flowers, candy, packaged snacks, soft drinks, toys, items with school logos, shirts, jackets, caps, sporting equipment, and small electronic equipment (i.e., clocks, radios, and stereos). Other such uses under this general definition could include a cafeteria, coffee shop, snack bar, laundry, etc., as long as they are located in such a manner and sign is such as to emphasize that they are for the prime benefit of users and employees and not the general public, although they may be open to the public. Such facility shall be limited to 500 square feet or no more than five (5) percent of the total campus or institutional building area, whichever is greater. Note: Any facility listed which will be over 500 square feet shall become a special use.

**5. Classrooms, laboratories, observatories, and other associated facilities.**

**6. Conference Facilities.** A facility developed for use in conjunction with other support facilities including but not limited to, bookstores, cafés or other allowed uses.

**7. Golf Courses.** These shall be developed primarily for internal use by school or institutional membership.

**8. Government Facilities.** Areas, buildings, and other support services required for use by federal, state, and local governments. (NOTE: Federal and State facilities will dictate their own use, and therefore, compliance with these regulations would be voluntary. )

**9. Libraries.**

**10. Parks.** This shall include, but is not limited to, non-enclosed athletic fields and associated seating.

**11. Recreational Facilities.** This shall include a health club or spa facilities. Such facilities could include, but would not be limited to, organizations or associations such as the YMCA or YWCA.

**12. Religious Institutions.** These shall include facilities built for religious or academic study as well as other associated religious activities.

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- 13. Residential:** for use by user or staff population only.

Dormitories  
Duplexes, triplexes, quadraplexes  
Single family residences  
Single family residences with an accessory apartment

- 14. Teller Machines.**

**15. Wellness Facilities.** Facilities including, but not limited to, those areas, buildings, and support facilities required for limited immediate care (infirmaries), long term residential care facilities, or long term nursing care facilities. This may include a health care provider's office serving campus users only.

**B. Special Uses.**

Any use that is determined by the Town to significantly impact existing infrastructure or Town services including, but not limited to, street capacity, water and sewer capacity, police or fire protection, or other service related Town functions. No use or building shall be permitted which is over 35 feet in height.

All special uses shall be reviewed and approved by the Building, Planning, and Zoning Department in conjunction with other Town staff.

Any facilities which could potentially cause a nuisance or danger to the school or other institution including, but not limited to, underground or other bulk storage of fuel, oil, propane, or other hazardous or flammable materials. Examples of these would include maintenance yards, physical plants, equipment storage, garages, and other similar facilities. Buffers are also required for the installation of this facility. (See Buffering requirements).

**1. Campus Services.** As described under Permitted Uses, but over 500 square feet in area.

**2. Enclosed Gymnasiums.** Such facilities shall be limited to enclosed buildings because of concerns for lights and noise.

- 3. Parking Decks.**

**4. Recreational Facilities.** Those facilities not otherwise listed, such as swimming pools, playgrounds, bowling alleys, miniature golf, tennis courts, recreation center, etc. All uses proposed shall be of a scale suitable for the internal needs of the institution or school and its population only.

**5. Residential.** Multiple-Family housing for user and staff use only with no more than four (4) units per building.

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**6. Stadiums, Coliseums, Amphitheaters.** Architectural plans shall show lighting, seating, and acoustics. Such facilities shall accommodate no more than twice the enrollment of the institution or school.

**7. Temporary Housing.** This will include guest houses and conference centers when owned or operated by the primary institution for the convenience of visitors.

**C. Dimensional Requirements.**

**1. General Requirements.**

Minimum Institutional Development Size: 2 acres

Minimum Institutional Development Width: 200 feet

Maximum density allowed for Multiple-family dwellings: 10 units per acre

For calculating units per acre, lines shall be drawn and shown on a site plan indicating the acreage used for the housing development, including residential buildings, accessory buildings, yards, drives, parking, playgrounds, picnic and park areas designated for the residents, and other adjacent open space for the use only of the residents and their guests.

**Minimum Building Separation by type (in feet):**

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
<b>1</b>	<b>40</b>	<b>40</b>	<b>40</b>	<b>40</b>	<b>40</b>	<b>1</b>
<b>2</b>	-	<b>30</b>	<b>30</b>	<b>40</b>	<b>40</b>	<b>2</b>
<b>3</b>	-	-	<b>30</b>	<b>40</b>	<b>40</b>	<b>3</b>
<b>4</b>	-	-	-	<b>40</b>	<b>40</b>	<b>4</b>
<b>5</b>	-	-	-	-	<b>40</b>	<b>5</b>

- 1. Non-residential primary use building**
- 2. Single family**
- 3. Duplex**
- 4. Dormitory**
- 5. Multifamily \***

**\*special use**

Minimum required depth of front, side, and rear yard shall depend on the type of building but in no case be less than a 30 foot separation.

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### D. Institutional Campus Design (ICD) Requirements for the Master Plan.

**1. Buffering.** All campus or institutional uses shall be screened from adjacent residential, vacant, or commercial properties within 100 feet, so as to shield these properties from lights and noise, by the use of landscaping, natural vegetation, landscaped berm, topography, fence, or wall. The only such uses allowed within this 100 foot buffer area are as follows:

Single family dwellings.

Single family dwellings with accessory apartments.

Duplex, Triplexes and Quadraplexes (2, 3, and 4 family) dwellings.

Parks (except spectator seating, which shall not encroach into the 100 foot buffer).

Trash containers, outdoor storage areas, loading areas, facility vehicle yards, and similar equipment yards shall be required to be screened from other interior uses as provided by landscaping, natural vegetation, landscaped berm, topography, fence or wall. Such buffering shall be a minimum of 6 feet in height and completely opaque. Vegetative buffering, if used in part or whole as the buffering of choice, shall be at least 4 feet at time of planting and grow to the required 6 foot height within a three year period. All plantings shall be maintained in a manner that will provide an opaque buffer.

**2. Existing Structures.** When a property is rezoned to Institutional Campus Development (ICD), existing structures on the property shall not be subject to the buffering or sign requirements of this ordinance. Expansion of or changes to existing structures shall conform to all provisions of the ICD, except where impractical due to safety considerations or the Americans with Disabilities Act. When an existing structure is located within a buffer area, any changes to the structure shall be made so as to minimize the impact on the side(s) of the structure nearest to the property line.

**3. Flood Way and Flood Plain.** All flood way and flood plain areas shall be designated on the master plan and be subject to all restrictions for flood ways and flood plains as noted in Section 153.039 of the Black Mountain Zoning Ordinance.

**4. Impervious Surface Area.** The total impervious surface area for any campus or institutional development shall be allowed up to 25 percent. Any question of what type surfaces are considered impermeable shall be at the discretion of the Town of Black Mountain staff.

**5. Landscaping.** A landscaping plan as set forth by the Section 153.043 of the Black Mountain Zoning Ordinance shall be required. The minimum landscaped area shall be equal to at least 25 percent of the total campus or institutional area with at least half of this amount being in trees, shrubs, boulders, and/or mulched plantings.

**6. Lighting.** Any lighting used for any campus or institutional facility shall be shielded so as to cast no light directly upon adjacent properties and streets located outside the campus or institution, and shall have a ninety-degree cutoff in order to minimize light pollution.

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**Exception to the above:** athletic field lighting shall substantially comply with these provisions to the extent possible, given the requirements for athletic field illumination.

**7. Parking.** All parking required by the uses in this district shall be provided on-site and in sufficient number not to require on-street parking off-campus, adjacent to campus, or encroachment on adjacent property. Parking shall be classified in the following manner:

*a. Minimum required parking.* Land reserved to meet parking demands for an institution, school, or other facility operations on a regular basis (daily operations, etc). These minimum requirements shall be one (1) space for each three students and three-quarters (0.75) space for each employee. These areas shall be shown on the master plan and may be paved or not at the option of the institution, school, or other facility for which such parking is being developed. At a minimum, these areas shall be shown with the type of surface treatment to be used on such land (gravel, brick dust, paved, etc.) which is subject to approval by the Town staff.

*b. Maximum required parking.* Land reserved to meet parking demands for an institution, school, or other facility operations on a non-regular basis. These areas shall be shown on the master plan as areas which will be used to meet these requirements for parking (example: graduations, ball games). These maximum requirements are as follows: one (1) space for each two students, and one (1) space for each full time employee. These areas shall be noted on the master plan but may remain in a natural or undisturbed state.

**8. Rooftop Equipment.** All rooftop equipment shall be enclosed in building materials that match the structure or are visually compatible with the structure.

**9. Storm water Design Standards.** All development shall conform to the design standards of the Town of Black Mountain for the 25 year storm. If it can be certified by a licensed civil engineer that off-site storm drainage will not be increased by more than five (5) percent from the pre-development measure, no construction of storm water facilities may be required.

**10. Street Design Standard.** All campuses or institutions shall have two points of connection to a Town maintained street. If the street accessing the campus or institution shall be **private**, such street shall be a minimum of twelve (12) feet wide with a four (4) foot shoulder on each side and meet standards suitable for emergency service access. It shall also be the option of the school or institution to pave the streets which access the school or institution. Such unpaved streets that serve as the primary access to buildings or parking facilities shall have an approved surface treatment such as gravel.

If the street is to be made **public**, such street shall be required to be eighteen (18) feet wide with a one (1) foot shoulder on each side, a thirty (30) foot right of way, and developed to the Town of Black Mountain standards as outlined in Section 152.51 of the Town of Black Mountain subdivision regulations. However, such streets may, at the discretion of the planning

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staff in consultation with public works staff, be allowed to remain unpaved with use of an approved surface treatment (gravel or other).

### **E. Plan Review Procedure and Required Steps.**

**1. Meeting with Building, Planning, and Zoning staff.** Developer shall be required to meet with Building, Planning, and Zoning staff a minimum of 7 days prior to submitting a concept plan of the proposed development. The purpose of this meeting will be to acquaint the developer with the entire planning and developmental process for an ICD development.

**2. Submittal of Concept Plan.** A concept plan outlining the general elements of the overall development, including, but not limited to, building footprints, street layout (with roadway widths), natural areas, flood way areas, flood plain areas, and proposed recreation areas.

**3. Submittal of Master Plan.** The master plan shall be submitted no less than 30 days after the submittal of the concept plan. This time frame shall also be at least 30 days before the next regularly scheduled Planning Board meeting. **The application for rezoning and rezoning fee should be submitted at this time.** Such a plan shall be developed by a professional architect or civil engineer licensed to practice in the State of North Carolina. The applicant shall submit twelve (12) complete copies of the master plan. To insure clarity of the master plan presentation, utilities, landscaping, topography, and other specific categories of information may be required to be presented on separate layers, if, and as determined necessary, by the Planning Department staff.

The master plan **shall include, at a minimum**, the following information:

- a. Buffer Areas.
- b. Flood ways and flood plains.
- c. Impervious surface areas ( as a calculation on the plan).
- d. Location of existing utilities to be utilized by the proposed development.
- e. Natural areas. Areas which will or could be used as a portion of any required buffering , including the type of buffering and the percentage of buffering that they would provide.
- f. Parking. These specifics are broken down into minimum and maximum areas with surface treatment noted.
- g. Proposed fire hydrant locations.
- h. Proposed total area of land clearing activity.

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- i. Proposed water usage and source.
- j. Requirements for special use compliance. When submitted as part of the master plan, the requirements shall provide specific impact information, including, but not limited to:
  - Emergency services accessibility
  - Handicapped parking accessibility
  - Traffic generation
- k. Scale. Total development acreage must be drawn to scale. Scale ratios to be shown on plans are:
  - 2-10 acres is one inch to 20 feet.
  - Over 10 acres is per staff approval
- l. Storm water Measures. The plan shall provide control measures and calculations for the proposed overall development, rather than for individual facilities
- m. Streets. The plan will be shown as required in general standards.
- n. Topographic contours. The plan shall show five foot contour intervals of pre-construction and post construction for the entire development.

**4. Planning Board considers Rezoning Request and the Master Plan.** The Planning Board shall consider rezoning request and the master plan for the Institutional Campus Development District at the next regularly scheduled Planning Board or a special called meeting. A recommendation is made by the Planning Board to the Board of Aldermen.

**5. Rezoning Request and Master Plan review by Board of Aldermen.** Recommendation for rezoning is submitted to Board of Aldermen and, if approved, the Board of Aldermen can then review the Master Plan.

**6. Detailed Construction Plans submitted (staff approval only).** After approval of the master plan, the detailed construction plans for each project can then be submitted for construction. Detailed construction plans shall be required for:

All buildings (including accessory buildings).

All recreational facilities (ball fields, walking paths, etc).

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**7. Detailed Construction Plans.** The plans shall contain the following information:

Completed construction drawings for buildings.

Erosion Control Plan. (A copy of the approval letter from the Buncombe County Soil and Erosion office, or a letter from a professional licensed civil engineer stating that less than one acre of land is being disturbed as part of the overall master plan.)

Landscaping for interior uses which could not be shown on the master plan.

Lighting plan.

Storm water plan. The individual measures are to be shown if not included in overall storm water measures on the master plan.

**8. Changes to the Master Plan.** (If the project represents a substantial change from the approved Master Plan, a new master plan must be submitted for Planning Board and the Board of Aldermen approval.) **A “substantial change” means any change that may result in a change in traffic flow, types and intensity of activities, need for parking, potential noise or light pollution, impact on neighboring properties and residents, impact on Town infrastructure and demand for services, and the like.**

Such changes shall include, but are not limited to:

addition or relocation of a building,

addition or relocation of a parking lot for over ten (10) vehicles,

addition or relocation of parking or outdoor storage for service vehicles or equipment,

addition or relocation of any other major development (i.e. ball fields, tennis courts, golf courses, amphitheatres, or any other facility to be used by numerous people at one time),

relocation of a public street or private street connecting with the public street system.

Any development that, in the opinion of the Building, Planning, and Zoning Staff, substantially affects existing traffic circulation, drainage, relationship of buildings to each other, landscaping, buffering, or outdoor lighting; or significantly impacts existing infrastructure or Town services (i.e., street capacity, water and sewer capacity, police or fire protection, or other service related Town functions); but not changes in small areas, such as small picnic areas, playgrounds, walking trails, gardens, patios, terraces, courtyards, walkways, and parking areas for ten (10) or fewer vehicles, which do not constitute a “substantial change”. These may be approved by the Building, Planning, and Zoning Staff.

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**The Board of Aldermen may deny the master plan** if there is failure to comply with any standards of this section. **Among considerations by the Board of Aldermen**, the Board may impose conditions upon the installation and operation of the proposed use(s) to insure that the accumulated potential impact of the proposed use, including lighting, glare, noise, etc. will not interfere with the use of the other properties in the vicinity and will not substantially alter the existing character of the immediate vicinity, or the potential pedestrian or vehicular traffic that could be generated due to the use(s), will adequately and safely be accommodated on adjoining streets and pedestrian paths. **The Board of Aldermen may refuse** to approve a master plan or development plan on the grounds that it fails to protect existing zoning of property or historic areas in the near vicinity, or that the proposal fails to provide safe conditions for pedestrians and motorists.

**9. Supplementary District Regulations.** All supplementary district regulations stated in this ordinance shall apply to the ICD (Institutional Campus Development) District. All permitted uses and special uses in this district are subject to approval of installation and materials by the Public Works Director as designated, of curbs, gutters, storm drainage structures, sidewalks, entrances and exits, street paving, water and sewer facilities, and garbage collection procedures.

### **F. Signs.**

- 1. Awning and canopy signs.** Not permitted.
- 2. Banners, flags, and pennants. (Temporary use for special events):**

A plan showing diagrams of each type of banner, flag, or pennant and their method of installation must be submitted to the Planning Department for approval at least thirty (30) days prior to the special event making use of these banners, flags, or pennants. The total amount of display time during which such banner, flag, or pennant shall be allowed to be used shall be a total of 30 days. The installation cannot be initiated until appropriate approval is received and not more than one (1) week prior to the event. **Nothing in these requirements shall be construed to imply any restriction or prohibition on the appropriate display of any official flag of the United States, the State of North Carolina or any other government entity.**

Banners, flags, or pennants **must not obstruct** any fire escape, window, or door, or be placed in such a manner so as to interfere with any openings required for ventilation, nor offer hindrance to fire department equipment or personnel. Banners, flags, or pennants may be placed in or along the right-of-way of public streets immediately adjacent to the campus, providing a letter of permission from the proper utility company and/or property owner, holding the Town harmless, is submitted if the banner, flag, or pennant is to be attached to any utility pole or to any tree or other object located on private property.

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**Manner of installation** must be based on the established safety standards.

The banners, etc. must be made of *fire-retardant material* or treated to be fire retardant.

**Maximum.** The size of any banner, flag, etc. shall be 32 square feet.

**Minimum.** For safety reasons, a required 7 foot clearance above the sidewalk, if overhanging any sidewalk.

**Minimum.** For safety reasons, a required 10 foot clearance above the sidewalk, if above any street, driveway, alley, or any other vehicular travel way. More clearance may be required if the street involved warrants it.

**3. Building Identification (I. D.) Signs.** Identification signs may be building or ground mounted. They must be a maximum of seven (7) feet above the ground with a maximum surface area of twenty-four (24) square feet. Only one (1) sign per building is allowed for identification purposes.

**4. Campus Entrance Signs.** These shall be a maximum of seven ( 7) feet above ground with a maximum surface area of thirty-two (32) square feet. Only one (1) sign per entrance to the campus at a public street, and at a major walkway considered to be the main entrance shall be allowed.

**5. Marquee Signs.** Not permitted.

**6. Sign District.** ICD (Institutional Campus Development).

**7. Time and Temperature.** Not permitted.

**8. Traffic control and parking area signs.** These shall be a maximum of six (6) feet high and a maximum of four (4) square feet surface area.

**9. Wall signs.** This provision allows for a 12 inch maximum protrusion from the wall. Only one (1) sign per building entrance is allowed with a maximum surface area of sixteen (16) square feet. (Ord. 0-02-04, passed 5-13-02 – added ICD section 153.084)

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**§ 153.085 HISTORIC DISTRICT (HD)**

The Historic District (HD) shall be an additional zone overlapping any of the zoning districts of the zoning ordinance and shall be so delineated on the zoning map so as to distinguish that portion of any zoning district to which the Historic District (HD) designation shall apply.

The requirements of the Historic District (HD) shall be in addition to other zoning district requirements and when in conflict with other zoning district requirements, shall prevail over other requirements of any zoning district or portions thereof which are within the designated (HD) district.

Changes in the appearance of the exterior of any building or other structure and certain other changes to the area in the Historic District (HD) shall require approval of a certificate of appropriateness as described in Section 153.208 Historic Preservation Commission – Certificates of appropriateness required.

**§ 153.086 DOWNTOWN CONSERVATION DISTRICT (CD)**

The Downtown Conservation District (CD) shall be an additional zone overlapping any of the zoning districts of the zoning ordinance and shall be so delineated on the zoning map so as to distinguish that portion of any zoning district to which the Downtown Conservation District (CD) designation shall apply.

The requirements of the Downtown Conservation District (CD) shall be in addition to other zoning district requirements and when in conflict with other zoning district requirements, shall prevail over other requirements of any zoning district or portions thereof which are within the designated (CD) district.

Major works, as defined by the Black Mountain Historic Design Guidelines, must be submitted for review by the Historic Preservation Commission; however, compliance with the Historic Preservation Commission recommendations is voluntary.  
(Ord. 0-04-01, passed 3-08-04)