



# Ordinance to Regulate High Impact Land Uses

Watauga County, NC

Adopted March 18, 2003  
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## ARTICLE I

### INTRODUCTION

Section 1 General Purpose. The following regulations of High Impact Land Uses are adopted for the purpose of promoting the health, safety and general welfare of the citizens of Watauga County, and to promote the peace and dignity of the county; the Watauga County Commissioners hereby establish certain criteria relating to high impact land uses. These uses by their very nature produce objectionable levels of noise, odors, vibrations, fumes, light, smoke, and other impacts upon the lands adjacent to them. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Watauga County.

Section 2 Legal Authority. This ordinance is adopted under the general ordinance authority granted to counties by the General Assembly of North Carolina. (General Statutes 153A-121 *et seq.*, and other pertinent statutes and amendments thereto).

Section 3 Territorial Coverage. Pursuant to N.C.G.S. § 153A-122, this ordinance shall apply to all areas of unincorporated Watauga County which are not within the extraterritorial planning jurisdictions of any municipalities. All municipalities, their respective corporate limits, and extra-territorial jurisdiction shall be exempted from the ordinance, unless they choose to adopt this ordinance or some form thereof.

## ARTICLE II

### REGULATED LAND USES

Section 1 Regulated Uses. This ordinance applies only to the following listed High Impact Land Uses:

- A. Asphalt Plants
- B. Electricity Generating Facilities
- C. Propane or Gasoline Bulk Storage Facilities
- D. Chip Mills
- E. Explosives Manufacturing
- F. Chemical Manufacturing
- G. Chemical Storage Facilities
- H. Fuel Oil Bulk Storage Facilities
- I. Electric Substations
- J. Cement Mixing Facilities
- K. Commercial/Industrial development with aggregate building footprint 50,000 square feet or greater

Section 2 Definitions. The following definitions shall be used for the purposes of interpreting this ordinance. For terms not defined below, the common usage of the term shall prevail.

**Agricultural Farm** – A bona fide farm whose primary purpose is the production of agricultural products including but not limited to crops, fruits, Christmas trees, vegetables, ornamental or flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

**Asphalt Plant** – The equipment necessary to produce petroleum bitumen, which when mixed with proper amounts of sand or gravel (or both) results in or may be used in producing material suitable for paving and/or roofing.

**Assisted Living Facility** – Any group housing and services program for two or more unrelated adults, however named, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more NC licensed home care or hospice agencies.

**Chemical** – An element, chemical compound, a mixture of elements or compounds or both.

**Chemical Manufacturing** – A facility involved in the production, synthesis, formation, processing, refining, manufacturing, and/or distribution of chemical products in bulk.

**Chemical Storage Facilities** – A facility used for the storage of chemical compounds in bulk.

**Child Care Facility** – Includes child care centers, family child care homes, and any other child care arrangement not excluded by NCGS 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

- a. A child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
- b. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.

**Chip Mill** – A mechanized facility that grinds whole logs into wood chips for paper, particle board and other products and is capable of producing at least 250,000 tons annually.

**Commercial** – Use for an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

**Educational Facility** – Includes elementary schools, secondary schools, community colleges, colleges, and universities. Also includes any property owned by those facilities used for educational purposes.

**Electricity Generating Facility** - A stand-alone plant not ancillary to another land use which generates electricity to be distributed to consumers, including but not limited to fossil fuel burning facilities, wind power farms, and solar power farms. This definition shall not include electricity produced on an agricultural farm or residence whose use is limited to on-site consumption which only sells electricity to a public utility incidental to the on-site use.

**Explosives Manufacturing** – Manufacturing of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. This term includes but is not limited to dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks, but does not include hand-loaded small arms ammunition.

**High Impact Land Use** – For the purposes of this ordinance, this term means any and all of the Regulated Uses listed in Article II, Section 1 of this ordinance.

**Industrial** – Use engaged in the manufacturing, and basic processing of materials or products predominantly from extracted or raw materials, or previously prepared materials, including processing, fabrication, assembly, treatment, packaging, storage, sales, and distribution of such products.

**Nursing Home** – A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the operator.

**Ordinance Administrator** – The Watauga County Department of Planning and Inspections.

**Propane** – A heavy flammable gaseous alkane C<sub>3</sub>H<sub>8</sub>, found in crude petroleum and natural gas, also known as LP Gas.

**Propane, Gasoline or Fuel Oil Bulk Storage Facilities** – A facility whose primary purpose is the storage, distribution, mixing or transfer of flammable or combustible liquids or gases received by or transferred by tank vessel, pipelines, tank car, piping, or portable tank or container. This definition shall not include filling stations used solely for distribution to individual consumers.

**Replacement Value** – The cost to restore a structure to its previously existing condition as computed by an appraisal which has been conducted by an appraiser holding a North Carolina State Certified General Real Estate Appraisal License and conducted in compliance with generally accepted practices within the appraisal community.

### Section 3. Regulations and Standards Imposed

A. Parking Space Requirements. Adequate parking facilities as set forth below shall be provided to handle automobiles for each site. When application of the following results in a fractional space requirement, the next larger number requirement shall prevail.

(1) Regulated retail uses shall provide parking spaces as follows:

(a) 33 spaces for the first 11,000 square feet of floor space; and

(b) One space per each 200 square feet of additional floor space in excess of the first 11,000 square feet.

(2) Regulated hotel, motel, and housing structure uses of this nature shall provide 1.5 spaces per bedroom.

(3) Regulated factory, commercial (other than specified in (1) and (2) above), and industrial buildings shall provide 1.5 spaces per three employees, computed on the total employment.

Parking spaces shall be at least nine (9) by eighteen (18) feet. Minimum aisle widths and parking design shall be as depicted in Illustration II-1.

B. Building Height Limits. In order to allow for adequate fire protection, no building shall exceed a vertical height of forty (40) feet, measured from the top of the foundation (entrance grade) to the highest point of the roof assembly; no more than one (1) occupancy story may be below this entrance grade.

Excluded from this limitation are the following:

(1) Water, radio, telephone or television towers or any equipment for the transmission of electricity or communications, or both; and

- (2) Structures which are slender in nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills, provided no part of the structure which is higher than 40 feet is intended for human habitation.

C. Outdoor Lighting Standards. In order to ensure lighting that is safe, secure and not glaring to either the facility's employees or customers, or neighbors, High Impact Land Uses shall use outdoor lighting that does not produce light that trespasses on adjacent property, roadways or pollutes the natural sky. These objectives are easily accomplished by choosing good quality, shielded fixtures. Therefore:

- (1) All parking lot lighting shall use full cutoff lighting fixtures;
- (2) Wall-packs and floodlights shall be either full cutoff design or have shields such that they do not put any light above the horizon and will be mounted to not shine on roadways and neighboring properties. Use of floodlights is discouraged;
- (3) Typical pole-mounted "dusk-to-dawn" security lights shall use reflecting "sky caps" instead of clear plastic refractors;
- (4) Building façade lighting shall not shine above the facades; and
- (5) For buildings required by the NC Building Code to have plans prepared by a design professional, the lighting levels shall be determined as defined by the Recommended Practices of the Illuminating Engineering Society of North America, or other recognized lighting publication. All other buildings comply with the requirement by virtue of compliance with (1) through (4) of this section.

D. Bufferyards and Setbacks Required.

- (1) For asphalt plants, electricity generating facilities, bulk propane or gasoline storage facilities, chip mills, explosives manufacturing, chemical manufacturing, and chemical storage facilities (except as set forth in #3 below), there shall be a 100 foot screening bufferyard adjoining side and rear property lines not adjoining a road.
- (2) For bulk fuel oil storage, electric substations, cement mixing facilities, and commercial/industrial developments with aggregate building footprint 50,000 square feet or greater (except as set forth in #3 below), there shall be a 75 foot screening bufferyard adjoining side and rear property lines not adjoining a road.
- (3) Where High Impact Land Uses adjoin each other, broken screen bufferyards on the adjoining side of the following widths are required.
  - (a) For asphalt plants, electricity generating facilities, bulk propane or gasoline storage facilities, chip mills, explosives manufacturing, chemical manufacturing facilities and chemical storage facilities – 45 feet;

- (b) For bulk fuel oil storage, electric substations and cement mixing facilities – 25 feet;
- (c) For commercial/industrial development with aggregate building footprint 50,000 square feet or more – 20 feet; and
- (4) The following High Impact Land Uses shall be set back 185 feet from the edge of pavement (or graveled surface, for unpaved roads) of all roads: asphalt plants, electricity generating facilities, bulk propane or gasoline storage facilities, chip mills, explosives manufacturing, chemical manufacturing facilities, and chemical storage facilities. In no instance shall such setbacks be less than 20 feet from any recorded right of way or NCDOT property boundary.
- (5) High Impact Land Uses shall be set back from all perennial waters indicated by blue lines on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps as follows:
  - (a) There shall be a 100 foot vegetative buffer from top of stream bank for all “blue line” streams with 30 feet being undisturbed and 70 feet managed vegetation for all High Impact Land Uses.
- (6) No part of a yard provided around any building or structure for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard required under this ordinance for any other building or structure.

E. Landscaping Plans Required.

Each High Impact Land Use shall be constructed in compliance with a landscaping plan which has been approved by the Ordinance Administrator, or the Board of Adjustment if appealed pursuant to Article V of this ordinance, which:

- (1) Minimizes the visual impact of the development at road grade level and from all sides with non-high impact uses in place; and
- (2) Maximizes the buffering of noise and particulate matter.

Each applicant shall submit a landscaping plan which must detail how it accomplishes these objectives. The Ordinance Administrator, or the Board of Adjustment if appealed pursuant to Article V of this ordinance, may reasonably require adjustments and alterations to any proposed landscaping plan as is necessary to comply with the provisions of this ordinance.

F. Screening Effect Required.

The following provides detail on screening required for specified High Impact Land Uses. The screening may be located within any required bufferyard or setback. For those High Impact Land Uses for which no setback from edge of pavement (or graveled surface

if applicable) is required, the screening shall be located between any road and any building or parking area.

- (1) For asphalt plants, electricity generating facilities, bulk propane or gasoline storage, chip mills, explosives manufacturing, chemical manufacturing facilities and chemical storage facilities, the landscape plan shall detail how the bufferyard creates an Opaque Screen consisting of the following:
  - (a) Deciduous trees placed a maximum of 20 feet apart; and
  - (b) Evergreen trees placed 10 feet apart (2 staggered rows) or 5 feet apart (single row); and
  - (c) Shrubs placed a maximum of 10 feet apart.
  - (d) Opaque wooden fences, masonry walls or landscaped earth berms a minimum of 6 feet tall may be used in lieu of or in combination with evergreen trees.
- (2) For bulk fuel oil storage, electric substations, cement mixing facilities, commercial or industrial development with aggregate building footprint 50,000 square feet or greater, the landscaping plan shall detail how the bufferyard creates a Broken Screen consisting of the following:
  - (a) Deciduous/evergreen trees placed a maximum of 25 feet apart; and
  - (b) Shrubs placed a maximum of 10 feet apart.
- (3) For both the Opaque Screen and the Broken Screen, the following shall apply.
  - (a) Trees shall be planted a distance equal to the width of the tree spread at maturity from the property line;
  - (b) Deciduous trees shall be a minimum of 6 feet tall with a 1 ½ -inch caliper measured six inches above grade, upon planting;
  - (c) Evergreen trees shall be a minimum of 6 feet tall, upon planting;
  - (d) Shrubs shall be a minimum of 1 foot tall, upon planting;
  - (e) Natural Features and existing vegetation may be used in lieu of the above required screening, provided that the minimum height and spacing requirements are met.
  - (f) Fences may be used to meet the standards, but are not required; and
  - (g) The bufferyard may be penetrated by entrance/exit driveway(s)

G. Spacing Requirements. The location of asphalt plants, electricity generating facilities, chip mills, explosives manufacturing facilities, chemical manufacturing facilities, and

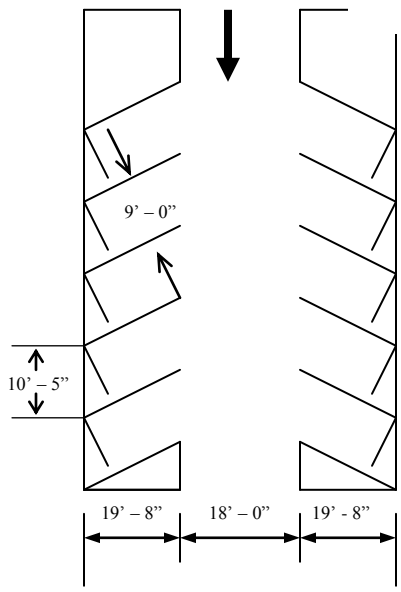


chemical storage facilities shall not be within 1,500 feet of a public or private educational facility, a NC licensed child care facility, a NC licensed assisted living facility, or a NC licensed nursing home. In order to establish permitted locations, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building, structure, or outdoor storage used as part of the premises of the above-listed High Impact Land Uses, to the nearest property line of the premises of the above-listed protected facilities. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the spacing requirements of this Section.

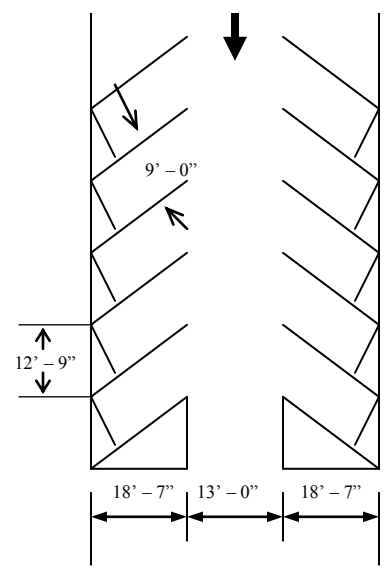
**Table of Development Standards**

| <i>High Impact Land Uses (HILU)</i>                   | <b>Parking Requirements</b> | <b>Building Height</b> | <b>Outdoor Lighting</b> | <b>Front Setback (from edge of pavement)</b> | <b>Side,Rear Buffers &amp; Setbacks</b> | <b>Buffer, Adjacent HILU #</b> | <b>Stream Setback (from top of bank)</b> | <b>Screen Type</b> |
|---|-----------------------------|------------------------|-------------------------|--|---|--------------------------------|--|--------------------|
| <i>Asphalt Plants</i>                                 | Yes                         | Yes                    | Yes                     | Yes-185'*                                    | Yes-100'                                | 45'                            | Yes-100'<br>70-30 split                  | Opaque             |
| <i>Electricity Generating Facilities</i>              | Yes                         | Yes                    | Yes                     | Yes-185'*                                    | Yes-100'                                | 45'                            | Yes-100'<br>70-30 split                  | Opaque             |
| <i>Propane/Gasoline Bulk Storage</i>                  | Yes                         | Yes                    | Yes                     | Yes-185'*                                    | Yes-100'                                | 45'                            | Yes-100'<br>70-30 split                  | Opaque             |
| <i>Chip Mills</i>                                     | Yes                         | Yes                    | Yes                     | Yes-185'*                                    | Yes-100'                                | 45'                            | Yes-100'<br>70-30 split                  | Opaque             |
| <i>Explosives Manufacturing</i>                       | Yes                         | Yes                    | Yes                     | Yes-185'*                                    | Yes-100'                                | 45'                            | Yes-100'<br>70-30 split                  | Opaque             |
| <i>Chemical Manufacturing and Storage</i>             | Yes                         | Yes                    | Yes                     | Yes-185'*                                    | Yes-100'                                | 45'                            | Yes-100'<br>70-30 split                  | Opaque             |
| <i>Fuel Oil Bulk Storage</i>                          | Yes                         | Yes                    | Yes                     | No   | Yes-75'                                 | 25'                            | Yes-100'<br>70-30 split                  | Broken             |
| <i>Electric Substations</i>                           | Yes                         | Yes                    | Yes                     | No   | Yes-75'                                 | 25'                            | Yes-100'<br>70-30 split                  | Broken             |
| <i>Cement Facilities</i>                              | Yes                         | Yes                    | Yes                     | No   | Yes-75'                                 | 25'                            | Yes-100'<br>70-30 split                  | Broken             |
| <i>Commercial/Industrial Buildings 50,000+ sq.ft.</i> | Yes                         | Yes                    | Yes                     | No   | Yes-75'                                 | 20'                            | Yes-100'<br>70-30 split                  | Broken             |
|   |                             |                        |                         | * Min. 20' from ROW                          |   | # Broken Screen for all        |  |                    |

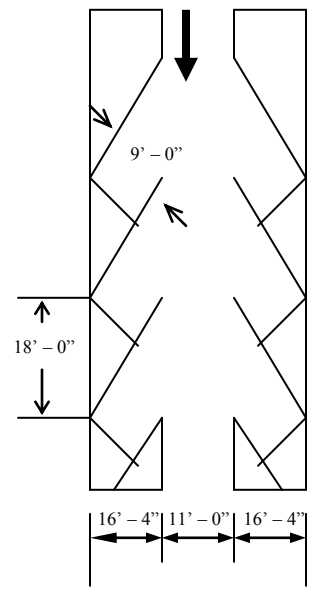
Parking Standards Illustration II-1



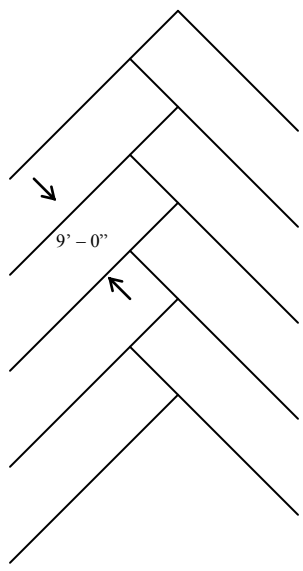
**60°**



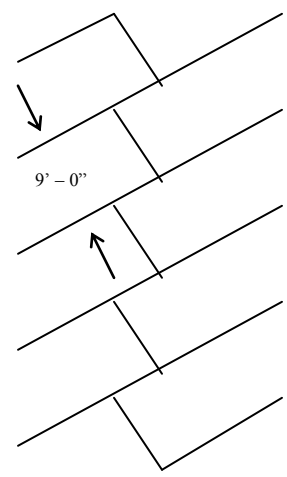
**45°**



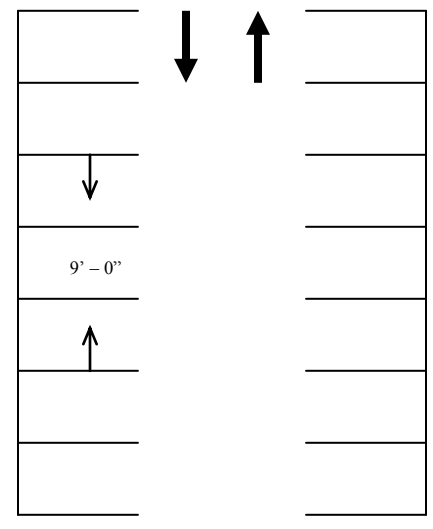
**30°**



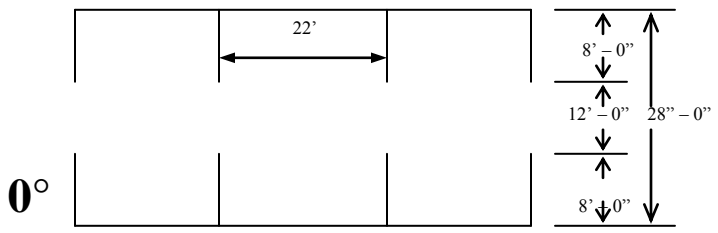
**38'-0"**  
HERRINGBONE



**35'-0"**  
SLASH



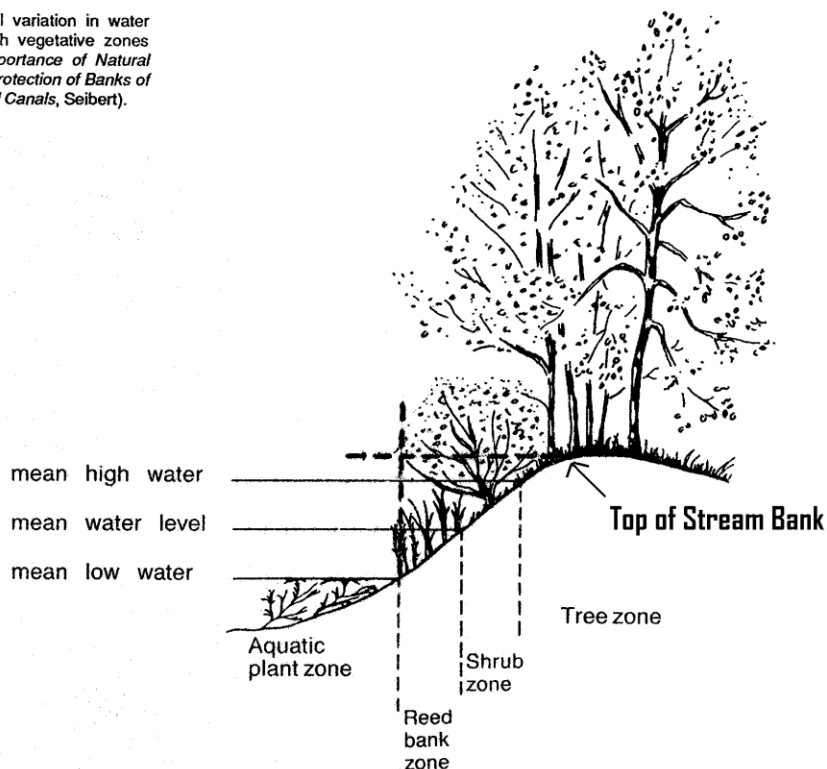
**90°**



**0°**

## Illustration II-2

Typical variation in water level correlated with vegetative zones (modified from: *Importance of Natural Vegetation for the Protection of Banks of Streams, Rivers and Canals*, Seibert).



## ARTICLE III

### PRE-EXISTING HIGH IMPACT LAND USES

Section 1. Grandfathering of Pre-existing High Impact Land Uses. Any High Impact Land Use existing upon the date of adoption of this ordinance which does not conform to the requirements of this ordinance may continue so long as the use is not discontinued for more than two years. In cases where repair or renovation is necessary to re-occupy a vacant building, such construction must commence within two (2) years of last occupancy and proceed continuously to completion.

- A. Expansion. Grandfathered nonconforming buildings may be expanded, provided the degree of nonconformity is not increased. In addition, the expansion shall comply with the standards of Article II, and the pre-existing development shall comply with the standards of Article II to the extent physically practicable as determined by the Ordinance Administrator or Board of Adjustment, as applicable.

- B. Reconstruction. In cases of damage to grandfathered nonconforming buildings to the extent of seventy-five percent (75%) or less of the replacement value, repairs may be made, provided the original building footprint is maintained. When such damage exceeds seventy-five percent (75%) of the replacement value, repairs may be made only if the original building footprint is maintained and the standards of Article II are met to the extent physically practicable as determined by the Ordinance Administrator or Board of Adjustment, as applicable.

Compliance with a requirement of this ordinance is not physically practicable if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting requirements does not constitute grounds for finding that compliance is not physically practicable.

Section 2. New High Impact Land Uses Regulated. After the effective date of this ordinance all new High Impact Land Uses as well as any pre-existing High Impact Land Uses which are moved, altered or enlarged shall conform to the regulations contained in this ordinance except as set forth in Article III, Section 1.

## ARTICLE IV

### PERMIT REQUIRED

#### Section 1. Permitting Process.

(a) Development Permits Required

No building or other structure subject to this ordinance shall be erected, moved, added to, or structurally altered without a Development Permit having been issued by the Ordinance Administrator. No building permit shall be issued except in conformity with the provisions of this ordinance.

(b) Applications for Development Permits

All applications for development permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of any buildings already existing; the location and dimensions of the proposed building or alteration; and compliance with the standards of Article II. The application shall include such other information as may reasonably be required by the Ordinance Administrator, including a description of all existing or proposed buildings or alterations; existing and proposed uses of the buildings and land; conditions existing on the land parcel; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance. One copy of the plans shall be returned to the applicant by the Ordinance Administrator, marked either as approved or disapproved and attested to by his signature on such copy. The second copy of the plans, also so marked, shall be retained by the Ordinance Administrator.

- (c) Administrator to Maintain Permit Records. The Ordinance Administrator shall maintain a record of all Development Permits and copies shall be furnished upon request to any interested person.
- (d) Remedies for Noncompliance. The failure to obtain any required Development Permit shall be a violation of this ordinance, punishable under Article VI of this ordinance. Further, Development Permits shall issue on the basis of applications approved by the Ordinance Administrator and authorize only the use, arrangement, and construction applied for and approved. Any use, arrangement or construction not in compliance with that authorized shall be a violation of this ordinance, and shall be subject to penalties and remedies provided by Article VI hereof.

Section 2. Appeal of Permit Denial. If a Development Permit is finally denied, the applicant may appeal the action of the Ordinance Administrator to the Board of Adjustment, as specified in Article V. Notice of appeal must be received in writing by the Clerk for the Board of Commissioners within thirty (30) days of the final decision of the Ordinance Administrator or notice to the applicant of the decision, whichever is later. Appeals received after this thirty (30) day period are not timely and shall not be considered.

## ARTICLE V

### APPEALS AND VARIANCES

Section 1. Board of Adjustment. The Watauga County Board of Adjustment shall hear all appeals, requests for variances, and all challenges to the decision or interpretation of the Ordinance Administrator.

Section 2. Board of Adjustment Powers. The Board shall have the following powers:

- (a) To hear and decide appeals from any final binding order, requirement, or determination made by the Ordinance Administrator charged with enforcement of the ordinance; and
- (b) To hear and decide applications for variances from the requirements of this Ordinance in accordance with Article V, Section 5. Nothing in this Section shall be construed to broaden the power of the Board to permit a use by variance beyond that power given in Article V, Section 5 below.

Section 3. Administration. The Board shall adopt rules of procedures and regulations for the conduct of its affairs.

All meetings of the Board shall be open to the public.

The Board shall keep a record of its meetings, including of the vote of each member on every question, a fair and accurate summary of the evidence submitted to it, the documents (or

accurate copies thereof) submitted to it and of all official actions. The Board shall give due notice of matters coming before it.

In presenting an appeal, the petitioner shall bear the burden of proof, which shall be by the greater weight of the evidence.

All evidence presented to the Board shall be sworn.

The person acting as Board Chair is authorized to administer oaths to any witnesses in any matter coming before the Board.

Application for variances and appeals for review of decisions of the Ordinance Administrator shall be filed with the County Clerk.

It shall be the responsibility of the Ordinance Administrator to notify the applicant or appellant of the disposition which the Board makes of any matter before it.

It shall be the responsibility of the Ordinance Administrator to issue a permit in accord with the Board's action on an appeal or application, if a permit is authorized by the Board action.

Section 4. Quorum and Vote Required. A concurring vote of a simple majority of the members shall be required to decide upon all matters to come before the board. For the purpose of this subsection, vacant positions on the board and members who are disqualified from voting shall not be considered members of the board for calculation of the requisite majority.

Section 5. Application of the Variance Power. When unnecessary hardships would result from strict application of the ordinance, upon application by an aggrieved party with standing, the Board of Adjustment may hold a hearing pursuant to NCGS §160A-388 (a2) and may grant variances to the provisions of the ordinance in accordance with the standards and procedures established in NCGS §160A-388(d), and as established by County policy.

The Board may impose reasonable conditions upon the granting of any variance in order to protect the public interest or neighboring property owners. Violation of any such conditions shall be a violation of this ordinance and subject to the penalties set forth in Article VI of this ordinance.

Section 6. Application of Interpretation Power. An appeal from an order, requirement, or decision of the Ordinance Administrator shall be decided by the Board duly supported by competent evidence. In exercising this power, the Board shall act in a prudent manner so that the purposes and intent of the Ordinance shall be served. No decision shall have the effect of varying the terms of the Ordinance or permitting as a matter of right any use otherwise limited or prohibited hereunder.

Section 7. Appeal Stays Further Proceedings. An appeal to the Board of Adjustment from a decision or determination of the Ordinance Administrator stays all proceedings in furtherance of the decision or determination appealed from, except as provided in Section 8, during the pendency of the appeal.

Section 8. Exceptions to Stay of Action. An appeal to the Board of Adjustment of a decision or determination of the Ordinance Administrator shall not stay proceedings in furtherance of the decision or determination appealed from, if the Ordinance Administrator certifies either:

- (a) That a stay would cause imminent peril to life or property; or
- (b) That the situation subject to the appeal is transitory in nature and therefore, an appeal would seriously interfere with enforcement of this Ordinance.

In each instance, the Ordinance Administrator shall set forth in the certificate facts to support its conclusion.

Section 9. Appeals of Board Actions. Every decision of the Board shall be subject to review at the instance of any aggrieved party in the Superior Court by proceedings in the nature of a petition for writ of certiorari. Such proceedings in the Superior Court shall be initiated within thirty (30) days of the filing of the decision in the office of the Ordinance Administrator or the delivery of the notice required in Article VI, Section 3, whichever is later. Appeals not received within this thirty (30) day period are not timely. The Superior Court is authorized to stay enforcement of this ordinance during the pendency of an appeal from the decision of the Board of Adjustment upon a hearing and the posting of a bond sufficient to the Court which will adequately protect the interests of the County.

## ARTICLE VI

### ENFORCEMENT AND PENALTIES

Section 1. Administration and Enforcement. The Ordinance Administrator shall be responsible for the administration and enforcement of this ordinance.

If the Ordinance Administrator shall determine that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to within ten (10) working days correct the violation. He may order the discontinuance of illegal use of land, buildings, or structures; the removal of illegal buildings or structures or of addition, alterations, or structural changes thereto; the discontinuance of any illegal work being done; and may take any other action authorized by this ordinance to insure compliance with, or to prevent violation of, its provisions.

Section 2. Conflict with Other Laws. Wherever the provisions or application of this ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than



are required by the provisions or application this ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

Section 3. Penalties. Any person, firm or corporation who violates any provision of any article of this ordinance; or who shall violate or fail to comply with any order made hereunder; or who shall continue to work upon any structure after having received written notice from the Ordinance Administrator to cease work, shall, upon conviction, be guilty of a Class 3 misdemeanor as provided by N.C.G.S. § 14-4 and shall be punishable by a fine not to exceed fifty (\$50.00) dollars, or imprisonment not to exceed twenty days. Each day such violation shall be permitted to exist shall constitute a separate offense. Notice of violation shall be sufficient if directed to the owner, the agent of the owner, or the contractor and left at his known place of residence or place of business. In lieu of or in addition to the criminal penalties outlined above, each person violating this ordinance shall be subject to a civil penalty, under N.C.G.S. 153A-123(c), in the amount of \$200.00 per day. No penalty shall be assessed prior to notice to the violator. For every day a violator is in violation of this ordinance, it shall be considered a separate offense. If the violator does not pay such penalty within 30 days of notification of its assessment by written citation it and any subsequently accruing penalty may be recovered by the County in a civil action in the nature of a debt. Any contest of said penalty shall be by appropriate action taken in the General Court of Justice for Watauga County.

Section 4. Severability Clause. Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part hereof other than the part so declared to be unconstitutional or invalid.

Section 5. Ordinance Amendments. This ordinance may be amended by the Board of Commissioners following a public hearing on the proposed changes. The Board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Should any Federal or State regulation or statute incorporated herein by reference or otherwise referred to herein, be changed or amended, or should either require or mandate a different procedure or change or impose new, different or additional requirements, then, in that event, this ordinance shall be deemed to have been amended without further action to have complied with such new, additional or amended requirements.