

ZONING ORDINANCE TOWN OF MURPHY, NORTH CAROLINA

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ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS

Section 101. Authority and Enactment

In pursuance of the authority conferred by the North Carolina General Statutes in Chapter 160A, Article 8, Section 174, General Ordinance Authority, and Section 175, Enforcement; Article 19, Part 1, General Provisions and Part 3, Zoning, the Board of Commissioners of the Town of Murphy, North Carolina, hereby ordains and enacts into law the following articles and sections.

Section 102. Purpose

The purpose of this ordinance is to lessen congestion in the streets; secure safety from fire, panic and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; conserve the value of buildings; and encourage the most appropriate use of land throughout the Town of Murphy.

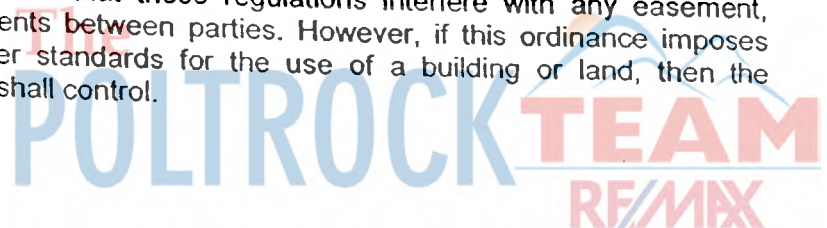
Section 103. Jurisdiction

The provisions of this ordinance shall apply within the corporate limits of the Town of Murphy as specifically identified and delineated on the map entitled, "The Official Zoning Map of the Town of Murphy, North Carolina." Said map and all explanatory material thereon is hereby made a part of this ordinance. The zoning ordinance and zoning map shall be maintained on file in the office of the Zoning Administrator.

Section 104. Exemptions to Applicability

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

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



C. These regulations shall not prevent the construction of any structure for which a building permit has been secured prior to the effective date of this ordinance or any amendment thereto, so long as the building permit has not been revoked or allowed to expire and the entire building is completed within 18 months from the date of passage of this ordinance. However, once constructed, any structure so erected will be subject to any and all regulations set forth in this ordinance.

D. All suits at law or in equity and all prosecutions resulting from the violation of any ordinance provisions which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this amended ordinance, but shall be prosecuted to their finality the same as if this amended ordinance had not been adopted; and any and all violations of this or the previously existing zoning ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending or which may heretofore be instituted or prosecuted.

Section 105. Non-conforming Lots, Uses, Buildings, Premises and Manufactured Homes

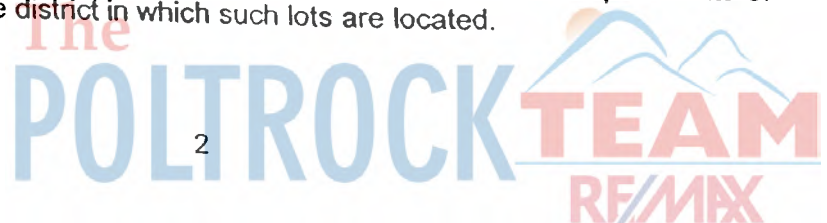
Any parcel of land, use of land, building or structure existing at the time of the adoption of this ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located, may be continued and maintained subject to the following provisions:

A. Nonconforming Vacant Lots. This category of nonconformance consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Cherokee County, which at the time of adoption of this ordinance fail to comply with the minimum area and width requirements of the districts in which they are located. Any such nonconforming lot may be used for any of the uses permitted in the district in which it is located, provided that:

1. Where the lot area is not more than 20% below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the Zoning Administrator is authorized to issue a zoning compliance permit.

2. Where the lot area is more than 20% below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.

3. Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which the minimum requirements of this ordinance for the district in which such lots are located.



B. Nonconforming Occupied Lots. This category of nonconformance consists of lots, occupied by buildings or structures at the time of adoption of this ordinance, that fail to comply with the minimum requirements for area, width, yard and setbacks for the district in which they are located. These lots may continue to be used.

C. Nonconforming Open Uses of Land. This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established nonconforming open use of land may be continued except as follows:

1. When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use;

2. Nonconforming open use of land shall be changed only to conforming uses;

3. A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming;

4. When any nonconforming open use of land is discontinued for a period in excess of **180 days**, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

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

1. An existing nonconforming use may be changed to another nonconforming use of the same or higher classification, provided that the other conditions in this section are complied with. For the purpose of this ordinance, the rank order of uses from higher to lower shall be: 1) residential, 2) public, 3) commercial and 4) industrial;

2. When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use;

3. A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:

a. structural alterations as required by law or ordinance to secure the safety of the structure are permissible;



b. maintenance and repair necessary to keep a structure containing a nonconforming use in sound condition are permissible;

c. expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible;

4. When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.

E. **Reconstruction of Damaged Buildings or Structures.** Any nonconforming use, which has been damaged by fire, wind, flood or other causes, may be repaired and used as before provided:

1. Repairs are initiated within 12 months and completed within two years of such damage;

2. The total amount of space devoted to a nonconforming use may not be increased;

3. Reconstructed buildings may not be more nonconforming with respect to dimensional restrictions.

F. **Continuation of Manufactured Home Parks.** Manufactured home parks that become nonconforming uses shall be permitted to continue operation, and existing spaces within the manufactured home park may continue to be occupied by manufactured homes even after a space has been vacated; however, manufactured home parks shall not be expanded or increased in size and no additional spaces designed for occupancy by a manufactured home shall be added to the site after the adoption of this ordinance. A manufactured home park that is discontinued for 180 days shall not be reestablished.

G. **Individual Manufactured Homes.** Manufactured homes in existence at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith.

H. **Signs.** Nonconforming signs in existence at the time of the enactment of this ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance herewith.



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ARTICLE 200: DISTRICT REGULATIONS

Section 201. Use Districts

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

R-1	Medium Density Residential District
R-2	High Density Residential District
G-B	General Business District
H-B	Highway Business District
I-H-C	Industrial and Heavy Commercial District
F-W	Floodway District
A-T	Agricultural Transition

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

- A. Boundaries indicated as approximately following the center lines of streets, highways, railroad rights-of-way, alleys, streams, rivers or other bodies of water, shall be construed to follow such lines.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following town limit lines shall be construed as following such town limit lines.
- D. Where district boundaries are indicated to be approximately parallel to the center lines of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- E. Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such lot more than 35 feet beyond the district boundary lines.
- F. Where physical features existing on the ground differ from those shown on the official zoning map, or in other circumstances are not covered by Section 201 (A) through (E), the Board of Adjustment shall interpret the district boundaries.



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Section 202. R-1 Medium Density Residential District

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

I. Permitted Uses

A. Single-family dwellings, including custom-built and modular homes.

B. Customary home occupations, provided:

1. the home occupation shall be carried on by the occupants of the dwelling and shall be clearly incidental and secondary to the residential use;

2. the occupation shall be carried on solely within the main dwelling and shall not occupy more than 25% of the total floor space of the dwelling;

3. there shall be no display, outside storage, change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than signs consistent with Section 403(A);

4. no more than 2 persons not in residence on the premises shall be employed in connection with the home occupation;

5. no traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;

6. no equipment or process shall be used in conjunction with the home occupation which increases noise, vibration, glare, fumes, odors or interferes with normal activities off the lot, including visual or audible interference in any radio or television receivers or fluctuations in line voltage off the premises.

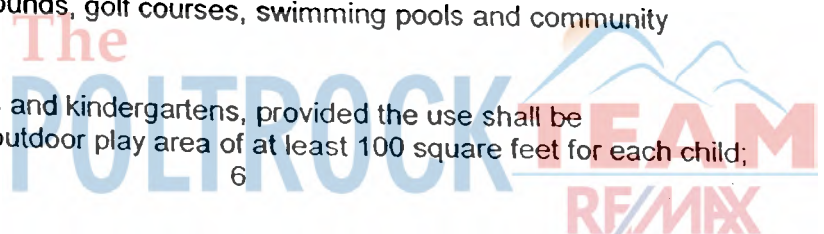
C. Churches and cemeteries;

D. Public and private schools, not including trade schools;

E. Government and other public uses;

F. Parks, playgrounds, golf courses, swimming pools and community centers;

G. Day nurseries and kindergartens, provided the use shall be accompanied by an outdoor play area of at least 100 square feet for each child;

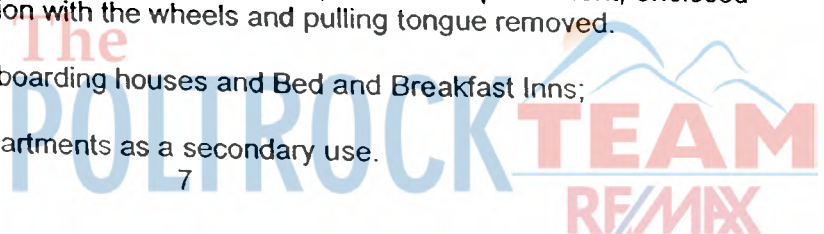


- H. Farms and related agricultural uses, except for the keeping of livestock;
 - I. Temporary use structures, consistent with the provisions set forth in Section 210;
 - J. Customary accessory building, consistent with the provisions set forth in Section 209.
- II. Conditional Uses
- A. Public utility buildings and facilities.
 - B. Group developments.
- III. Use Restrictions
- A. Off-street parking and loading space shall be provided as required in Article 300.
 - B. Sign restrictions as required in Article 400.

Section 203. R-2 High Density Residential

This district is established as a district in which a variety of residential uses exist. Within the R-2 High Density Residential District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

- I. Permitted Uses
- A. All uses permitted in the R-1 district;
 - B. Multi-family dwellings;
 - C. Manufactured homes, provided;
 - 1. the manufactured home shall be constructed or assembled on or after July 1, 1976;
 - 2. the manufactured home shall be placed on a permanent, enclosed foundation with the wheels and pulling tongue removed.
 - D. Rooming and boarding houses and Bed and Breakfast Inns;
 - E. Residential apartments as a secondary use.



II. Conditional Uses

- A. Manufactured Home Parks.
- B. Group developments.
- C. Manufactured home placed on an existing residential lot.

III. Use Restrictions

- A. Off-street parking and loading space shall be provided as required in Article 300.
- B. Sign restrictions as required in Article 400.

Section 204. G-B General Business District

This district is designed to provide a concentrated central core of retailing and services including administrative, business, financial, general and professional offices and related services. The district regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging continuous retail frontage in a concentrated area. Within the G-B General Business District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

I. Permitted Uses

- A. Retail businesses or services conducted within an enclosed building, provided such uses are consistent with an applicable federal, state or local laws or regulations. Permitted businesses and services shall include financial institutions; small repair and sales shops such as for watches, bicycles, shoes, etc.; mortuaries and funeral parlors; laundries and dry cleaners; barber and beauty shops; hardware stores; clothing and department stores; convenience stores; indoor food preparation and sales including restaurants and health food stores; automobile parking lots, service stations for fuel and routine maintenance (with outdoor service areas); flower, gift and garden shops; pet shops; indoor theaters and places of entertainment excluding game rooms, pool halls and billiard parlors;
- B. Public transportation facilities for buses and taxicabs;
- C. Hospitals and clinics, except those for animals;
- D. Small retail manufacturing businesses, provided such use is consistent with all applicable federal, state or local laws or regulations. Permitted businesses making products shall include print shops and arts and crafts shops having motor-driven tools not to exceed two horsepower;



- E. Professional offices or studios, including those of accountants, architects, land surveyors, artists, attorneys, contractors, dentists, engineers, insurance agents, musicians, photographers, physicians, real estate brokers, consultants, medical laboratories and opticians;
- F. Government and public utility facilities;
- G. Non-profit organizations including offices, meeting halls, lodges, museums;
- H. Churches;
- I. Hotels and motels, provided such uses abide by the off-street parking requirements specified in Article 300;
- J. Rooming and boarding houses and Bed and Breakfast Inns, provided such uses abide by the off-street parking requirements specified in Article 300;
- K. Trade schools and similar instructional or educational facilities;
- L. Customary accessory buildings, consistent with the requirements set forth in Section 209;
- M. Temporary use structures, consistent with the requirements set forth in Section 210;
- N. Residential apartments as a secondary use.

II Conditional Uses

- A. Group developments.
- B. Manufactured home placed on an existing residential lot.

III. Use Restrictions

- A. Sign restrictions as required in Article 400.
- B. Buffer strips as required in Section 208.
- C. Vending machines, other than those for newspapers, shall not be allowed on public sidewalks.
- D. Consistent with the Peddling Ordinance adopted by the Town of Murphy on July 9, 1979, peddling on the streets and sidewalks shall be prohibited in the G-B District.



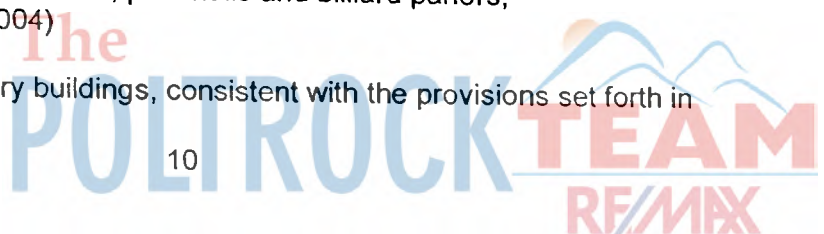
- E. Tattoo parlors, other tattoo businesses and body piercing businesses (except ear piercing which is permitted) are prohibited in the G-B District. (amended April 5, 2004)

Section 205. H-B Highway Business District

The purpose of this district is to provide for commercial activity along major thoroughfares and at other convenient points in the area. Regulations are designed to preserve the traffic carrying capacity of the streets and thoroughfares and to provide sufficient off-street parking. It is not the intent of this district to encourage extensive strip commercial development, but to provide concentrations of general commercial activities. Within the G-B General Business District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

I. Permitted Uses

- A. All uses permitted in the G-B and R-2 districts;
- B. Retail businesses or services with outdoor sales and service areas allowed consistent with Section 211 and provided such uses are consistent with all applicable federal, state or local laws or regulations. Permitted businesses and services shall include animal kennels, except for open kennels; automobile sales, parts, body, paint, tire recapping and washing establishments (not including automobile salvage yards); construction supply, service and equipment sales; storage and warehousing; farm equipment sales and repair; greenhouses and agricultural supply centers; general repair shops; manufactured housing sales; fitness centers; outdoor theaters; transportation terminals; and, monument sales;
- C. Hospitals and clinics, including those for animals, and nursing, convalescent and group care facilities;
- D. Businesses making or manufacturing products sold at wholesale or retail, provided such use is consistent with all applicable federal, state or local laws or regulations. Permitted businesses making products shall include food manufacturing and distribution; bottling plants; small fabricating shops such as those for woodworking, sheet metal and upholstery;
- D. Professional offices or studios, including those of radio and television stations;
- E. Bowling alleys, miniature golf or other recreational uses conducted for profit excluding game rooms, pool halls and billiard parlors; (amended May 3, 2004)
- G. Customary accessory buildings, consistent with the provisions set forth in Section 209;



- H. Wholesale and warehousing establishments except for the storage of dangerous or offensive items such as uncured animal hides, explosives, oil, gasoline, etc.

II. Conditional Uses

- A. Group Developments.
- B. Manufactured home parks
- C. Manufactured home placed on an existing residential lot.

III. Use Restrictions

- A. Off-street parking and loading space shall be provided as required in Article 300.
- B. Sign restrictions as required in Article 400.
- C. Buffer strips as required in Section 208.
- D. Travel trailers and/or recreational vehicles may be used as a temporary single family dwelling on an individual lot. However, in no case shall a travel trailer or recreational vehicle be used as a permanent single family dwelling or in conjunction with a primary residence on an individual lot.

Section 206. I-H-C Industrial and Heavy Commercial District

The I-H-C district is intended to provide sites for retail and wholesale - heavy commercial, manufacturing and industrial uses. These uses are, by their nature, not properly associated with residential or lighter commercial districts. Only those uses which meet all applicable local, state and federal environmental standards and which do not create injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards or other objectionable conditions which would be detrimental to the public health, safety and general welfare of the community will be allowed in the I-H-C district. Certain light commercial uses necessary to support industrial or heavy commercial uses (such as restaurants) shall also be permitted in this district. Within the I-H-C General Business District, no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

I. Permitted Uses

- A. All uses permitted in the H-B district;
- B. Businesses and industries manufacturing products sold at wholesale or retail, provided such use is consistent with all applicable federal, state or local laws or regulations. Permitted businesses and industries making products shall include textile industries, furniture industries, electronics industries, electrical appliance manufacturing, machine tools manufacturing, pharmaceutical manufacturing, fabrication plants;
- C. Retail and wholesale businesses or services provided such uses are consistent with all applicable federal, state or local laws or regulations.

Permitted businesses and services include industrial supply and repair establishments; establishments storing oil, fuel oil, kerosene and gasoline; farms and related agricultural uses; outdoor kennels; welding and machine shops; dairies; monument works;

D. Communication transmission and reception facilities such as antennae or masts.

II. Conditional Uses

- A. Group developments.
- B. Manufactured homes placed on an existing residential lot.

III. Use Restrictions

- A. Off street parking and loading space shall be provided as required in Article 300.
- B. Sign restrictions as required in Article 400.
- C. Buffer strips as required in Section 208.
- D. Consistent with Section 206(I)(B), uses shall be permitted provided they do not create injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards or other objectionable conditions which would be detrimental to the public health, safety and general welfare of the community.
- E. Travel trailers and/or recreational vehicles may be used as a temporary single family dwelling on an individual lot. However, in no case shall a travel trailer or recreational vehicle be used as a permanent single family dwelling or in conjunction with a primary residence on an individual lot.
- F. Game rooms, pool halls and billiard parlors are prohibited in the I-H-C District. (amended May 3, 2004)

Section 207. F-W Floodway District

The F-W Floodway District is intended to allow development that minimizes the impact of floods on human safety, health and welfare. Within the F-W Floodway District no structure or land shall be used, and no structure shall be hereafter erected, relocated, reconstructed or structurally altered unless otherwise provided in this ordinance, except for one or more of the following purposes:

I. Permitted Uses

- A. All agricultural uses not requiring structures;
- B. Railroads, streets and bridges.



- C. Storage yards, consistent with Section 211.
- D. Public and commercial recreation.

- II. Conditional Uses - NONE
- III. Use Restrictions

All uses permitted within the Floodway District shall first obtain a permit under the National Flood Insurance Program prior to the issuance of a Zoning Certificate.

Section 207A. A-T Agricultural Transition District

(amended June 7, 2004)

I. Permitted Uses

- A. All uses permitted in the R-1, R-2, or G-B Districts;
- B. Any agricultural use.

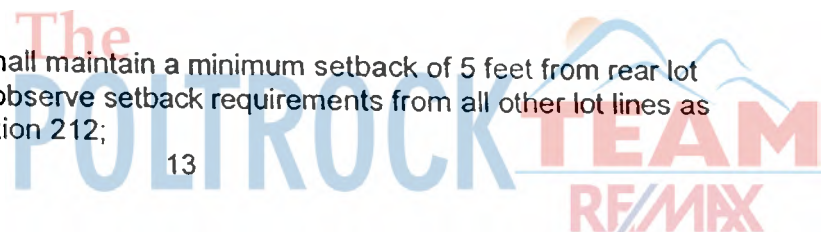
Section 208. Buffer Strips

- A. A continuous buffer strip (or visual buffer) shall be provided and maintained (by the created use) in all cases where a non-residential use is created and abuts a lot in an R-1 or R-2 Residential District and where otherwise required by terms of this ordinance
- B. A buffer strip shall consist of an area at least 10 feet wide in which is planted evergreen trees spaced not less than 10 feet part, or evergreen shrubs spaced not less than 5 feet apart, which at maturity shall be not less than 12 feet in height. The buffer strip shall be planted and maintained in a healthy growing condition by the property owner who, under the terms of this ordinance, is required to provide the buffer strip.
- C. In the case of a temporary use structure, Section 209, the buffer strip shall also include a wooden fence that screens the temporary use structure from any occupied lot in an R-1 or R-2 Residential District.

Section 209. Accessory Use Structures

An accessory use structure which use is incidental and subordinate to the principal use or building and located on the same lot with the principal use or building may be permitted provided:

- A. The structure shall be located in the rear yard of the principal use or building;
- B. The structure shall maintain a minimum setback of 5 feet from rear lot lines and shall observe setback requirements from all other lot lines as required in Section 212;



- C. Where an accessory structure is situated on a corner lot it shall not extend beyond the front yard line required for abutting property on the side street;
- D. In the R-1 and the R-2 Residential Districts, accessory use structures shall only include garages and non-commercial structures such as workshops and greenhouses, provided any greenhouse heating plant is not located within 25 feet of any lot line.

Section 210. Temporary Use Structure

- A. Temporary non-residential structures such as real estate and construction field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator through the issuance of a temporary Certificate of Compliance consistent with Section 704(F).
- B. Temporary use structures shall be located on the same lot or tract of land being used or developed for a directly related permanent use.
- C. Off-street parking and loading requirements shall be required consistent with Article 300.
- D. A buffer strip shall be required consistent with Section 208(C).
- E. Temporary use structures shall comply with height and yard requirements set forth in Section 212.

Section 211. Open Storage

Open or outdoor storage containing materials for sale or for use at a business such as building supply centers, lumber yards and hardware stores may be permitted in certain districts provided:

- A. All salvaged, discarded, junked or similar material awaiting salvage, recycling or disposal shall not be placed in open storage except for small incidental amounts of refuse generated on site and secured in appropriate containers by the permitted use;
- B. That all material placed in the yard shall be secured and prevented from being moved by the elements out of the yard;
- C. That all materials shall be stored within a chain-link or similar fence and, where required, provided with a buffer strip consistent with Section 208.

Section 212. Dimensional Requirements

- A. No building shall hereafter be erected or altered so as to exceed the dimensional or area requirements as shown in Table I.
- B. No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit, or other requirements of this ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.
- C. No yard, open space, off-street parking or loading space required in connection with any building for the purpose of complying with this ordinance, shall be included as a part of a yard, open space, off-street parking or loading space similarly required for any other building or use.
- D. In the event that a lot abuts a street at both the front and rear of the lot, the owner shall be required to specify the front of the lot when requesting a Zoning Certificate.
- E. The front yard setback requirements for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within 100 feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required setback. In such cases, the setback may be less than the required setback, but not less than the average of the setback of the aforementioned existing buildings.
- F. The height limitations indicated in Table I shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials and similar structures.
- G. Where a side yard abuts a street, said side yard requirements shall be the same as the front yard requirements for abutting property on the side street. In no case, however, shall said side yard requirements be less than those specified in Table I.
- H. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except as follows:
 - 1. The ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves, provided, however, that none of the above shall project into a minimum side yard more than 24 inches;
 - 2. Open or enclosed fire escapes, fireproof outside stairways and balconies projecting into a minimum yard not more than three and one-half feet, and the ordinary projections of chimneys and flues may be permitted by the Zoning Administrator where same are so placed as not to obstruct light and ventilation.
- I. Street and highway rights-of-way shall not constitute a part of a lot or any required yard or open space.

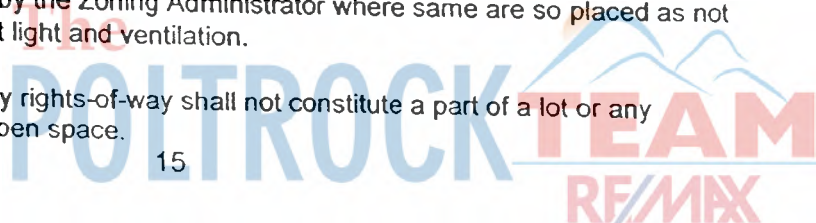


TABLE I:
DIMENSIONAL REQUIREMENTS

District	Min. Lot Area in Sq. Feet	Lot Area Per Dwelling Unit in Square Feet	Minimum Lot Width at Building Line in Ft.	Minimum Yard Requirements In Feet			Max. Height in Feet
				Front	Side	Rear	
R-1 Medium Density Residential	10,000	10,000	70	25	10'	30	50
R-2 High Density Residential	8,000	8,000 for first unit, 6,000 each additional dwelling unit	70	25	8'	30	50
G-B General Business	None	Not Applicable	20	None	None'	None'	50
H-B Highway Business: Non-Residential Uses	10,000 8,000	Not Applicable	80 70	same as NC State Building Code as administered by Cherokee County Building Inspector amended April 4, 2005			50 50
I-H-C Industrial and Heavy Commercial: Non-Residential Uses	40,000 8,000	Not Applicable	100 70	same as NC State Building Code as administered by Cherokee County Building Inspector amended April 4, 2005			50 50
F-W Floodway	N/A	Not Applicable	N/A	N/A	N/A	N/A	N/A

'Side yard requirements for corner lots shall be increased to 20 feet along the side street.

'Side yard requirements for corner lots shall be increased to 16 feet along the side street.

'Side yard requirements for corner lots shall be increased to 16 feet along the side street. If such a yard is provided, it must be a minimum of four feet on all sides for cleaning and access). Common wall construction is permitted in the G-B district. On all corner lots in this district, a 10 foot setback from the side street line is required.

'Rear yards are not required in the G-B district except in those cases where the G-B district abuts an established residential district. In such cases, the rear yard requirement shall be a minimum of 10 feet.

Section 213. General Requirements

- A. Every building hereafter erected, moved or structurally altered shall be located on a lot, and except for situations approved as a conditional use under Article 500, in no case shall there be more than one principal building or structure and its customary accessory buildings on the lot, except in the case of manufactured home parks and group developments allow as a Conditional Use.
- B. No building shall hereafter be erected on a lot which does not abut a publicly dedicated, publicly approved or publicly maintained street for a distance of at least 35 feet.
- C. Sight distances at intersections must meet the standards for secondary roads established by the North Carolina Department of Transportation. On corner lots, no planting, structure, sign, fence, wall or other obstruction shall be erected so as to interfere with said sight distance.
- D. Vacant lots and open spaces located adjacent to major thoroughfares shall be maintained. Vegetation shall be neatly trimmed, and the accumulation of unsightly debris shall be prohibited.



ARTICLE 300: PARKING

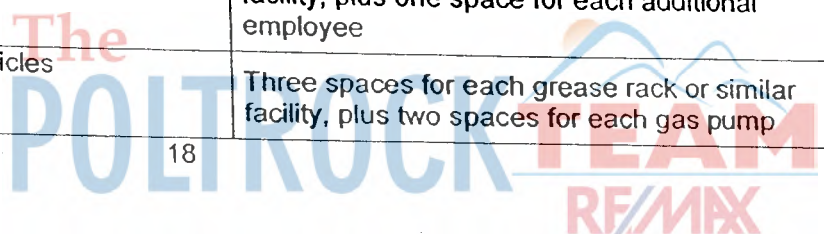
Section 301. Applicability

Off-street automobile parking or storage space shall be provided on every lot at the time any principal building is established, enlarged or converted to another use, except within the G-B General Business district. However, hotels, motels, rooming houses and tourist courts which locate within the G-B General Business district shall be subject to the off-street parking requirements.

Section 302. Parking Schedule

The number of off-street parking spaces shall be equal to or greater than the number specified in the following schedule. When application of the schedule results in a fractional space, the required number of spaces shall be rounded to the next higher number. Conditional use permits may require additional parking spaces.

Use Classification	Required Parking
Single-family dwellings including mobile homes	Two spaces for each dwelling unit
Multi-family dwellings	One and one-half spaces for each dwelling unit
Rooming houses, boarding houses and hotels	One space for each two guest rooms, plus one additional space for each three employees
Motels and tourist courts	One space for each guest room, plus one additional space for three employees
Customary home occupations	One space in addition to other applicable parking requirements
Churches, community centers, clubs houses, lodges, stadiums, assembly halls, auditoriums, gymnasiums, indoor theaters, and similar places of assembly	One space for each two seats in the main assembly room
Hospitals, nursing homes, convalescent homes and group care facilities	One space for each two beds (exclusive of bassinets), plus one space for each staff or visiting doctor, plus one space for each two employees on shift of greatest employment
Medical and dental offices, clinics and laboratories	Four spaces for each practitioner at the facility, plus one space for each additional employee
Service stations for motor vehicles	Three spaces for each grease rack or similar facility, plus two spaces for each gas pump



Schools, public or private, elementary, middle and junior high and public kindergarten	One space for each classroom and administrative office
Schools, public or private, high	One space for each ten students for whom the school was designed, plus one space for each classroom and administrative office
Trade schools (including business, vocational and special schools)	one space for each three students
Recreational facilities: Tennis, squash, racquetball and handball courts or similar facilities Swimming pools Shooting ranges Physical fitness facilities Athletic fields and playgrounds Golf courses or country clubs Skating rinks and bowling alleys Miniature golf courses Other places of recreation or assembly without fixed seats	Two spaces per court One space per 140 square feet of pool area One space per target area One space per 50 square feet Ten spaces per field or playground Two spaces per tee One space per 200 square feet One space per 50 square feet of course area One space per 200 square feet
Day nurseries and private kindergartens	One space for each staff member, plus one space for each five students
Public and semi-public buildings (not otherwise specified)	One space for each 200 square feet of gross floor area
Banks and other financial institutions	One space for each 150 square feet of gross floor space
Libraries	One space for each four seats provided for patron use
Museums and art galleries	One space for each 200 square feet of gross floor space
Mortuaries and funeral parlors	One space for each four seats in the assembly room or chapel
Offices: business or professional	One space for each 300 square feet of gross floor space

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Restaurants: indoor	One space for each three seats or stools, plus one space for each two employees on the shift with the largest employment
Restaurants: drive-in	Parking space equivalent to five times the floor space in the main building
Animal hospitals and veterinary clinics	One space for each 200 square feet of gross floor area
Kennels	One space for each four pens
Motor vehicle and farm equipment maintenance and repair	One space for each two employees on the shift with the largest employment, plus two spaces for each 300 square feet of repair or maintenance space
Sales establishments: automobiles, trailers, farm equipment, outdoor equipment, machinery, mobile homes and similar items; commercial nurseries, greenhouses, monument works and sales	Four spaces for each salesperson, plus one space for each two employees
Automobile washing establishments	One space for each two employees on the shift with the largest employment. Reserve spaces equal to five times the capacity of the facility at the location of both ingress and egress
Retail stores, businesses, shops and services of all kinds, except those otherwise specified	One space for each 300 square feet of gross floor area
Manufacturing, industrial and wholesaling establishments, except those otherwise specified	One space for each two employees on the shift with the largest employment
Shopping centers	Three square feet of parking space for each square foot of gross floor space

Section 303. General Provisions

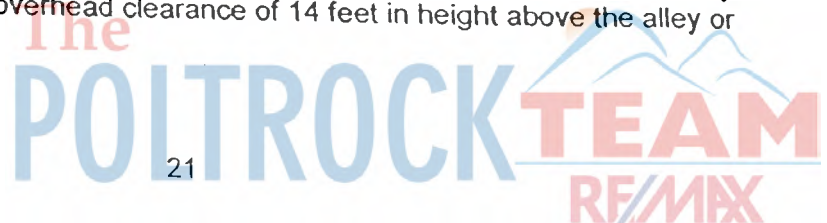
- A. Parking space shall not be located in a dedicated right-of-way or in a required front yard within an R-1 or R-2 Residential District. Parking spaces shall be provided with access to a street or alley and with adequate turning space so that vehicles are not required to exit by backing into the street or alley.
- B. Each parking space shall be at least 200 square feet plus space for access and maneuvering.
- C. All new parking lots, other than those for a private residential structure, shall provide at least one handicapped parking space or at least one space per 25 spaces, whichever is greater. Handicapped parking spaces shall be at least

13 feet wide and 19 feet long, marked with a sign, located adjacent to a cub cut, be near the main entrance of the building served by the parking lot and conform in all other respects to Volume 1-C of the North Carolina State Building Code.

- D. Combined Parking Spaces. The parking spaces required for separate uses may be combined in one lot, however, the required space for one use may not be assigned to another use, except that one-half of the parking spaces required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or Sundays.
- E. Location on Other Property. If off-street parking space cannot be reasonably provided on the same lot of the principal use, such space may be provided on a remote lot within 400 feet of the main entrance to the principal use, provided the lot is in the same ownership as the principal use. The parking area shall not be used for any other purpose unless adequate space has been made for the principal use at another remote lot consistent with the requirements of this section. In such case, application for a Certificate of Compliance shall include an executed instrument which subjects said land to parking use in connection with the principal use or for which it is made available. Upon the payment of the necessary fee and the issuance of a building permit, the Zoning Administrator shall cause the said instrument to be registered in the Registry of Deeds of Cherokee County.

Section 304. Off-Street Loading and Unloading Space

- A. Every lot on which a business, trade or industrial use is hereafter established shall provide space as indicated herein for the loading and unloading of vehicles off the street. Such space shall have access to a street or alley.
1. Retail Business: One space for each 10,000 square feet of gross area.
 2. Wholesale and Industry: One space for each 25,000 square feet of gross floor area.
 3. Truck Terminals: Sufficient space to accommodate the maximum number of trucks to be stored or to be loaded or unloaded at the terminal at any one time.
- B. An off-street loading space shall have minimum dimensions of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.



ARTICLE 400: SIGNS

Section 401. Exempt Signs

The following signs are exempt from the requirements of Article 400:

- A. All classes of government signs including but not limited to traffic, health and public safety; crime control and prevention; official notices or advertisements related to any court action; the location of underground utilities; historical markers or monuments; any other community service sign approved by the Town of Murphy Board of Commissioners.
- B. Temporary lighting and displays as part of customary holiday decorations and displayed up to 45 days prior to said holiday.
- C. Signs attached to commercial vehicles.
- D. For sale signs on private vehicles.
- E. Names and lettering on mail boxes and newspaper tubes.
- F. Signs denoting a product being sold out of a vending machine, telephone booth, gasoline pump or newspaper stand and actually located on same.
- G. Signs displayed on the inside of a business that are not visible from any public street or walkway.
- H. Signs which warn of hazards to life, limb and property such as danger from high voltage, explosives, etc. and signs related to trespassing or public safety, such as danger from animals.
- I. Church signs located on church property.
- J. Flags, badges or insignia of any patriotic or religious organization.
- K. Signs promoting municipal, school or civic events.

Section 402. Prohibited Signs

The signs identified in this section are prohibited.

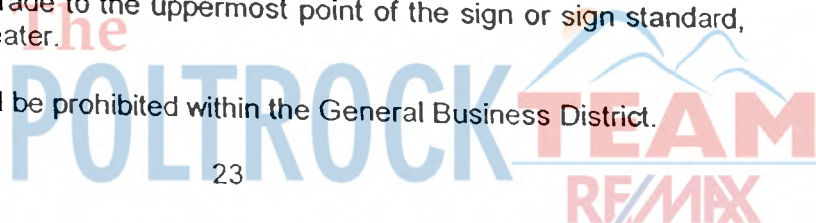
- A. Simulated Traffic Signs and Obstructions. Any sign which may be confused with or obstructs the view of any public traffic signal or traffic sign; extends into the public right-of-way, obstructs the sight distance at any street intersection or in any way constitutes a hazard to traffic.



- B. Building Obstructions. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.
- C. Signs Posted Within Public Rights-of-Way. Any sign posted on utility poles, on other official places signs or on trees, rocks, ground, etc. within the public right-of-way. In the event a right-of-way is not defined among the public records of Cherokee County, this prohibition shall apply to an area within 15 feet of the edge of the wear surface of any public thoroughfare.
- D. Flashing Signs. Any sign or device displaying flashing lights, intermittent lights or lights of changing degrees of intensity.

Section 403. General Provisions

- A. Signs indicating a customary home occupations shall not exceed 9 square feet in total surface area and shall be limited to 2 signs per residence.
- B. All signs, except those protected by glass or other transparent cover, shall be constructed of materials that will not rapidly deteriorate, fade, fall apart or in any way become a hazard to the public health, safety and general welfare. Where signs are placed over one another, the original sign shall be removed or adequately covered so that the original sign cannot be seen.
- C. All signs shall comply with applicable requirements of the N.C. State Building Code, National Electrical Code, and other applicable federal, state or local codes.
- D. Every sign and its supports, frames, guys, anchors and electrical equipment shall be secured to withstand adverse weather conditions.
- E. All signs shall be kept free from defective or missing parts or peeling paint.
- F. The immediate premises around a sign shall be kept free from litter and debris and grass/weeds shall be regularly trimmed.
- G. Indirectly illuminated signs shall be lit by a shielded indirect white or amber light of reasonable intensity and directed solely at the sign face.
- H. No sign shall be greater than 35 feet in height measured from the adjacent road grade to the uppermost point of the sign or sign standard, whichever is greater.
- I. Billboards shall be prohibited within the General Business District.



- J. All signs shall be setback 10 feet from the right-of-way of any street or highway unless it is attached to or is a part of a building located within the setback.
- K. Except for signs indicating a customary home occupation described in Section 403(A), non-residential signs placed in the R-1 or R-2 Residential Districts shall be limited to 2 on-premise signs not larger than 64 square feet.



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ARTICLE 500: CONDITIONAL USES

Section 501. General Applicability

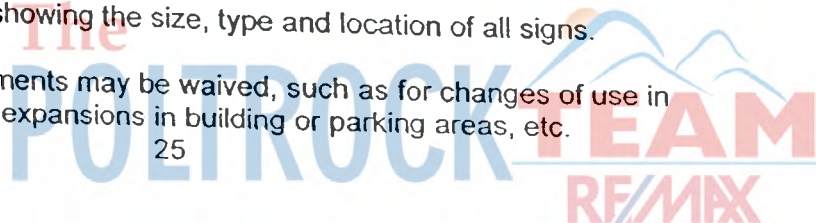
A Conditional Use Permit shall be required for each of the following uses:

- A. Group developments, Section 503.
- B. Manufactured Home Parks, Section 504.
- C. Public Utility Buildings and Facilities, Section 505.
- D. Manufactured Home Placed on an Existing Residential Lot, Section 506.

Section 502. Procedures

- A. All applications for a Conditional Use Permit shall accompany or precede the application for a Zoning Certificate or a Certificate of Compliance, and shall be addressed and submitted to the Zoning Board of Adjustment through the office of the Zoning Administrator. Applications for a Conditional Use Permit shall be made on the proper form obtainable from the Zoning Administrator and shall include the following information:
 - 1. A site plan, drawn to a scale of at least one inch to forty feet (1" = 40'), indicating the property lines of the parcel upon which the use is proposed; the identity of neighboring properties; any adjacent streets, designated as public or private; any existing or proposed structures, rights-of-way and property lines; parking areas showing the number and arrangement of parking spaces and driveway entrances; utilities; surface water drainage; and significant natural features, such as wooded areas, streams or ponds. The site plan shall be neatly drawn and indicate a north point, name and address of the person who prepared the plan, date of the original drawing and an accurate record of any later revisions.
 - 2. A floor plan indicating the dimensions of the building, gross floor space and any other applicable information.
 - 3. A complete and detailed description of the proposed use, together with any other pertinent information which the applicant feels would be helpful to the Zoning Board of Adjustment in considering the application.
 - 4. A plan showing the size, type and location of all signs.

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



- B. Upon receipt of an application for a Conditional Use Permit, the Zoning Board of Adjustment shall call a public hearing and shall give notice as required by law. At the hearing, the applicant or designated representative thereof shall appear for the purpose of offering testimony and recommendations. The board shall also allot reasonable time for the expression of views by any member of the public attending the meeting in person or represented by an attorney.
- C. The Zoning Board of Adjustment shall grant and issue the Conditional Use Permit by a majority vote if it finds the following:
1. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
 2. The use meets all required conditions and specifications.
 3. The use will not substantially injure the value of adjoining or abutting property or, in the alternative, the use is a public necessity.
 4. The location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the development of the Town and its environs.

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

- D. Within seven days after making a decision to either grant or deny the Conditional Use Permit, the Zoning Board of Adjustment shall issue its written ruling and deliver copies thereof to the Zoning Administrator. The Zoning Administrator will send a copy of the written ruling to the applicant or representative, but the failure to do so shall not affect the ruling.
- E. Additional conditions as to use. In addition to any other requirements provided by this ordinance, the Zoning Board of Adjustment may place additional conditions in the Conditional Use Permit to assure that the use will be harmonious with the area in which it is proposed to be located and adheres to the spirit of this ordinance. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted, on the certificate of the Conditional Use Permit and on the plans submitted therewith. All conditions so imposed shall run with the land and shall be binding upon the original applicant, as well as the applicant's heirs, successors or assigns, during the continuation of the use conditionally permitted.
- F. Sanctions. In the event of failure to comply with the plans, documents and other assurances submitted and approved with the application or with any conditions placed in the Conditional Use Permit, the permit shall thereupon immediately become void. No Zoning Certificate for further

construction or Certificate of Compliance under the Conditional Use Permit shall be issued, and all improvements to the land which were the subject of the application shall be regarded as non-conforming and shall be subject to the sanctions provided in Sections 705, 706 and 707 hereof.

- G. Expiration of Conditional Use Permits. Conditional Use Permits shall expire if a Zoning Certificate or Certificate of Compliance for such use is not applied for by the applicant within six months from the date of the decision. If work is discontinued for a period of 12 months prior to completion of the entire project, the Conditional Use Permit shall become void and no work may be performed until a new Conditional Use Permit has been issued. If after final approval, the use is discontinued for a period of 12 consecutive months, the Conditional Use Permit shall become void and the use may not be re-established until a new Conditional Use Permit has been issued. When a Conditional Use Permit expires, the Zoning Board of Adjustment shall treat re-application for a new Conditional Use Permit in the same manner as any other application, and the provisions currently in effect shall apply.

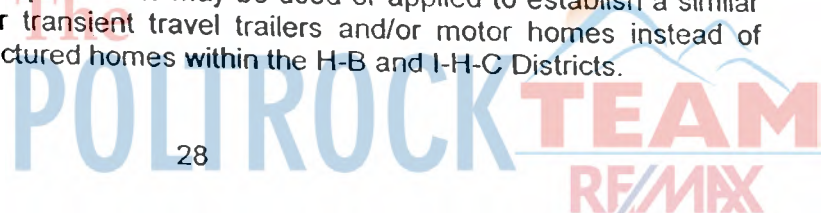
Section 503. Group Developments

- A. **Definition.** A group of two or more principal structures built on a single lot, tract or parcel of land at least 2 acres in size and not subdivided into the customary streets and lots and designed for occupancy by separate families, businesses or other enterprises. Examples would be: cluster type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.
- B. **Requirements.** The following conditions must be met before such a certificate may be issued:
1. Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the board authorize a use prohibited in the district in which the project is located;
 2. The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located;
 3. The distance of every building from the nearest property line shall meet the front, rear and side yard requirements of the district in which the project is located;
 4. The building heights do not exceed the height limits permitted in the district in which the project is located;
 5. In those cases where a group development is created which either lies within a residential district or abuts a residential district, there shall be provided and maintained (by the group development) a

continuous visual buffer strip, consistent with the requirements set forth in Section 208.

Section 504. Manufactured Home Parks

- A. Definition. An undivided lot or tract at least 2 acres in size under single ownership which may be developed for the placement of manufactured homes used for residential purposes.
- B. Requirements. The following conditions must be met before such a certificate may be issued:
1. The minimum area for any manufactured home park shall be at least 2 contiguous acres;
 2. The maximum density shall be 10 manufactured home sites per acre;
 3. Not less than 5 manufactured home sites shall be available at first occupancy;
 4. The minimum site size for individual manufactured home sites shall be 45 feet by 80 feet. No mobile home shall be placed closer than 20 feet to any other manufactured home or other structure, except customary accessory buildings for the exclusive use of the manufactured home;
 5. All manufactured home sites shall abut a driveway of not less than 20 feet in width. All driveways shall have unobstructed access to a public street or highway and shall be either hard surfaced or of properly compacted gravel, well marked and lighted by the manufactured home park owner. In manufactured home parks which are served by an internal system of streets and driveways, said system shall provide for safe and efficient movement of manufactured homes into, within, and out of the manufactured home park;
 6. A densely planted buffer strip shall be required consistent with Section 208 and located along all sides of the manufactured home park, but shall not extend beyond the established setback line along any street. This planting requirement may be modified by the Board of Adjustment where adequate buffering is present in the form of existing vegetation or terrain;
 7. These requirements may be used or applied to establish a similar park for transient travel trailers and/or motor homes instead of manufactured homes within the H-B and I-H-C Districts.



Section 505. Public Utility Buildings and Facilities

- A. Definition. Buildings and facilities used to provide water, sewer, electricity and communications systems such as pump stations, processing plants, heavy power transmission lines, transformer and large switching stations, and not including low volume transmission lines, small junction boxes, single transformers and the like.
- B. Requirements. The following conditions must be met before such a certificate may be issued:
1. the use is essential for service of the immediate area;
 2. the buildings are located at least 35 feet from any lot line;
 3. fences and/or other appropriate safety devices are installed to protect the public safety and welfare;
 4. no vehicles or equipment are stored, maintained or repaired on the premises;
 5. all structures are in keeping with the residential character of the neighborhood; and
 6. adequate landscaping, screening and/or buffering is provided to ensure compatibility with the neighborhood.

Section 506. Manufactured Home Placed on an Existing Residential Lot

- A. Definition. The placement of a second residential structure on a lot, i.e. a manufactured home, where due to personal need and circumstance, a family needs to provide temporary shelter to an immediate family member.
- B. Requirements. The following conditions shall be met before such a certificate may be issued:
1. the location of the lot shall not be located in an R-1 Residential District;
 2. the purpose of the manufactured home is to provide temporary shelter to an immediate family member, including grandparents, parents, children and siblings;
 3. the manufactured home is placed in the rear yard of the lot with fencing and evergreen landscaping so that the home's placement is consistent with the residential character of the neighborhood;
 4. no temporary use structures shall be constructed or placed for use by the manufactured home, except for an open car port (roof only);
 5. all dimensional requirements listed in Section 212 shall apply;
 6. the manufactured home shall not be used as a rental property and shall be removed within 90 days after the family member has vacated the manufactured home.

ARTICLE 600: BOARD OF ADJUSTMENT

Section 601. Establishment of the Board of Adjustment

- A. The establishment of the Board of Adjustment is hereby affirmed.
- B. The Board of Commissioners shall appoint five members to serve on the Board of Adjustment for overlapping terms of three years. Initially, two members shall be appointed for one year terms, two members shall be appointed for two year terms and one member shall be appointed for a three year term.
- C. The Board of Commissioners shall appoint three alternate members to serve on the Board of Adjustment in the absence of any regular member. Alternative members shall be appointed for one year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all powers and duties of the absent regular member.
- D. The Board of Commissioners shall by appointment fill any vacancy in the membership of the Board of Adjustment. The appointee shall serve the balance of the unexpired term of the member who the appointee is replacing.
- E. Members of the Board of Adjustment shall serve without pay, but shall be reimbursed for any expenses incurred in pursuit or the board's activities subject to approval by the Board of Commissioners.
- F. Office supplies, secretarial assistance and legal assistance required by the Board of Adjustment shall be furnished by the Town of Murphy.

Section 602. Interpretation

The Board of Adjustment shall have the power to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and any other questions of interpretation that may arise in the administration of this ordinance.

Section 603. Special Use Permits

The Board of Adjustment shall have the power to issue Special Use Permits in accordance with Article 500.

Section 604. Appeals

- A. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made in the enforcement of this ordinance.

- B. In order to provide time for appeal as herein provided, the decision of the Zoning Administrator shall not become effective until the tenth regular business day from the date of the issuance of a Zoning Certificate, or (in the case of the conversion of an existing structure to a new use) a Certificate of Compliance. In extraordinary circumstances in which life or property is threatened, the Board of Adjustment, upon proper findings of fact, may confirm the action of the Zoning Administrator within the ten business day period. The action of the Board of Adjustment may be made upon those reasonable conditions that the board deems necessary under the circumstances; however, the confirmation shall not preclude the right of appeal vested in citizens and owners.
- C. Appeals to the Board of Adjustment may be taken by any person affected by a decision of the Zoning Administrator. Appeals shall be filed on the proper form, addressed to the Board of Adjustment and delivered to the office of the Zoning Administrator within thirty (30) days of the decision being appealed. A notice of intent to file an appeal shall be filed in the form of a letter within ten business days of the decision being appealed.
- D. All documents, pleadings and transcripts or certified copies thereof, constituting the record upon which the action being appealed from was taken, shall forthwith be transmitted to the Board of Adjustment by the Zoning Administrator.
- E. Upon service of the notice of appeal, accompanied by the supporting documents, the board shall fix a date within a reasonable time thereafter for the hearing of the appeal or for a hearing upon any other matter properly referred to it.
- F. The Board of Adjustment shall call a public hearing, shall give due notice thereof to the parties in interest and render a decision upon the same within a reasonable time after the hearing. At the hearing, any party may appear in person or be represented by an authorized agent or attorney.

Section 605. Variances

- A. The Board of Adjustment shall have the power to authorize a variance from the terms of this ordinance provided in so doing the action is not contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance is observed, public safety and welfare secured, and substantial justice done.
- B. All applications for variances shall be addressed and submitted to the Board of Adjustment and shall be delivered to the office of the Zoning Administrator. Upon receipt of an application for a variance, the Board of Adjustment shall call a public hearing and give notice as required by law. Applications for a variance shall be made on the proper form obtainable from the Zoning Administrator. Some application requirements may be waived, such as for changes of use in existing buildings involving no expansions in building or parking areas, etc.

C. Before the Board of Adjustment may grant a variance, it shall make the following three findings which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the board must find that the five following conditions exist:

a. If the applicant complies with the provisions of the ordinance, the applicant can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the board in granting a variance. Moreover, the board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the property.

b. The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.

c. The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography, which is different from that of neighboring property.

d. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance and then comes to the board for relief.

e. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

2. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, to expand, or to extend in area a non-conforming use. Moreover, the existence of a non-conforming use in the same or in any other zoning district shall not constitute a reason for granting the requested variance.

3. In granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The board shall not grant a variance if it finds that doing so would alter the essential character of the neighborhood, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or general welfare.

- D. In granting the variance, the board may attach thereto such conditions regarding the location character, and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.
- E. The Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- F. A variance issued in accordance with this section shall expire if a Zoning Certificate or Certificate of Compliance for such use is not obtained by the applicant within six months from the date of the decision.

Section 606. Appeals from the Zoning Board of Adjustment

Every decision of the Board of Adjustment shall be subject to review by the Superior Court by proceedings in nature of certiorari. Any appeal to the Superior Court shall be taken with 30 days after the decision of the Board of Adjustment is filed in its minutes, or after a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later.



ARTICLE 700: ADMINISTRATIVE AND LEGAL

Section 701. Zoning Administrator

- A. Appointment and removal. The Board of Commissioners shall, by a majority vote, appoint a Zoning Administrator, who shall be duly sworn in. The Zoning Administrator shall serve at the pleasure of the board and may be removed from office without cause at any time by an affirmative vote of a majority of the members of the board.
- B. Powers and duties. The Zoning Administrator is granted the authority to administer and enforce the provisions of this ordinance, exercising the full police power of the Town. The Zoning Administrator, or his duly authorized representative, may enter any building, structure or premises to perform any duty imposed by this ordinance, provided entry is made with proper notice and at reasonable hours.
- C. Issuance of certificates. The Zoning Administrator shall have the sole authority to issue Zoning Certificates and Certificates of Compliance.
- D. Availability for duty. The Zoning Administrator shall be available to receive applications during regular business hours. The Board of Commissioners shall have the authority to appoint a Deputy Zoning Administrator to serve in the place and stead of the Zoning Administrator for those times that the Zoning Administrator shall be on leave of absence.

Section 702. Zoning Certificate

- A. No person shall commence or proceed with construction of any new building or with the reconstruction, alteration, repair, moving or demolition of any existing building prior to the issuance of a Zoning Certificate. Application for a Zoning Certificate shall be filed with the Zoning Administrator and may be made prior to or in conjunction with application for a permit under the North Carolina State Building Code. Application shall include the following information:
 1. A site sketch, drawn to a scale of at least one inch to forty feet (1" = 40'), of the parcel of property showing its actual dimensions and indicating the size, location and distance from property lines of the proposed building, any other existing building(s), and any other improvements proposed to be accomplished, including but not limited to driveways, sidewalks and parking areas.
 2. A drawing of the proposed building drawn to scale and in sufficient clarity and detail to indicate the nature and character of the work to be done, and consisting at minimum of a floor plan and elevations of the building (except, however, that the Zoning Administrator may approve minor construction work without compliance with this requirement).

3. A description of the use to which the completed project shall be devoted.
 4. Any other information the Zoning Administrator may deem reasonably necessary to evaluate compliance of the applicant's proposal with the provisions of this ordinance.
- B. The Zoning Administrator shall review each element of the application and if satisfied that the work described therein complies with the ordinance, issue a Zoning Certificate. After a Zoning Certificate has been issued, no changes or deviations from the terms of the application, plans or permit shall be made until specific written approval has been obtained from the Zoning Administrator. If the Zoning Administrator finds the application to be deficient or the information contained therein to be contrary to the provisions of this ordinance, the application for a Zoning Certificate shall be denied and a written statement setting forth the reasons for the rejection provided to the applicant.
- C. A Zoning Certificate shall expire six months after the date of issuance if the work authorized has not commenced. If after commencement the work is discontinued for a period of 12 months, the certificate shall immediately expire. Upon expiration, the certificate shall become void and no work may be performed until a new certificate has been secured.
- D. Consistent with Section 207, a Zoning Certificate shall not be issued until the applicant secures a permit under the National Flood Insurance Program.

Section 703. Certificate of Compliance

- A. A Certificate of Compliance shall be secured from the Zoning Administrator before the making of a permanent connection to electrical service, water service or sewer service.
- B. If any repairs, improvements or alterations have been performed for which a Zoning Certificate has been issued, a Certificate of Compliance shall be secured from the Zoning Administrator within thirty (30) days from the completion thereof.
- C. The Certificate of Compliance shall certify that the Zoning Administrator has inspected the completed improvements and that the improvements, together with the proposed use thereof, are in conformity with the Zoning Certificate and the provisions of the ordinance.
- D. A Certificate of Compliance shall not be issued unless all off-street parking and loading requirements are in place and ready for use.
- E. No new building or part thereof, no addition or enlargement of any existing building, and no existing building that has been altered or moved shall be occupied until a Certificate of Compliance has been issued.

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

Section 704. Application Fees

An application fee shall be required to cover administrative expenses. A fee schedule shall be set by the Town of Murphy Board of Commissioners.

Section 705. Violations

Whenever, by the provisions of this ordinance, the performance of any act is prohibited, or whenever any regulation, dimension or limitation is imposed on the use of any land, or on the erection or alterations or the use or change of use of a structure, or the uses within such structure, a failure to comply with such provisions of this ordinance shall constitute a separate violation and a separate offense.

Section 706. Penalties

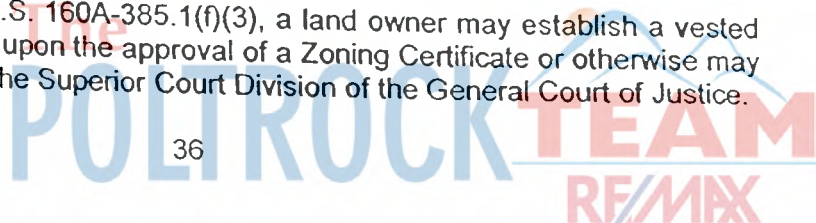
Any person, firm or corporation who violates the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not exceeding fifty dollars (\$50.00) and/or imprisoned for a period of time not exceeding 30 days. Each day of violation shall be considered a separate offense.

Section 707. Remedies

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of this ordinance, the Zoning Administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct of business or use in or about the premises.

Section 708. Vested Rights

In accordance with G.S. 160A-385.1(f)(3), a land owner may establish a vested right with respect to property upon the approval of a Zoning Certificate or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.



Section 709. Designated Planning Agency

The Zoning Board of Adjustment shall serve as the planning agency under G.S. 160A-387.

Section 710. Severability

- A. It is the intent of the Board of Commissioners that all Articles and Sections thereof shall be liberally construed to protect and preserve the health, safety and general welfare of the inhabitants of the Town of Murphy.
- B. Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.



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Section 711. Adoption and Effective Date

This ordinance shall take effect and be in force upon its adoption by the Board of Commissioners of the Town of Murphy, this 12 day of April, 1993.

TOWN OF MURPHY

(signed) Cloe Moore Mayor

Attest:

Faye B. Kinney
Town Clerk

The following commissioners voted in the affirmative:



ARTICLE 800: ORDINANCE AND MAP AMENDMENTS

Section 801. Amendments

- A. This zoning ordinance, including the zoning map, may be amended by the Board of Commissioners in accordance with the provisions of this article.
- B. Proposed changes or amendments may be initiated by the Board of Commissioners, the Board of Adjustment, or one or more owners of property within the area proposed to be changed or affected. All proposed amendments shall be referred to the Board of Adjustment for its review and recommendation to the Town Board of Commissioners.

Section 802. Application

- A. Before any action on a proposed change or amendment, an application for an amendment shall be submitted to the office of the Zoning Administrator at least 10 days prior to the Board of Adjustment's meeting at which the application is to be considered. The application shall contain the name and address of the owner of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district as shown on the application forms supplied by the Town.
- B. In no instance shall action be initiated for a zoning amendment affecting the same parcel of property, or any part thereof, more often than once every 12 months. Any communication purporting to be an application for a change shall be regarded as mere notice to seek relief until it is made in the form required.

Section 803. Planning Board Action

Before taking any action on a proposed amendment to the ordinance, the Board of Commissioners shall consider the Board of Adjustment's recommendations on each proposed amendment. The Board of Adjustment shall have 45 days after the first consideration of the application within which to submit its recommendations to the Board of Commissioners. Failure of the Board of Adjustment to submit recommendations within the 45 day period shall constitute a favorable recommendation.

Section 804. Public Hearing

Before enacting any amendment to this ordinance, the Board of Commissioners shall hold a public hearing. A notice of such public hearing shall be published in a newspaper of general circulation in Cherokee County once a week for two successive calendar weeks. The first publication shall appear not less than 10 days nor more than 25 days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing.

and include a description of the property or the nature of the change or amendment to the ordinance and/or map. Mailed notices shall be sent when required by law.

Section 805. Protests

In the case of a protest petition against an amendment or revision of the ordinance, signed by the owners or 20% or more of either the area of lots included in such proposed change, or those immediately adjacent thereto either in the rear thereof or either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths of all members of the Board of Commissioners.

Section 806. Decision

The Board of Commissioners shall make a decision on the proposed amendment within 60 days after the public hearing.



ARTICLE 900: DEFINITIONS

Section 901. Word Interpretation

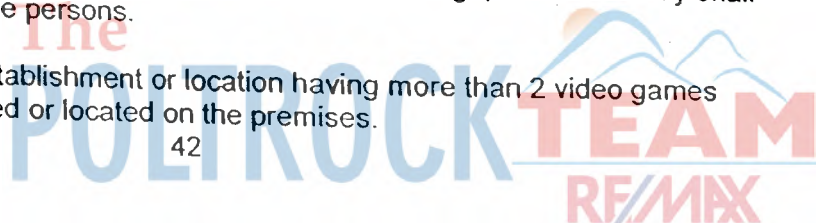
Except as specifically defined herein, all words used in this ordinance shall have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein are defined as follows:

- A. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
- B. The word "Town" shall mean the Town of Murphy, North Carolina.
- C. The words "Town board" shall mean the Town Board of Commissioners of the Town of Murphy, North Carolina.
- D. The words "Board of Adjustment" shall mean the Zoning Board of Adjustment of the Town of Murphy, North Carolina.
- E. The word "may" is permissive.
- F. The word "shall" is mandatory.
- G. The word "lot" includes the words "plot" or "parcel".
- H. The word "structure" includes the word "building".
- I. The words "used" or "occupied" as applied to any land or building shall be construed to include the meaning "intended, arranged or designed to be used or occupied."
- J. The words "person" or "applicant" include a firm, association, organization, partnership, corporation, company, trust, individual or government unit.
- K. The word "street" includes the words "road" or "highway."
- L. The words "ordinance" or "zoning ordinance" shall mean the Zoning Ordinance of the Town of Murphy, North Carolina.
- M. The words "zoning map" shall mean "The Official Zoning Map of the Town of Murphy, North Carolina."

Section 902. Definitions

Accessory Use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. Accessory uses shall be located only in rear yards.

- Apartment. A part of a building consisting of a room or rooms intended, designed or used as a dwelling unit.
- Billboard. Any sign which is not located on the premises that it identifies or advertises and is larger than 50 square feet.
- Building. Any structure built for the support, shelter or enclosure of persons, animals or property of any kind, including sheds, carports, garages, guest cottages and other outbuildings, and also including any extension and extrusion of the building structure such as balconies, decks and porches. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such structure, with or without a roof, shall not be deemed to make them one building.
- Building, Accessory. A building located on the same lot with a principal building, subordinate to the principal building on the lot and used for purposes clearly incidental to those of the principal building on the lot.
- Building Height. The distance from the highest ground level at the foundation of the building to the highest point of the roof.
- Building Line. A line fixed parallel to a lot line beyond which a building cannot extend under the terms of this ordinance. Included are front, side and rear building lines.
- Building, Principal. A building in which is conducted the main or principal use of the lot on which said building is situated.
- Customary home occupation: Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.
- Dwelling. Any building or portion thereof which is designed for living and/or sleeping purposes, excluding motels, hotels, rooming or boarding houses, or other structures designed for transient residence.
- Dwelling Unit. A building or portion thereof providing complete and permanent living facilities for one family.
- Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five persons.
- Gamerrooms. A business, establishment or location having more than 2 video games kept, maintained or located on the premises.



Group Care Facility. An establishment qualified for a license by the State of North Carolina to provide resident services to individuals of whom one or more are unrelated. Such individuals are handicapped, aged and/or disabled; are undergoing rehabilitation or extended care; and are provided services to meet their needs by the group care facility. Group care facilities include group homes for all ages, halfway houses, foster houses and boarding homes.

Group Development. A group of two or more principal structures built on a single lot, tract or parcel of land at least 2 acres in size and not subdivided into the customary streets and lots and designed for occupancy by separate families, businesses or other enterprises. Examples would be: cluster type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.

Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Lot, Corner. A lot which occupies the interior angle at the intersection of two street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines front equally, in which case the owner shall be required to specify the front of the lot when requesting a zoning compliance permit.

Lot Line. A line dividing one parcel of property from another parcel of property or from a street right-of-way.

Lot of Record. Any lot for which a plat or deed has been recorded in the Registry of Deeds of Cherokee County.

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

Mobile home: A manufactured home.

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

Manufactured Home Park. A contiguous parcel of land under single ownership which has been developed for the placement of manufactured homes.

Excluded from this definition are manufactured home sales lots on which unoccupied manufactured homes are parked for purposes of inspection and sale.

Manufactured Home Site. A plot of ground within a manufactured home park designated for the accommodation and use of one manufactured home and containing all improvements and utility connections required under this ordinance as well as all other applicable regulations.

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

Setback. The required distance between any structure and the applicable lot line (front, side or rear) of the lot on which the structure is located.

Street. A public thoroughfare or right-of-way for vehicular traffic which affords a principal means of access to abutting properties.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. The term "structure" includes, but is not limited to, buildings, fences, signs, sheds and towers.

Travel Trailers. A vehicle less than 32' in length designed primarily as a temporary dwelling for travel, recreation or vacation uses.

Use. The purpose or activity for which a piece of land or its structures is designed, arranged or intended, or for which it is occupied or maintained.

Use, Principal. The main use of land or structures on a lot, as distinguished from an accessory use.

Yard. A space on the same lot with a principal building which is open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.



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APPENDIX A: BY-LAWS OF THE ZONING BOARD OF ADJUSTMENT

ARTICLE I General Rules

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

ARTICLE II Officers and Duties

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

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

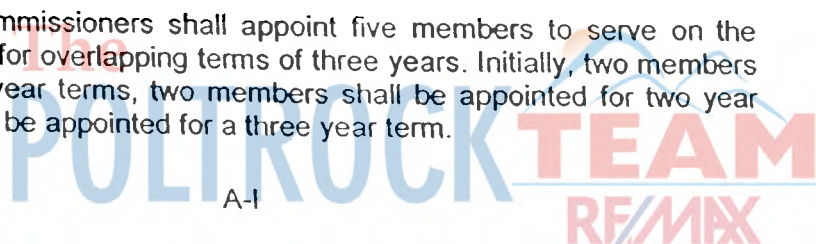
C. Secretary. A secretary shall be appointed by the Board who may be a municipal officer, an employee of the Town or a member of the Zoning Board of Adjustment. The secretary shall hold office during the term of the chairman, keep all records, conduct all correspondence of the Board, arrange for all public notices required to be given and generally supervise the clerical work of the Board. The secretary shall keep a permanent volume of the minutes of every meeting of the Board. The minutes shall include a record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board and all votes of members of the Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. If the secretary is chosen from outside the membership of the Board, the secretary shall not be eligible to vote in any matter.

ARTICLE III Membership

A. The Board of Commissioners shall appoint five members to serve on the Zoning Board of Adjustment for overlapping terms of three years. Initially, two members shall be appointed for one year terms, two members shall be appointed for two year terms and one member shall be appointed for a three year term.

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B. The Board of Commissioners shall appoint three alternate members to serve on the Zoning Board of Adjustment in the absence of any regular member. Alternative members shall be appointed for one year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all powers and duties of the absent regular member.

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

D. Members of the Zoning Board of Adjustment shall serve without pay, but shall be reimbursed for any expenses incurred in pursuit of the board's activities subject to approval by the Board of Commissioners.

ARTICLE IV Rules of Conduct for Members

A. Members of the Board may be removed by the Board of Commissioners for cause, including violation of the rules stated below.

B. Faithful attendance at meetings of the Board and conscientious performance of the duties required of members shall be considered a prerequisite of continuing membership on the Board.

C. No member shall take part in the hearing, consideration or determination of any case in which the member has a personal or financial interest. A Board member shall have a "financial interest" in a case when a decision will cause the Board member or related spouse to experience a direct financial benefit or loss, or will cause a business, in which the Board member or related spouse owns any interest, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves the immediate family, i.e. parent, spouse or child, of the Board member. Board members with a potential conflict of interest shall notify the chairman at least 48 hours prior to the hearing of any case.

D. No Board member shall vote on any matters deciding an appeal or application unless the member has attended the public hearing on that appeal or application.

E. No Board member shall discuss any case with any party thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Zoning Administrator, any other member of the Board, secretary or the attorney for the Board prior to the hearing.

F. Members of the Board shall not express individual opinions on the proper judgement of any case with any party thereto prior to the determination of that case.



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ARTICLE IV Meetings

A. Regular meetings of the Board shall be held on the _____ of each month, at _____, in the Town of Murphy Town Hall; provided, however, that meetings may be held at other convenient places in the Town or county if directed by the chairman in advance of the meeting.

B. Emergency or special meetings of the Board may be called at any time by the chairman. At least forty-eight (48) hours notice of the time and place of such meetings shall be given by the secretary or the chairman, in writing or orally, to each member of the Board.

C. A quorum shall consist of four members of the Board and shall be necessary for the transaction of any business. The board shall not pass upon any questions relating to an appeal from a decision, order, requirement or determination of the Zoning Administrator or an application for a variance when there are less than four members present.

D. Proxy voting shall not be permitted.

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

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

ARTICLE V Appeals and Applications

A. Types of Appeals: The Board shall hear and decide all appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. It shall also hear and decide all matters referred to it or upon which it is required to pass by the Ordinance. In deciding appeals, it may hear both those based on an allegedly improper or erroneous interpretation of the Ordinance and those based upon alleged hardship resulting from the strict interpretation of the Ordinance.

B. Procedure for Filing Appeals: A notice of intent to file an appeal shall be filed within ten (10) business days of the decision being appealed. Appeals shall be filed on the proper form, addressed to the Zoning Board of Adjustment and delivered to the office of the Zoning Administrator within thirty (30) days of the decision being appealed. All required information shall be provided before an appeal or an application shall be considered as having been filed.

POLTROCK TEAM
RE/MAX

A-III

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C. Hearings:

1. Time. After receipt from the Zoning Administrator of a completed appeal or variance application, the chairman shall schedule the time for the hearing, which shall be at the next regularly scheduled meeting or at least within thirty-one (31) days.

2. Notice. The Board shall give notice of the hearing by publishing or advertising the notice of hearing in a newspaper of general circulation at least once and at least five (5) days prior to the date of hearing and by mailing notices of the hearing to parties to the action at least five (5) days prior to the hearing. All such notices shall state the location of the building or lot, the general nature of the question involved and the time and place of the hearing.

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

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

b. Witnesses shall be sworn in.

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

d. Applicants and proponents may be questioned by the Board.

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

f. Opponents may be questioned by the Board.

g. Both sides shall be permitted to present rebuttals to opposing testimony.

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

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

j. Motion.

D. Decisions:



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1. Vote. The concurring vote of four-fifths (4/5) of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to effect any variation from terms of the Ordinance.

2. Time. Decisions by the Board shall be made not more than thirty (30) days from the time of the hearing.

3. Form. Written notice of the decision and the reasons therefore in a case shall be given to the applicant by the secretary as soon as practicable after the case has been decided. Also, written notices shall be given to owners of the subject property and to other persons who have made written request for such notice. The final decision of the Board shall be shown in the record of the case as entered in the minutes of the Board, and signed by the chairman and the secretary upon approval of the minutes of the Board. The records shall show the reason for the decision, the summary of the evidence introduced, and the findings of fact and conclusions of law made by the Board. Where a variance is granted, the records shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from. Records shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting of the variance.

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

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

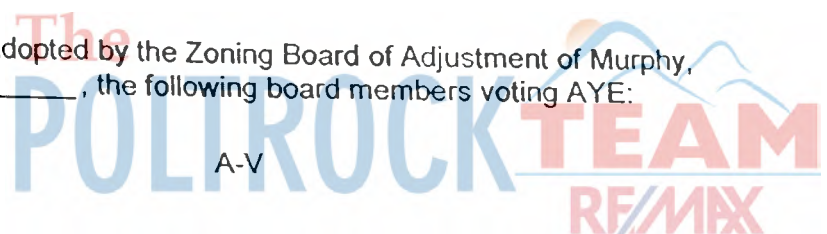
ARTICLE VI Amendments

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four-fifths (4/5) of the Board, provided that such amendment is presented in writing at a meeting of the Board, preceding the meeting at which the vote is taken.

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

A-V

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Voting NAY:

These bylaws shall become effective _____

ATTEST:

Chairman

Secretary



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