Land Use Ordinance
Madison County, North Carolina



Originally Adopted 2010
Last Amended May 25, 2025

Madison County Land Use Ordinance

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Chapter 1 Authority and Enactment Clause

In pursuance of authority conferred by Article 7 of Chapter 160D of the General Statutes of North Carolina, and for the purpose of promoting the public health, safety, morals and general welfare; promoting the orderly development of the county; lessening congestion in the roads and streets; securing safety from fire, panic, and other dangers; providing adequate light and air; preventing the overcrowding of land, avoiding undue concentration of population; and facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, all in accordance with a well considered comprehensive plan.

NOW, THEREFORE, the Board of Commissioners of Madison County, North Carolina, does hereby ordain and enact into law these articles and sections.

Short Title

This ordinance shall be known as "The Land Use Ordinance of Madison County, North Carolina," and the map referred to, which is identified by the title, "Official Zoning Map, Madison County, North Carolina," shall be known as the "Zoning Map."

Jurisdiction

This ordinance shall apply to all lands within areas designated as "official zone areas" by the Board of Commissioners of Madison County. This ordinance may also regulate territory within the zoning regulations jurisdiction of any municipality whose governing body by resolution agrees to such regulations; provided, however, that any such municipal governing body may, upon one year's written notice, withdraw from the jurisdiction of the county zoning regulations. Those regulations shall have no further effect within the municipality's jurisdiction.

1.1 **Bona Fide Farms Exempt**

The provisions of this ordinance shall not apply to bona fide farms as defined in Chapter 2 of this ordinance. This ordinance does not exercise any controls over croplands, timberlands, pasture lands, apple orchards, idle or other farmlands, nor over any farmhouse, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this ordinance without the need for regulation. Residences for other than farm use or occupancy and other than farm uses shall be subject to the provisions of this ordinance.

For the purpose of determining whether a property is being used as a bona fide farm, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

a. A farm sales tax exemption certificate issued by the NC Department of Revenue.

b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to N.C.G.S. 105-277.3.

c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

d. A forest management plan.

Chapter 2 Definitions

For the purpose of interpreting this ordinance, certain words or terms are herein defined. The following words shall, for the purpose of this ordinance, have the meaning herein indicated.

2.1 Interpretation of Commonly Used Terms and Words

1. Words used in the present tense include the future tense.
2. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
3. The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.
4. The words "used for" shall include the meaning "designed for."
5. The word "structure" shall include the word "building."
6. The word "lot" shall include the words "plot," "parcel," or "tract."
7. The word "shall" is always mandatory and not merely directory.
8. Except as defined herein, all other words used in this Ordinance shall have their dictionary definition or, for more planning-specific terms, the definition found in the most recent edition of "A Planners Dictionary," as published by the American Planning Association. If there is a conflict between the dictionary definition of a term and the definition provided in A Planers Dictionary, the definition provided in A Planners Dictionary shall be used. *[Amended 4/2022]*

2.2 Definitions of Specific Terms and Words

Accessory Dwelling –A residential single-family dwelling unit that is detached from the principal structure but located on the same lot as a single-family dwelling unit.

Accessory Structure- A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith.

Accessory Use- A use incidental to and customarily associated with a specific principal use located on the same lot or parcel.

Adult Establishment- Any structure or use of land which is an adult establishment as defined in NCGS Section 14-202.10 (or any successor thereto).

Aerial - antenna, usually high in the air

Agricultural Use- Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced along with riding stables, trail rides, and hay rides.

Agricultural Packaging Facility- Facility in which the primary purpose is the packaging of agricultural products for the purpose of resale and human consumption.

Agronomic Rate of Sludge Application- A mass of sludge per unit area per year that contains less of the plant nutrients nitrogen, phosphorus, and potassium than plants being grown on the land can use in a single growing season. Any sludge application which reduces the productivity of the soil where it is applied because of high concentrations of metals, salts, or organics shall be defined as exceeding the agronomic rate. Any sludge application which results in plant tissue concentrations of any substance that is harmful to people or animals shall also be defined as exceeding the agronomic rate.

Airport- Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley- A public way that affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Animal hospital- An establishment for the care and treatment of animals, including household pets and farm animals.

Animal Kennel- Any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the law.

Animal Rendering Plant- A factory or plant that renders and processes livestock carcasses into tallow, hides, fertilizer, etc.

Apartment- A part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single family and not to exceed 8 per acre.

Armory- A storehouse for arms; an arsenal. Including arms factories and sales of arms.

Artificial Obstruction- This means any obstruction which is not a natural obstruction, including any that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the storm.

Asphalt Plant - An industrial facility used for the production of asphalt.

Auction- Any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is, in fact, the owner thereof. Not to include livestock and vehicles.

Auction Yard- A place where vehicles, operable or inoperable, or livestock that is offered for sale to persons who bid in competition with each other.

Automobile sales- Premises on which new or used passenger automobiles, trailers, or trucks in operating condition are displayed in the open for sale or trade.

Automobile service- Premises on which automobiles are serviced or repaired. Not to include storage of wrecked vehicles.

Backyard Workshops- Area for building tradesmen, welding shops, small appliance repair shops, small engine repair shops, and auto and farm-equipment repair shops are permitted as an accessory use to the owner's residence. No more than nine hundred (900) square feet can be devoted to said activity. However, the square feet limitation shall not apply if the accessory building is being used solely for the personal, non-commercial use of the owner. No outside storage is permitted.

Bakery (Retail) - A place for preparing, cooking, baking, and selling products on the premises.

Bakery (wholesale) - A place for preparing, cooking, and baking products intended for off-premise distribution.

Banks and Financial Institutions- A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

Bar- A commercial establishment open to the general public which sells and serves alcoholic beverages for consumption on the premises.

Barber- A fixed establishment or place where one or more persons engage in the practice of barbering.

Beauty Shop- Any establishment where cosmetology services are provided, including hair care, nail care, and skin care, on a regular basis for compensation.

Bed and Breakfast Inn- A business of not more than 12 guest rooms that offer bed and breakfast accommodations to at least nine (9) but not more than 23 persons per night for a period of less than one (1) week, and that: does not serve food or drink to the general public for pay; serves only the breakfast meal to overnight guests of the business; includes the price of breakfast in the room rate; and is the permanent residence of the owner/manager of the business (NCGS §130A-247(6)).

Belfry - a bell tower, especially one surmounting or attached to another structure.

Big Box Store- A singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area typically requires high parking-to-building area ratios and has a regional sales market. Regional retail/wholesale sales can include but are not limited to membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

Billiard and Pool Halls- Establishments that provide billiard tables for customers' use.

Biomass Facility- A facility that converts biomass sources into energy or wood pellets for public or private use. Biomass includes, but is not limited to, wood and wood processing waste, wood pellets, agricultural crops, and waste materials, biogenic materials in municipal solid waste, animal manure, and human sewage.

Large Biomass Facility:
1. Annual Biomass Throughput: A large biomass facility processes over 5,000 metric tons of biomass per year; or
2. Energy Production: A large biomass facilities generate over 10,000 MWh or more energy annually; or
3. Number of Employees: A large biomass facility has over 50 employees; or
4. Capital Investment Threshold: A large biomass facility requires an investment of over $5 million.

Small Biomass Facility:
1. Annual Biomass Throughput: A small biomass facility processes under 5,000 metric tons of biomass per year; or
2. Energy Production: A small biomass facility generates less than 10,000 MWh of energy annually; or
3. Number of Employees: a small biomass facility has under 50 employees; or
4. Capital Investment Threshold: A small biomass facility requires an investment of less than $5 million

Annual Biomass Throughput refers to the total quantity or volume of biomass materials processed or used by a facility within one year. It represents the biomass brought into the facility for conversion, processing, or utilization.

Biomass throughput includes various organic materials such as wood, agricultural crops, waste materials, and other biogenic substances. This measure is essential for assessing the capacity and productivity of biomass facilities, whether they are focused on energy generation, biofuel production, or the manufacturing of value-added products from biomass sources.

Typically, annual biomass throughput is measured in units like metric tons or cubic meters per year, depending on the type of biomass and the facility's specific objectives. It provides valuable data for evaluating biomass processing operations' efficiency, environmental impact, and economic performance *[Amended April 2024]*

Boat sales/Service- A marine retail sales and service use in which boats are serviced, repaired, or sold.

Bona fide farm - Any tract of land which is used for bona fide farm purposes. Bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined herein. For purposes of this Ordinance, the terms "agriculture," "agricultural," and "farming" refer to all of the following:

(1) The cultivation of the soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers, and ornamental plants.

(2) The planting and production of trees and timber.

(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals, for individual and public use, consumption, and marketing.

(4) Aquaculture as defined in N.C.G.S. 106-758.

(5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

(6) When performed on the farm, "agriculture," "agricultural," and "farming" also include the marketing and selling of agricultural products, Agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.

(7) A public or private grain warehouse or warehouse operation where grain is held ten days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

Book Store- A retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any "adult establishment," theater," or "studio theater."

Brick, Tile, and Pottery Yards- Area where brick, tile, or pottery can be produced, stored, and/or sold.

Buffer Strip- A buffer strip shall consist of a planted strip at least twenty (20) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than twenty (20) feet apart and not less than one row of dense shrubs, spaced not more than five (5) feet apart.

Building- Any structure used or intended for supporting or sheltering any use or occupancy.

Building Material Sales and Storage- Area where materials that are used for the building of all types of buildings and structures are stored or sold. May be but not limited to residential dwellings, outbuildings, barns, and fences.

Building Setback Line- A line establishing the minimum allowable distance between the nearest portion of any building (excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters, and similar fixtures) and the street or highway right-of-way line when measured perpendicularly thereto.

Bus Station- Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

Campgrounds (family) - Area used or designated for camping by family members only.

Campgrounds (group) - Area used or designated for recreation and camping by groups or individuals having ten or more persons.

Cemetery -Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, and maintenance facilities used for the upkeep of the cemetery.

Cemetery (Family)- Cemetery used exclusively for the burial of family members only at no charge and is no larger than 1 acre.

Cemetery (Public)- Cemetery where plots are sold for burial.

Cement Plant- A plant for the manufacture or mixing of concrete, cement, and concrete and cement products, including any apparatus and uses incident to such manufacturing and mixing. Not to include a concrete batch plant and considered to be "Heavy Manufacturing" as described in this ordinance.

Certificate of Completion- A document issued by the Zoning Department to a manufactured home park developer upon completion of the park, or phase thereof that certifies that the park conforms to the standards that apply.

Chimney - a structure containing one or more flues for drawing off emissions from stationary sources of combustion. See STACK

Church and Religious Institutions- A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a legally established religious body organized to

sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes accessory buildings used for worship and religious activities.

Church spire - a steeple, a tapering roof, or analogous pyramidal construction surmounting a tower.

Clinic- A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

Club- An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes that are conducted for profit; includes lodge.

Club (Nonprofit) - An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes that are not conducted for profit; includes lodge. The burden of proof of non-profit will be on the owner and must be provided to the zoning office.

College/University- An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

Communication Facility- A communication facility is a structure, tower, and any other transmission or receiving device operation for the purpose of broadcasting or receiving verbal, visual, or any other communication signals.

Community Center- A meeting place where people living in the same community may carry on cultural, recreational, or social activities.

Community Sewer System- Any sewage system serving ten (10) or more connections.

Community or Public Water System- A system for the provision to the public of piped water for human consumption if the system serves fifteen (15) or more service connections or regularly serves twenty-five (25) or more individuals.

Contractors Offices/Storage Yards- Any land or buildings used primarily for offices and/or storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

Conveyor - a mechanical apparatus for moving articles or bulk material from place to place, as by an endless moving belt or a chain of receptacles

Concrete Batch Plant- An industrial facility used for the production of concrete or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process of finished products manufactured and/or sold on the premises and the storage and maintenance of required equipment.

Condominium- Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Convenience Store/Gas Station- Any retail establishment offering for sale a limited line of groceries, gasoline, and household items intended for the convenience of the neighborhood. All gasoline pumps and other stationary equipment shall be located at least twelve (12) feet behind the property line, provided

further that on all sides where such stations abut residential districts, a six (6) foot high fence and suitable landscaping shall be provided. No such fence, however, is required upon any yard which abuts a public street.

Craft/Curio Retail Store- Any business establishment that produces, on or off premises, articles for sale of artistic quality or effect or handmade workmanship. Examples include but are not limited to candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other associated activities.

Cul-de-sac- Local road with one (1) end open for vehicular access and the other end terminating in a vehicular turnaround. The length of the cul-de-sac shall be measured along the center line of the road from which it runs to the center of the cul-de-sac turnaround.

Cupola - a small roof tower, usually rising from the roof ridge.

Data Processing Facility – A Data Processing Facility is a site designed and used primarily for hosting computer systems and associated components, such as telecommunications and storage systems. It includes data centers dedicated to processing, storing and distributing data. Facilities may vary in size from small server rooms to large data farms.

Size Classifications:

Small: Facilities with up to 10,000 square feet of server space.
Large: Facilities exceeding 10,001 square feet of server space.

Day Care Facilities- Any facility operated for the purpose of providing care, protection, and guidance to 4 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, daycare centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Department Store- A business that is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished. Under 75000 square feet.

Developer- That person who is improving a parcel of land within the county and who may or may not be the owner of the property.

Dome - a hemispherical architectural element surmounted or attached to another structure.

Dry Cleaning/Laundry Services- An establishment that launders or dry cleans articles dropped off on the premises directly by the customer or by delivery service.

Duplex (Two-Family Dwelling) - A structure containing two dwelling units, each of which has direct access to the outside.

Easement- A grant by the property owner for the use by the public, a corporation, or person(s) of a strip of land for specified reasons.

Electrical Repair Shop- Building designated for the use of repairing electrical devices such as but not limited to TV, Appliances, Ect.

Environmental Assessment- A detailed examination of the applicant's proposal and its local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

Existing Manufactured Home Park- A manufactured home park shall be considered existing if, on the effective date of this Ordinance, there are spaces containing an occupied manufactured home or are defined on the ground by the presence of water and sewer service connections and electric service equipment.

Facility- A structure or place which is built, installed, or established to serve a particular purpose *[Amended April 2023]*

Family Care Home- A care facility for rest and convalescents, not used primarily for the treatment of contagious diseases, alcoholics, drug addicts, and psychotics.

Farmers Market/Produce Stand (Commercial) - The offering for sale (by the land owner and/or other people) of fresh agricultural products directly to the consumer.

Farmers Market/Produce Stand (On-Site) - The offering for sale of fresh agricultural products directly to the consumer on the property in which the products were grown.

Farm Machinery Sales/Service- Establishments selling, renting or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Feed and Seed Store- An establishment engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production.

Fence - an artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Flagpole - a pole on which to raise a flag

Flea Market- An outdoor commercial activity, not including shopping centers, individual retail operations, or sales conducted by a nonprofit or charitable organization, that is open to the general public and composed of two or more semi-enclosed or outdoor stalls, rooms, stands, spaces, or open space used for the purpose of display and sale, exchange, or barter of merchandise.

Flood Plain- See Madison County Flood Damage Prevention Ordinance.

Florist- Retail business whose principal activity is the selling of plants that are not grown on the site and conducting business within an enclosed building. Excluding commercial greenhouses.

Golf Course- A lot or portion of a lot used for the playing of golf and shall include pitch- and putt courses but shall not include driving ranges, miniature golf courses, or other similar commercial enterprises.

Golf Driving Range- A limited area on which golf players drive golf balls from a central driving tee; such area includes the driving tee and other incidental activities pertaining to this activity.

Golf Miniature- A novelty version of golf played with a putter and a golf ball on a miniature course,

typically with artificial playing surfaces and including obstacles such as bridges and tunnels.

Greenhouse – A building used for the growing of plants, all or part of which are sold at retail or wholesale. Not to include a florist.

Grocery Store- Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products and which are substantially larger and carry a broader range of merchandise than convenience stores.

Gross Floor Area- The total floor area of all buildings in a project, including basements, mezzanines, and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.

Group Development- A group of two or more principal structures built on a single lot, tract, or parcel of land not subdivided into the customary blocks and lots and which will not be subdivided and designed for occupancy by separate families, businesses, or other enterprises. Such developments shall be fully subject to applicable provisions of county subdivision regulations. Examples would be row houses, apartment courts, housing projects, school and hospital campuses, shopping centers, and industrial parks.

Hazardous Waste Disposal Facility- All structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste, including all operations or storage areas, overflow dykes, or emergency spillway areas. A hazardous waste disposal facility may consist of several treatment, storage, or disposal operational units; it includes all areas where hazardous waste may be received, stored, handled, or processed.

Health Club/Spa- A place or building where active exercise and related activities are performed utilizing weight control or muscle-building equipment or apparatus for the purpose of physical fitness. Also, a place or building that provides massage, exercise, and related activities with or without such equipment or apparatus.

Home Occupation- Customary home occupations, including dressmaking, cooking and baking, hairdressing, music instruction, the renting of not more than one room, and the practice of such professions as insurance and accounting shall be permitted as accessory uses in a residence. The Board of Adjustment shall decide whether other home occupations not listed here are within the spirit of this category of accessory uses.

Hospital- An establishment providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care for the sick or injured. To include sanitariums.

Hotel- Any building containing six or more guest rooms that are used, rented, or hired for sleeping purposes by transient guests and with access to units primarily from interior lobbies, courts, or halls.

Industrial Sales and Service- Area or building used for the sale and service of supplies and equipment. To include but not limited to metal, machine, and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication and repair. All open storage must be fenced by a solid fence not less than six (6) feet in height.

Industrial Trade School- A school or establishment designed to train in the field of industrial trades, including but not limited to metal, machine, and welding; cabinetry and woodworking; furniture upholstery; and similar business engagements in custom fabrication and repair.

Junk Yard- Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, or disposal of junk. Including the storage of wrecked, abandoned, or vehicles that do not run.

Laboratory- A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products.

Landfill- A lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic waste material of any kind.

Library- A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Lodge- A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues-paying members and their guests. There are no sleeping facilities.

Lodge (Resort) - A building or area with facilities to accommodate the needs and desires primarily of visitors, tourists, and transient guests.

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

Lot (Corner)- A lot which occupied the interior angle at the intersection of two street lines which make an angle of more than forty-five (45) degrees and less than one hundred and thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front lot except where the two street lines are equal, in which case the owner shall be required to specify which side is the front when requesting a zoning compliance permit.

Lot Depth- The depth of a lot is the mean distance of the side lines of the lot measured from the midpoint of the front line to the midpoint of the rear lot line.

Lot of Record- A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Madison County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width- The distance between side lot lines measured at the building setback line.

Machine and Welding Shop- Shops where lathes, presses, grinders, shapers, and other metal-working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

Mall- A shopping center where stores front on both sides of a pedestrian way that may be enclosed or open. To include outlets.

Manufacturing (Heavy)- The manufacture or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.

Manufacturing (Light)- The processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission, which will disturb or endanger neighboring properties.

Manufacturing (Medium)- The processing and manufacturing of materials or products predominately from extracted or raw materials. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for manufacturing.

Manufactured (Mobile) Home- A single-family dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal, and utility conveniences as immobile housing. It is designed to be transported on its own chassis and wheels.

Manufactured (Mobile) Home Park- A parcel or contiguous parcels of land owned and/or managed as part of the same business operation that is designed to accommodate three (3) or more manufactured homes unless each manufactured home is separated by more than 500 feet.
Manufactured Home Park Construction Permit- A permit issued by the Zoning Officer to a manufactured home park developer upon application and site development plan approval.

Manufactured Home Park Plan- A proposed manufactured home park plan prepared by the developer in accordance with guidelines set forth in this Ordinance.

Manufactured Home Space- A parcel of land within a manufactured home park designed for the exclusive use of one (1) manufactured home and
associated accessory buildings.

Mast - a slender vertical or nearly vertical structure that is part of a communication tower and is used to hold an antenna off the ground. Masts are usually metal but occasionally are made of wood or other materials.

Meat Processing Facility- An establishment that processes and or packages meat for human consumption. Such establishments must meet all State, County, and Environmental Health regulations. Not to include the slaughter of animals on premises.

Mining- Surface and subsurface mining operations for aggregates (sand and gravel), or other mineral extraction operations.

Modular Structure- A structure not built on-site but which is placed on a permanent foundation and meets the state building code standards.

Monument - a type of structure erected to commemorate a person or important event or one which has become important as a part of the remembrance of historic times or cultural heritage.
Motel- A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door.

Multifamily Dwelling- A dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances but connected in some way.

Natural Obstruction- Includes any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

Night Club- A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing, musical entertainment, and Comedians are permitted.

Non-commercial communication facility - Shortwave, CB, and television antenna towers with a maximum height of seventy-five (75) feet requiring no permit

Nonconformity- A lot, structure, or land use that is inconsistent with current zoning requirements but which was entirely lawful when it was originally established

Nonconforming Structure- A structure lawfully constructed prior to the effective date of this ordinance, which does not conform to the height, bulk, yard or lot requirements, and other requirements except use, for the district in which it is located.

Nonconforming Use- A lawful use of land, building, or structure existing on the effective date of this ordinance which does not conform to the use regulations of the district in which it is located.

Nursery- An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Open Storage- Unroofed storage area, whether fenced or not.

Packaging Facility- A facility whose primary purpose is the packaging of merchandise for resale.

Park (Private)-A tract of land presently owned or controlled and used by private or semi-public persons, entities, groups, etc., for active and/or passive recreational purposes.

Park (Public)- A land use designed principally to offer recreation, passive or active, to the public.

Parking Space- A storage space for one car not less than ten (10) feet by twenty (20) feet for one automobile, plus the necessary access space. It shall always be located outside the dedicated street or highway right-of-way.

Petroleum (Wholesale)- A facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers, regardless of ownership.

Phase- A portion of a manufactured home park development delineated on a site plan.

Planned Unit Development - A single tract, or multiple parcels of land, under single ownership or management that is planned and developed as an integrated unit characterized by groups of detached, semi-detached, or attached structures and a mixture of compatible land uses.

Principle Dwelling- A dwelling in which the property owner lives year-round or more than seven months out of the year.

Printing Shop- An establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.

Professional Offices- Offices where work is done for others, predominately on the premises of the office, by someone trained and engaged in such work for a career, including but not limited to doctors, lawyers,

and accountants.

Public Safety Facilities- A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

Public Utilities - Any improvement facility or service, together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

Public Water Supply System- Any water supply system serving two or more connections, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions in part or totally.

Quarrying-The process of removing or extracting stone, rock, or similar materials from an open excavation for financial gain

Race Track- A course where admission is taken, entry fees, or memberships are taken for the entry to or for the use of the course for the purpose of racing, practicing, or entertainment. To include asphalt, gravel, or dirt surfaces, as well as animals and machinery.

Recreation Facility (Outdoor) - Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity outdoors and where tickets are sold or fees are collected for the activity. Does not include areas used for racing or the use of machinery as part of the activities.

Recreation Facility- Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Includes, but not limited to, skating rinks, water slides, arcades, bowling alleys, and billiard halls, but not movie theaters.

Recycling Center- A building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

Repair Shop- Establishments primarily engaged in the provision of repair services to individuals and households rather than businesses, excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

Residential Vacation Rental- The lease, sublease, or other rental of a residential property for the purpose of vacation, leisure, or recreation purposes on a temporary basis of 30 days or less.

Restaurant- A structure in which the principal use is the preparation and sale of food and beverages.

Riding Stable- Commercial horse, donkey, and mule facilities, including horse ranches, boarding stables, and riding schools. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

Road- A dedicated public or private right-of-way for routine vehicular traffic.

Sawmill- A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same

lot by the owner or resident of that lot.

School- An institution for the teaching of children or adults, including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

Shadow Flicker- The visible flicker effect when rotating turbine blades casts shadows on the ground and nearby structures, causing a repeating pattern of light and shadow.

Shooting Range (Indoor)-The use of a structure for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

Shooting Range (Outdoor) - The use of land for archery and/or the discharging of firearms for the purposes of target practice, skeet, and trap shooting, mock war games, or temporary competitions, such as turkey shoots. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

Sign- Any form of publicity visible from any public highway directing attention to an individual activity, business, service, commodity, or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, trademarks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports.

Sign (Area) - The sign area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the entire advertising copy area, including architectural trim and structural members. In the computing area, only one side of a double-faced sign shall be considered.

Sign (Directly Illuminated) - A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

Sign (Exempt) - Any sign which is specifically listed as exempt from this ordinance. Said listed exempt signs are not regulated by the terms of this ordinance and shall not require a permit.

Sign (Height) - The height of a sign shall not exceed the maximum height set forth in this ordinance. The height of a sign shall be measured from the existing adjacent street grade to the uppermost point of the sign or sign structure, whichever is higher.

Sign (Indirectly Illuminated)- A sign designed to have illumination from a detached light source, shielded so that no direct rays from that light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is inoperative, such sign shall be deemed to be a directly illuminated sign.

Sign (Maintenance) - For the purpose of this ordinance, maintenance shall include those activities and procedures listed in Section 71 of this ordinance. Work done to restore or repair a sign which is damaged or destroyed shall be considered repairs in accordance with the provisions in Section 71.

Sign (Noncommercial)- Any sign which is not by definition an off-premise advertising sign, or off-premise directional sign, an on-premise advertising sign, or an on-premise directional or information sign, and which sign displays a substantive message, statement, or expression that the First Amendment to the

U.S. Constitution protects. Noncommercial signs shall not contain any reference to a business or product.

Sign (Nonconforming)- Signs that are erected and in place prior to the adoption of this ordinance and which do not conform to the provisions of this ordinance and which do not conform to the provisions of this ordinance are declared nonconforming signs. A sign that is erected and that is in place and which conforms to the provisions of the sign ordinance at the time it is erected but which does not conform to an amendment of this ordinance enacted subsequent to the erection of said sign is declared a nonconforming sign.

Sign (Non-illuminated) - A sign which has neither direct nor indirect illumination.

Sign (Off-Premise Advertising)- Any sign advertising a product, service, business, or activity sold, located, or conducted elsewhere than on the premises on which the sign is located or which said product, service, business, or activity is sold, located or conducted on such premises only incidentally, if at all.

Sign (Off-Premise Directional) - Any off-premise sign indicating the location of or directions to a business, office, or other activity. The sign shall not include any information or message except the name of the business or activity or symbols or logos of the business. It must have directions or symbols indicating directions and/or distances. If a sign exceeds the maximum area, it shall be constructed as an off-premise advertising sign. (Off-Premise Yard sale directional signs and Off-Premises real estate directional signs are herein included as examples, but such yard sale signs and real estate signs are exempted from the terms and conditions of this Ordinance.)

Sign (On-Premise Advertising)- Any sign advertising or identifying a product, service, business, or activity sold, located, or conducted on the premises where the sign is located.

Sign (On-Premise Directional) - On-premise signs which provide directions or information for persons on the premises, including, but not limited to, entrance and exit signs, parking information, and handicapped access.

Sign (Prohibited) - Any sign or element of a sign which is specifically listed as prohibited shall not be permitted within the jurisdiction of this ordinance.

Sign (Snipe)- A temporary sign which is not permitted or authorized under any provision of this ordinance, and which is tacked, nailed, posted, pasted, glazed, or otherwise affixed to a tree, pole, stake, fence, traffic control device, or any other object, or the ground.

Site Number- A permanent number identifying a manufactured home site.

Single Family Dwelling- A building designed exclusively for and occupied exclusively by one family.

Slaughter House- An establishment that slaughters animals on premises for the purpose of packaging for human consumption. Such establishments must meet all State, County, and Environmental Health regulations.

Sludge- Any solid, liquid, or semi-solid residual resulting from the treatment of municipal, industrial, or domestic wastewater. Sludge does not include sewage removed from individual subsurface disposal systems.

Solar Energy Facility, Accessory - A solar energy collection system consisting of one or more roof

and/or ground-mounted solar collector devices and solar-related equipment, which has a rated capacity of less than or equal to ten (10) kilowatts (for electricity) or rated storage volume of the system of less than or equal to two hundred forty (240) gallons or that has a collector area of less than or equal to one thousand (1,000) square feet (for thermal) and is intended to primarily reduce on-site consumption of utility power. A system is considered a small solar energy system only if it supplies electrical or thermal power solely for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

Solar Energy Facility, Large - An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy intended primarily for use off-site. Large solar energy production facilities consist of one or more free-standing ground, or roof-mounted solar collector devices, solar-related equipment, and other accessory structures and buildings, including light reflectors, concentrators, heat exchangers, substations, electrical infrastructure, transmission lines, and other appurtenant structures and facilities, which has a rated capacity of more than ten (10) kilowatts (for electricity) or rated storage volume of the system of more than two hundred forty (240) gallons or that has a collector area of more than one thousand (1,000) square feet (for thermal).

Solid Waste Collection Center- A solid waste facility at which solid waste is collected and is temporarily deposited to await transportation to another solid waste facility or landfill.

Special Event Facility-A facility used to accommodate functions including, but not limited to, banquets, weddings, celebrations, dinners, festivals, concerts, or other group events. Church and Religious Institutions are not included in this definition. *[Amended April 2023]*

Stack - a smokestack, vertical pipe, chimney, flue conduit, or opening designed to exhaust gases and suspended particulate matter into the outdoor air.
Stadium- A large building or outdoor area with tiers of seats for spectators at sporting or other recreational events.

Storage (Commercial) - Any structure that is used for storage and is rented or used in exchange for goods or services. To include self-storage/mini storage units and no time limit on rental.

Stream- This means a watercourse that collects surface runoff from an area of one square mile or greater.

Street (Road) - A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Strip Mall- A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site and provision for goods delivery separated from customer access.

Structure- Anything constructed or erected that requires location on the ground (excluding swimming pools, fences, and freestanding walls used as fences).

Theatre (Indoor) - A structure used for dramatic, operatic, motion pictures, or other performances, for admission to which entrance money is received.

Theatre (Outdoor)- An establishment for the performing arts with open-air seating for audiences and used for dramatic, operatic, motion pictures, or other performances, for admission to which entrance

money is received.

Tower, Amateur Radio - a tower with one or more antennas connected to radio equipment operated by a licensed amateur radio operator in accordance with applicable FCC laws and regulations.

Tower, Antenna - a structure that is intended to support antennas and related equipment used to transmit and/or receive telecommunications signals.

Tower Height - the vertical distance measured from the tower base to the highest point on a telecommunications tower, including any antennas or other equipment affixed thereto, but excluding any lightning protection rods extending above the tower and attached equipment.

Tower, Observation - a tall structure commanding a wide view of its surroundings and usually made from stone, metal, or wood.

Tower, Power Transmission - A rigid steel tower supporting a high-voltage electric power transmission line

Tower, Water - a water storage facility, usually high above the ground and often spherical or cylindrical in shape

Towers, Wireless Telecommunications Facilities - (1) A parcel of land containing a tower, sending and receiving antennas attached to the tower, and a prefabricated or modular structure or cabinets containing electronic equipment; (2) a Federal Communications Commission (FCC) licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment. For purposes of this ordinance, this definition does not include any structure erected solely for residential, non-commercial individual use, such as television antennas, satellite dishes, or amateur radio antennas.

Town Home- A structure designed for or used exclusively for purposes of one family from the ground to the roof. The structure is attached to similar structures forming groups of 3 but not more than four dwellings separated vertically by party walls.

Treatment Facility- A care facility used primarily for but not limited to, the treatment of contagious diseases, alcoholics, drug addicts, and psychotics.

Upholstery Shop- A business that repairs and replaces upholstery to household and office furnishings; does not include motor vehicle upholstering or repair.

Waste Water Treatment Plant- The facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewater, reuse waters, and wastes that are not discharged into state waters.

Wind Energy Facility- An electric generating facility whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures & facilities. For the purpose of this ordinance, the term does not apply to roof-mounted or

building-integrated roof-mounting systems.

a. **Wind Energy Facility (Small)**- A single system designed to supplement other electricity sources as an accessory-use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less.

b. **Wind Energy Facility (Medium)-** A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 10 kW but not greater than 50 kW.

c. **Wind Energy Facility (Large)**- A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 50 kW.

Windmill- See Wind Turbine.

Wind Power- The conversion of wind energy into another form of energy.

Wind Turbine (Windmill)- A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and may include a nacelle, rotor, tower, guy wires, and pad transformer.

Wind Turbine Height- The distance measured from the grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Woodworking Shop- A business that works with wood to produce products for retail sale.

Yard- An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

Yard (Front) - An open, unoccupied space on the same lot with a principal building extending the full width of the lot and situated between the street or highway right-of-way line and the front line of the building, projected to the side lines of the lot.

Yard (Rear) - An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Yard (Side) - An open, unoccupied space on the same lot with a principal building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard

Chapter 3
Establishment of Districts and Use Requirements By District

3.1 Use Districts Named

For the purpose of this ordinance, the County of Madison is hereby divided into use districts with the designations and purposes listed below:

Primary Districts:	
AO	Agriculture-Open Space District
RA	Residential-Agricultural District
R-1	Residential District
R-2	Residential-Resort District
N-C	Neighborhood Commercial
CMU	Commercial Mixed Use
C	Commercial District
I-D	Industrial District
R-B	Retail Business District
Overlay Districts	
F-P	Flood Plain District
PR	Protected Ridge
WS-II	Watershed District

Within the districts indicated on the zoning map, no building or land shall be used, and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any use other than those listed as permitted for that district in this article.

3.2 District Boundaries Shown on Zoning Map

The boundaries of the above designated use districts shall be shown on a map of Madison County accompanying this ordinance entitled "Official Zoning Map, Madison County, North Carolina", and made a part hereof; except that no district shall be designated as a manufactured home park district until such area has been so designated by the Madison County Planning Board as hereinafter provided. The zoning map with all amendments, notations, and reference thereto, and other information shown thereon is hereby made a part of this ordinance the same as if such information set forth on said map were all fully described and set out herein. The official zoning map is to be maintained in the office of the Zoning Enforcement Officer for the county and is open for inspection to the public during normal business hours.

3.3 Due Consideration Given to District Boundaries

In the creation by this ordinance of the respective districts, careful consideration has been given to the suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well-constructed comprehensive plan for the physical development of the County.

3.4 Rules Governing Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on the zoning map the following rules will apply:

1. Where such district boundaries are indicated as approximately following a street, alley or highway lines, the center lines of the street, alley or highway shall be construed to be such boundaries.

2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

3. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, alleys or highways, or the right-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance as indicated on the zoning map.

4. Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than thirty-five (35) feet beyond the district boundary line. The term "least restricted" shall refer to use restrictions, not lot or tract size.

3.5 Zoning Map Amendments

Whenever there is a zoning map amendment request, the owner of that parcel of land as shown on the County tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the County tax listing, shall be notified of the public hearing as required by NCGS 160D-601.

3.6 ZONING DISTRICTS

3.6.1 – District and Permitted Use Interpretation

Each zoning district has uses permitted by right unless permitted with special requirements, and Special Uses. Tables are shown for each district placing uses under the category of Permitted or Special uses. In addition to the individual district tables is a detailed permitted uses table showing the uses allowed in each district.

Permitted Uses – Administrative review and approval are subject to district provisions and other applicable requirements only.

Special Uses – Board of Adjustment or Planning Board (where the Ordinance assigns such authority to the Planning Board) review and approval of Special Use Permit subject to district provisions, other applicable requirements, and conditions of approval.

3.6.2 AO Agriculture-Open Space District

The AO Agriculture-Open Space District is established as a district in which the principal use of the land is for Agriculture, low-density residential,, and open space purposes. These districts are intended to ensure that residential development will not become too dense in areas that are more conducive to agriculture and where conservation/open space areas are located.

Permitted Uses: The following uses shall be permitted:

Accessory Dwelling
Accessory Structure
Accessory Use
Any form of agriculture or horticulture
Backyard Workshops
Campgrounds (family)
Cemetery (family)
Farmers Market (on site)
Home occupations
Nursery
Park (public or private)
Single-family Dwellings
Solar Energy, (accessory)
Wind Energy System, (small)

Special Uses:

Biomass Facility (small)
Campgrounds (group)
Communication Facility
Famers Market, (commercial)
Meat Processing Facility
Solar Energy Facility, (large)
Wind Energy System, (medium)

Dimensional Requirements:

Within the AO district all dimensional requirements shall be the same as those listed in the RA district with the exception of lot size.

Lot Size: 2 acres minimum

3.6.3 RA Residential-Agricultural District

The RA Residential-Agricultural District is established as a district in which the principal use of the land is for low-density residential and agricultural purposes. These districts are intended to ensure the residential developments not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

Permitted Uses. The following uses shall be permitted:

Accessory Dwelling
Accessory Structure
Accessory Use
Any form of agriculture or horticulture
Assembly Hall
Backyard Workshops
Barber Shop
Beauty Shop
Bed and Breakfast Inn
Bus Station
Campgrounds (family)
Cemetery (family)
Churches and Religious Institutions
Clinic
Club (non-profit)
Community Centers
Daycares
Duplex (two-family dwelling)
Farmers Market/Produce Stand (on site)
Golf Courses
Home Occupations
Library
Lodge
Mobile Home
Nursery
Park (private)
Park (public)
Professional Offices
Public Safety Facilities
Residential Vacation Rentals
Riding Stables
Schools
Single-family dwellings
Solar Energy, (accessory)
Wind Energy System, (small)

Special Uses.

Agricultural Packaging Facility
Animal Hospital
Automobile Sales
Biomass Facility (small)
Campground (Group)
Cemetery (Public)
Communication Facility
Contractors Office/Storage Yards
Convenience Store/Gas Station
Family Care Home
Farmers Market/Produce Stand (Commercial)
Feed and Seed Store
Flea Market
Greenhouse
Group Development
Health Club/Spa Landfills
Meat Processing Facility
Mobile Home Park
Planned Unit Development
Public Utilities
Recreation Facility
Recycling Center
Restaurant Sawmills
Shooting Range (outdoor)
Solar Energy Facility, (large)
Solid Waste Collection Center
Special Event Facility
Town Home
Treatment Facility
Wastewater Treatment Plant
Wind Energy System, (medium)
Wind Energy System, (large)

Dimensional Requirements.

Within the RA Residential-Agricultural District, as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirements are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: 1 acre 4 units/acre multifamily*

b. Lot width: 100 feet

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 15' Rear: 20'

d. Lot Coverage: 20% of total area

e. Height: 35'

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.4 R-1 Residential District

This district is intended to be a quiet, low-density neighborhood consisting of single-family residences along with limited home occupations and limited private and public community uses.

Permitted Uses. The following uses shall be permitted.

Any form of agriculture or horticulture
Accessory Dwelling
Accessory Structure
Accessory Use
Bed and Breakfast Inn
Cemeteries (Family)
Churches and Religious Organizations
Duplex (two family dwelling)
Family Care Home
Farmers Market/Produce Stand (on site)
Golf Courses
Home Occupations
Mobile Home Multifamily Dwelling Park (private)
Park (public)
Professional Offices
Public Safety Facilities
Residential Vacation Rentals
Schools
Single-family dwellings

Special Uses.

Apartment
Bus Station
Cemetery (Public)
Communication Facility
Community Center
Condominium
Group Development
Planned Unit Development
Public Utilities
Solar Energy Facility, (large)
Town Home
Wastewater Treatment Plant
Wind Energy System, (small)

Dimensional Requirements.

Within the R-1 Residential District, as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirements are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: 1 acre 6 units/acre multifamily*

b. Lot width: 100 feet

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 15'Rear: 20'

d. Lot Coverage: 30% total area for single-family 40% total area for multifamily

e. Height: 35'

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.5.R-2 Residential-Resort District

The Residential-Resort District is established as a district in which the principal use of the land is for residential purposes, with the provision of commercial services and group residential and recreational areas for resort users as well as permanent residents.

Permitted Uses. The following uses are permitted:

Accessory Structure
Accessory Use
Any form of agriculture or horticulture
Bed and Breakfast Inn
Campgrounds (family)
Church and Religious Institutions
Community Center Condominium
Duplex (two-family dwelling)
Golf Course
Golf Driving Range
Multifamily Dwelling
Park (private)
Park (public)
Recreation Facility (outdoor)
Recreation Facility (indoor)
Residential Vacation Rental
Riding Stable
Single-family Dwelling

Special Uses.

Apartment
Bakery (retail)
Campgrounds (group)
Club
Communication Facility
Craft/Curio Retail Store
Grocery Store
Group Development
Golf Miniature Hotel
Lodge (resort)
Planned Unit Development Restaurant
Special Event Facility
Town Home
Wastewater Treatment Plant
Wind Energy System, (small)

Dimensional Requirements.

Within the R-2 Residential-Resort District, as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirements are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: .75 acre – single-family 10 units/acre – multifamily*

b. Lot width: 90 feet single-family 130 feet multifamily

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 15'Rear: 20'

d. Lot Coverage: 30% total area for single-family 60% total area for multi-family

e. Height: 40

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.6 N-C Neighborhood Commercial District

The Neighborhood Commercial District is established as the district in which low-impact retail and consumer service uses would be permitted. It would allow for these types to be permitted within certain areas of the communities.

Permitted Uses. The following uses shall be permitted:

Agricultural Packaging Facility
Automobile Sales
Barber
Bed and Breakfast Inn
Beauty Shop
Book Store
Bus Station
Church and Religious Institution
Clinic
Convenience Store/Gas Station
Craft/Curio Retail Store
Farmers Market, (commercial)
Feed and Seed Store
Health Club/Spa
Library
Professional Offices
Public Safety Facilities
School
Solar Energy, (accessory)

Special Uses.

Campgrounds (group)
Contractors Office/Storage Yards
Communication Facility
Family Care Home
Flea Market
Greenhouse
Public Utilities
Recreation Facility
Recycling Center
Restaurant
Special Event Facility
Solid Waste Collection Center
Strip Mall
Town Home
Treatment Facility

Dimensional Requirements.

Within the NC Neighborhood Commercial District, as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirement are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: ½ acre 8 units/acre multifamily

b. Lot width: 100 feet

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 15'Rear: 20'

d. Lot Coverage: 40% total area

e. Height: 50'

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.7 CMU Commercial Mixed Use District

The Commercial Mixed Use District is established as the district in which a mixture of retail, consumer service, residential and light to medium industrial uses would be permitted. It would allow for these types to be permitted along the main corridors of the County.

Permitted Uses. The following uses shall be permitted:

Agricultural Packaging Facility
Animal Hospital
Armory/Gun Shop
Auction
Automobile sales
Bakeries (retail)
Bakeries (wholesale)
Banks and other financial institutions
Boat Sales/Service
Book Store
Brick, Tile, and Pottery Yards
Building Materials Sales and Storage
Bus stations
Clinic
College/University
Convenience Store/Gas Station
Contractors office and storage yards
Dry cleaning/laundry services
Electrical repair shops
Farmers Market/Produce Stand (commercial)
Farm Machinery Sales/Service
Feed and seed stores
Greenhouse
Health Club/Spa
Hospital
Hotels
Industrial Sales and Service
Library
Machine and Welding Shop
Manufacturing (light)
Motel
Open Storage
Packaging Facility
Park (private)
Park (public)
Printing Shop

Professional Offices
Public Safety Facilities
Recycling Center
Repair Shop
Restaurants
Solar Energy, (accessory)
Shooting Range (indoor)
Shooting Range (outdoor)
Storage (commercial)
Strip Mall
Theaters, indoor
Theaters, outdoor
Treatment Facility
Upholstery Shop
Wind Energy Facility,(small)
Woodworking Shop

Special Uses

Adult Establishment
Auction Yard
Bar
Big Box Store
Campgrounds (group)
Cemetery (public)
Communication Facility
Department Store
Group Development
Industrial Trade School
Junk Yard
Laboratory
Landfill
Mall
Manufacturing (heavy)
Manufacturing (medium)
Meat Processing Facility
Night Club
Public Utilities
Race Track
Solar Energy Facility, (large)
Solid Waste Collection Center
Special Event Facility
Stadium
Waste Water Treatment Plant
Wind Energy Facility, (medium)

Dimensional Requirements

Within the CMU Commercial Mixed Use district as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirements are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: ½ acre

b. Lot width: 100 feet

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 15'Rear: 20'

d. Lot Coverage: 50% total area

e. Height: 50

,

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.8 CD – Commercial District

The Commercial District is established as the district in which retail trade and consumer service uses will expand as the community's and the region's population increases.

Permitted Uses. The following uses shall be permitted:

Agricultural Packaging Facilities
Animal hospitals
Armory/Gun shop
Auctions
Automobile sales
Bakeries (retail)
Bakeries (wholesale)
Banks and other financial institutions
Barber
Beauty shops
Billiard and pool halls
Boat Sales/Service
Book Store
Building Material Sales and Storage
Bus stations
Clinic Club
Club (non profit)
College/University
Convenience Store/Gas Station
Contractors Offices/Storage Yards
Craft/Curio Retail Stores
Dry cleaning/laundry services
Electrical repair shops
Farmers Market/Produce Stand (commercial)
Farm Machinery Sales/Service
Feed and Seed stores
Flea Market
Florist
Grocery Stores
Greenhouses
Health Club/Spa
Hospital
Hotels
Industrial Sales/Service
Library
Machine and Welding Shop

Motels
Packaging Facility
Park (private)
Park (public)
Printing Shop
Professional offices
Public Safety Facilities
Recreation Facility (outdoor)
Recreation Facility (indoor)
Recycling Center
Repair shops
Restaurants
Shooting Range (indoor)
Single-family residences as accessory uses
Solar Energy, (accessory)
Storage (commercial)
Strip Mall
Theaters, (indoor)
Theaters, (outdoor)
Treatment Facility
Upholstery Shop
Woodworking Shop
Wind Energy System, (small)

Special Uses.

Adult Establishment
Auction Yard
Bar
Big Box Store
Biomass Facility (small)
Campgrounds (group)
Cemetery (public)
Communication Facility
Data Processing Facility (small)
Department Store
Group Development
Industrial Trade School
Junk Yard
Laboratory Mall
Manufacturing (light)
Meat Processing Facility
Mobile Home Park
Night Club
Public Utilities
Race Track
Shooting Range (outdoor)
Solar Energy Facility (large)
Solid Waste Collection Center
Special Event Facility
Stadium
Waste Water Treatment Plant
Wind Energy System, Medium
Wind Energy System, Large

Dimensional Requirements.

Within the C Commercial District, as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirements are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: ½ acre

b. Lot width: 100 feet

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 15' Rear: 20'

d. Lot Coverage: 50% total area

e. Height: 50

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.9 I-D Industrial District

The Industrial District is established as a district in which the principal use of land is for industrial and warehouse uses which normally seek locations of large tracts of land.

Permitted Uses. The following uses are permitted:

Agricultural use
Agricultural Packaging Facility
Airports
Animal Hospital
Armory/Gun Shop
Auction
Auction Yard
Boat Sales/Service
Brick, Tile, and Pottery Yards
Building Materials Sales and Storage
Contractors office and storage yards
Concrete Batch Plant
Farmers Market, (commercial)
Farm machinery sales and service
Feed and seed stores
Golf Course
Golf Driving Range
Golf Miniature
Greenhouse
Industrial Sales and Service
Industrial Trade School
Machine and Welding Shop
Manufacturing (light)
Open Storage
Packaging Facility
Park (private)
Park (public)
Public Safety Facilities
Recycling Center
Repair Shop
Solar Energy, (accessory)
Shooting Range (indoor)
Shooting Range (outdoor)
Wind Energy System,
Small Wind Energy System, Medium

Special Uses.

The following uses shall be permitted subject to a finding by the Board of Adjustment or Planning Board, as indicated elsewhere in this ordinance, that additional conditions be provided and met which will prevent or abate the potentially detrimental effects which would have an injurious effect on adjacent properties and the general welfare of the community:

Asphalt Plant
Biomass Facility (large or small)
Cement Factory
Cemetery (public)
Communication Facility
Data Processing Facility – (large or small)
Group Development
Hazardous Waste Disposal Facility
Laboratory
Landfill
Manufacturing (heavy)
Manufacturing (medium)
Meat Processing Facility
Mining
Petroleum (wholesale)
Quarrying
Race Track
Recreation Facility (outdoor)
Recreation Facility
Sawmill
Slaughter House
Solar Energy Facility, (large)
Solid Waste Collection Center
Special Event Facility
Waste Water Treatment Plant
Wind Energy System, Large

Dimensional Requirements.

Within the I-D Industrial District, as shown on the zoning map, the following dimensional requirements shall be complied with. When at least 95% of the below setback requirements are met, the Code Enforcement Office has the discretion to amend said setback to comply with the spirit of the ordinance. The homeowner may likewise appeal any decision by the Code Enforcement Office to the Madison County Board of Adjustment per a setback decision.

a. Lot Size: 1-acre

b. Lot width: 200 feet

c. Setback requirements: Front: 50' from DOT or 40' private road Side: 40' to residential 10' to all others Rear: 30' to residential 10' to all others

d. Lot Coverage: 40% total area

e. Height: 50

f. Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within ten (10) feet of any lot line not a street or highway line. An accessory building may be located not less than ten (10) feet from any property line.

3.6.11 R-B Retail Business *[Amended October 2023]*

The Retail Business District is established to cater to the community's and region's expansion by regulating retail trade and consumer service uses accordingly.

Permitted Use The following uses are permitted in the Retail Business District:

Animal hospitals provided no pens or kennels are located closer than twenty (20) feet to any property line.
Apple packaging sheds
Automobile parking lots and structures
Automobile repair garages, but excluding the open storage of wrecked or abandoned cars
Automobile parts and supplies, new
Automobile sales, new and used
Bakeries, retail
Banks and other financial institutions, including loan and finance companies
Barber and beauty shops
Billard or pool halls
Boat and trailer sales
Bus Stations
Business Colleges, barber and beauty colleges, art schools, music and dance studios, and similar uses, but excluding industrial trade schools
Cabinet, woodworking, and upholstery shops
Catalog sales
Churches and lodges, fraternities, sororities, and social, civic, and other similar organizations operating on a nonprofit basis
Commercial recreation facilities, whether conducted in a building or in the open
Contractors' offices and storage yards, provided the latter are fenced by a solid fence not less than (6) feet in height.
Craft, curio, and sporting goods stores
Customary accessory uses and structures, excluding open storage
Customary accessory uses and structures when located on the same block as the principal structures, excluding open storage
Dairy bars and ice cream manufacturing for retail sales on premises only
Dry cleaning and laundry pick-up stations having not more than two thousand [2,000] square feet
Electrical repair shops
Essential public safety or public utility facilities, including offices and storage of vehicles and apparatus on the premises, provided all structures shall be set back at least thirty (30) feet from any property line, and all exposed apparatus shall be enclosed by a woven wire fence at least eight (8) feet in height.
Exterminators
Farm equipment and feed and seed stores
Fire and police stations
Floral shops, but not commercial greenhouses

Food stores and meat markets, retail only, but excluding the killing or dressing of any flesh or fowl
Fruit stands and produce markets.
Grocery and sundries store
Greenhouses and horticultural nurseries
Motels and tourist cottages
Professional offices
Real estate sales and rental offices

Repair shops for household appliances for fabricating shops for building trades
Restaurants, including drive-in restaurants
Service stations
{provided that all gasoline pumps and other stationary equipment shall be located at least twelve (12) feet behind the property line, provided further that on all sides where such stations abut residential districts, a six (6) foot high fence and suitable landscaping shall be provided. However, No such fence is required in any yard that abuts a public street.}
Shoe repair and shine shops
Signs directing the public to off-street parking areas provided not more than two such signs shall be permitted per lot; provided further, the aggregate size of such signs shall not exceed eight (8) square feet in area.
Single-family residences and Manufactured Homes as accessory uses
Tailor, dressmaking, and millinery shops
Taxi Cab Stands
Theaters, indoors

Special Uses

The following uses are allowed with a Special Use Permit:

Biomass Facility (small)
Special Event Facilities

Dimensional Requirements

Within the R-B Retail Business District, the following dimensional requirements shall apply:

- Minimum lot area: 20,000 square feet (approximately 0.45 acres)
- Minimum lot width: 100 feet
- Setback Requirements:
  - 60 feet from the center of US Hwy 19-23 and US Hwy 25-70 or 20 feet from the Right-of-Way, whichever is greater
  - 50 feet from the center of all other roads
  - 40 feet front setback to any property line or edge of ROW where no Public Road or ROW exists
  - 10 feet minimum side yard setback and 20 feet minimum rear yard setback
- The total ground area covered by the principal building and all accessory buildings shall not exceed 50% of the total lot area
- No Building shall exceed 50 feet in height
-Buildings constructed or converted to uses permitted in this district shall provide off-street loading and unloading space.
-Off-street parking spaces shall be provided

3.7 Overlay Districts

3.7.1. F-P Floodplain District

The Floodplain District is established to meet the needs of the rivers of the county to carry abnormal flows of water in times of flood to prevent encroachments into the district which will unduly increase flood heights and damage and to prevent the loss of life and excessive damage to property in the area of greatest flood hazard. The Floodplain District as delineated on June 2, 2009, FEMA FIRM Maps.

Permitted Uses. The following uses are permitted:

It is generally accepted that in each zoning district, all permitted uses would be allowed in the floodplain provided that all requirements of the Madison County Flood Damage Prevention ordinance are met.

Floodways:

The following uses may be made of floodways as a matter of right provided that all requirements of the Madison County Flood Damage Prevention ordinance are met. It also does not do away with building codes and other requirements applicable to the area:

General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.

Loading areas, parking areas, and rotary-wing aircraft. Lawns, gardens, parking and play areas. Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space, and other similar private and public recreational uses.

Streets, bridges, overhead utility lines, creek and storm drainage facilities, sewage or waste treatment plant outlets, water supply intake structures, and other similar public, community or utility uses.

Temporary facilities (not to exceed 30 days during a one-year period), such as displays, circuses, carnivals, or other similar transient amusement enterprises.

Boat docks, ramps, piers, or similar structures.

Artificial Obstructions Prohibited. The placement of any artificial obstruction in any floodway established by this ordinance is hereby prohibited, unless a permit has been ordained for such artificial obstruction from the Enforcement

Officer. No damageable portion of a structure located outside the floodway, but within the floodplain may be below the flood protection elevation, as defined in the Madison County Flood Damage Prevention Ordinance.

Existing Artificial Obstructions. Artificial obstructions existing in a floodway on the effective date of this ordinance shall not be considered to be in violation of the ordinance. However, they may not be enlarged or replaced in part or in whole without obtaining proper approval as described in the Madison County Flood Damage Prevention ordinance.

3.7.2 PR Protected Ridges

The purpose of the Protected Ridges is to regulate the height of tall buildings or structures on mountain ridges, providing for the method of administration and enforcement, defining certain terms used herein, and providing for the imposition of penalties for violation of provisions of this ordinance. These ridges are defined and shown on the Madison County Protected Ridges Map.

Permitted Uses.

It is generally accepted that in each zoning district, all permitted uses would be allowed on a protected ridge provided that all requirements of the Madison County Mountain Ridge Protection Ordinance are met.

3.7.3 Watershed District

The purpose of the WS-B and WS-CA Watersheds are established to protect the water supply which is taken from the Ivy River. The rules and regulations for this have been set in place to see that proper measures are taken to ensure that development does not adversely affect the health, safety or welfare of the citizens. The watershed area is shown on the Madison County Watershed Map.

Permitted Uses.

It is generally accepted that in each zoning district, all permitted uses would be allowed with respect to that district, provided the rules and regulations of the Watershed Protection Ordinance are met.

In the WS-B Watershed area, as defined by the Watershed Protection Map, the minimum lot size shall be a minimum 1 acre. If it is located in the WS-CA (critical area) it shall be a 2-acre minimum.

Table 1. Summary of Permitted Uses *[Amended October 2023]*

Use Type	Land Use Districts									Special Restrictions
	NC	CMU	AO	RA	R-1	R-2	C	ID	RB	
Accessory Dwelling			P	P	P					
Accessory Structure			P	P	P	P				
Accessory Use			P	P	P	P				
Adult Establishment		S					S			
Agricultural Use			P	P	P	P		P		
Agricultural Packaging Facility	P	P		S			P	P	P	
Airport								P		
Animal hospital		P		S			P	P	P	See 8.1.1
Apartment					S	S				
Armory/Gun Shop		P					P	P		
Asphalt Plant								S		
Auction		P					P	P		
Auction Yard		S					S	P		
Automobile sales	P	P		S			P			
Backyard Workshops			P	P						
Bakery (Retail)		P				S	P		P	
Bakery (wholesale)		P					P			
Banks and Financial Institutions		P					P		P	
Bar		S					S			
Barber	P			P			P		P	
Bed and Breakfast Inn	P			P	P	P				See 8.6.2
Beauty Shop	P			P			P			
Big Box Store		S					S			
Billiard and Pool Halls							P		P	
Biomass Facility			S	S			S	S	S	See 8.11
Boat sales/Service		P					P	P	P	
Book Store	P	P					P			
Brick, Tile, and Pottery Yards		P						P		
Building Material Sales and Storage		P					P	P		See 8.1.2

Permitted Use	NC	CMU	AO	RA	R-1	R-2	C	ID	RB	Special Restrictions
Bus Station	P	P		P	S		P		P	
Campgrounds (family)			P	P	P	P				See 8.1.3
Campgrounds (group)	S	S	S	S	S	S				See 8.1.5 and 8.1.6
Cemetery(Family)			P	P	P					See 8.1.4
Cemetery (Public)		S		S	S		S	S		
Cement Factory								S		
Church and Religious Institutions	P			P	P	P				
Clinic	P	P		P			P			
Club						S	P			
Club (Nonprofit)				P			P			
College/University		P					P			
Community Center				P	S	P				
Communication Facility	S	S	S	S	S	S	S	S		See 8.7
Contractors Offices/Storage Yards	S	P		S			P	P	P	See 8.1.2
Concrete Batch Plant								P		
Condominium					S	P				
Convenience Store/Gas Station	P	P		S			P			
Craft/Curio Retail Store	P					S	P		P	
Day Care Facilities				P						
Department Store		S					S			
Dry Cleaning /Laundry Services		P					P		P	
Duplex (Two Family Dwelling)				P	P	P				
Electrical Repair Shop		P					P		P	
Family Care Home	S			S	P					
Farmers Market /Produce Stand (Commercial)	P	P	S	S			P	P	P	
Farmers Market /Produce Stand (On Site)			P	P	P				P	

Permitted Use	NC	CMU	AO	RA	R-1	R-2	C	ID	RB	Special Restrictions
Farm Machinery Sales/Service		P					P	P	P	
Feed and Seed Store	P	P		S			P	P	P	
Flea Market	S			S			P			
Florist							P		P	
Grocery Store						S	P			
Group Development		S		S	S	S	S	S		
Golf Course				P	P	P		P		
Golf Driving Range						P		P		
Golf Miniature						S		P		
Greenhouse	S	P		S			P	P	P	
Hazardous Waste Disposal Facility								S		See 8.2.6
Health Club/Spa	P	P		S			P			
Home Occupation			P	P	P					
Hospital		P					P			
Hotel		P				S	P			
Industrial Sales and Service		P					P	P		
Industrial Trade School		S					S	P		
Junk Yard		S					S			
Laboratory		S					S	S		
Landfill		S		S				S		See 8.2.3
Library	P	P		P			P			
Lodge				P						
Lodge (Resort)						S				
Machine and Welding Shop		P					P	P		
Mall		S					S			
Manufacturing (Heavy)		S						S		
Manufacturing (Light)		P					S	P		
Manufacturing (Medium)		S						S		
Meat Processing Facility		S	S	S			S	S		
Mining								S		See 8.2.5

Permitted Use	NC	CMU	AO	RA	R-1	R-2	C	ID	RB	Special Restriction

Mobile Home				P	P					
Mobile Home Park				S			S			See 8.4
Motel		P					P		P	
Mobile Home				P	P					
Multifamily Dwelling					P	P				
Night Club		S					S			
Nursery			P	P						
Open Storage		P						P		
Packaging Facility		P					P	P		
Park (Private)		P	P	P	P	P	P	P		
Park (Public)		P	P	P	P	P	P	P		
Petroleum (Wholesale)								S		
Planned Unit Development				S	S	S				See 8.5
Printing Shop		P					P			
Professional Offices	P	P		P	P		P		P	
Public Safety Facilities	P	P		P	P		P	P	P	
Public Utilities	S	S		S	S		S		P	
Quarrying								S		See 8.2.5
Race Track		S					S	S		
Recreation Facility (Outdoor)				S		P	P	S		
Recreation Facility	S			S		P	P	S		
Recycling Center	S	P		S			P	P		
Repair Shop		P					P	P		
Residential Vacation Rental				P	P	P				See 8.6
Restaurant	S	P		S		S	P		P	
Riding Stable				P		P				
Sawmill				S				S		See 8.2.2
School	P			P	P				P	
Shooting Range (Indoor)		P					P	P		

Permitted Use	NC	CMU	AO	RA	R-1	R-2	C	ID	R-B	Special Restrictions
Shooting Range (outdoor)		P		S			S	P		
Single Family Dwelling			P	P	P	P	P		P	
Slaughter House								S		
Solar Energy, Accessory	P	P	P	P	P	P	P	P		
Solar Energy Facility, Large		S	S	S			S	S		See 8.9
Solid Waste Collection Center	S	S		S			S	S		
Special Event Facility	S	S		S	S	S	S		S	See 8.10
Stadium		S					S			
Storage (Commercial)		P					P			
Strip Mall	S	P					P			
Theatre (Indoor)		P					P		P	
Theatre (Outdoor)		P					P			
Town Home	S			S	S	S				
Treatment Facility	S	P		S			P			
Upholstery Shop		P					P			
Waste Water Treatment Plant		S		S	S	S	S	S		See 8.2.4
Wind Energy Facility, Large				S			S	S		
Wind Energy Facility, Medium		S	S	S			S	P		
Wind Energy Facility, Small		P	P	P	S	S	P	P		
Woodworking Shop		P					P			

Chapter 4 General Provisions

4.1 Zoning Affects Every Building and Use

No building or land shall hereafter be used, and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this ordinance.

4.2 Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

4.3 Relationship of Building to Lot

Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a specially designed group or planned development of institutional, residential, commercial or industrial buildings in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, industrial park, and so forth, as permitted by this ordinance.

4.4 Dimensional Modifications and Exceptions.

4.4.1 Front Yard The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required yard depth. In such cases, the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

4.4.2 Height The height limitations of this ordinance 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 pole, radio towers, television towers, masts, aerials, and similar structures, except as otherwise provided in the vicinity of airports.

4.4.3 Lot Size Where the owner of a lot of official record in any residential district at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance, such a lot may be used as a residential building site provided, however, that the requirements of the district are complied with, or a variance is obtained from the Board of Adjustment.

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.

4.5 Nonconforming Uses

Nonconforming uses may be continued, provided they conform to the following provisions:

1. Continuing the use of nonconforming land. The regulations set forth below provide the conditions under which the nonconforming use of land shall be continued:

    a. Extension of Use. Nonconforming uses of land shall not hereafter be enlarged or extended in any way.

    b. Change of Use. Any nonconforming use of land may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district, so long as the proposed change is not a prohibited use or a use that would otherwise be considered nonconforming in that district.

    c. Cessation of Use. All nonconforming uses of land involving minor structures such as junk yards, auto sales yards, or any nonconforming uses similar to those enumerated, shall be eliminated within three hundred sixty-five (365) days from the date of adoption of this ordinance.

2. Continuing the Use of Nonconforming Buildings

Extension of Use. Nonconforming buildings and nonconforming uses of buildings shall not hereafter be enlarged.

Change of Use. If no structural alteration or enlargement is made, any nonconforming building or use of buildings may be changed with the approval of the Board of Adjustment to any use more in character with uses permitted in the district, so long as the proposed change is not a prohibited use or a use that would otherwise be considered nonconforming in that district. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in Accord with the provisions of this ordinance.

Cessation of Use. If active operations are discontinued for a continuous period of one hundred eighty (180) days with respect to a nonconforming use of building, such nonconforming use shall thereafter be occupied and used only for a conforming use.

Nonconforming uses may not be rebuilt, altered or repaired after damage exceeding sixty percent (60%) of their fair market value immediately prior to the damage as determined by the Board of Adjustment

Chapter 5 Regulations For Signs And Sign Structures

5.1 Permits Required

All signs maintained, erected, placed, posted, attached, painted, or otherwise made visible from an adjacent property or right-of-way, except as otherwise prohibited, exempted, or not requiring a permit by this article, require a sign permit in accordance with the provisions of this ordinance. Any sign that is erected or maintained without a required permit shall be in violation of this ordinance.

5.2 Signs Exempt From This Ordinance

The provisions of this ordinance shall not apply to signs placed by the N.C. Department of Transportation or signs required by other Madison County ordinances.

Further, informational, directional or required public instruction signs are likewise exempt, provided such signs shall not exceed fifty (50) square feet in area on any one side exposed to public view.

Trade names and graphics which are located on newspaper, soft drink, and similar vending devices.

Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device.

Decorations associated with a national or religious holiday. Warning or danger signs. Commemorative tablets, markers, or monuments erected by or with the permission of the Madison County Board of Commissioners.

Signs on vehicles indicating the name of a business, when the vehicle is not intended to be used for a display of signs.

Signs required by law, statute or ordinance.

Off-Premise Yard sale directional signs and Off-Premise real estate directional signs.

5.3 Temporary Signs

Freestanding or wall-mounted signs pertaining only to the construction job, to the lease, rent, or sale of the property upon which it is displayed, or to an auction sale of goods on the premises shall not exceed a combined total of one hundred (100) square feet in any residential districts, and not more than two hundred (200) square feet exposed to view in any non-residential district. No such sign shall be illuminated. Further, on-site signs in the form of paper, cloth, or other similar materials used to promote special sales shall be permitted in any non-residential district.

All signs, including political signs, erected to serve a temporary purpose shall be removed within sixty (60) days from the date the purpose ceased to exist.

5.4 Signs Prohibited

The following signs are prohibited within the jurisdiction of this ordinance in Madison County:

Any non-governmental signs which resemble a public safety warning or traffic sign.

Signs, whether temporary or permanent, within any street or highway right-of-way, with the exception of those signs approved by the government with road maintenance responsibility.

Any sign which obstructs ingress or egress creates an unsafe distraction for motorists or obstructs the view of motorists entering a public road or highway.

Signs which incorporate any flashing or blinking lights or signs with moving parts or parts which simulate movement.

Signs located on or attached to the roof of a structure.

Snipe signs.

Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

Off-premise advertising signs located where visible or designed to be visible from the Appalachian Trail; and located where visible or designed to be visible from any portion of a road, street, or highway designated as a scenic byway, street, or highway by the North Carolina Department of Transportation, in all use districts.

Off-premise advertising signs located where visible or designed to be visible from any designated route of Interstate 26, in all use districts.

Off-premise signs located on utility poles owned by utility companies.

5.5 Signs Exempt from Permit Requirements but Subject to Ordinance Provisions

Off-Premise Directional Signs:

The following off-premise signs do not require a sign permit; however, these signs shall conform to the standards and provisions of this section and other applicable provisions of this ordinance. Any off-premise directional sign which does not meet the provisions of this section or other applicable parts of this ordinance shall be considered in violation of the ordinance:

A. The sign shall not exceed sixteen (16) square feet in area per sign face, one sign face per directional flow of traffic, no more than two (2) sign faces per sign structure, and a maximum height of six (6) feet.

B. Not more than two (2) off-premise directional signs shall contain directions to the same location from each of two different directions.

On-Premise Signs

The following on-premise signs do not require a sign permit; however, these signs shall conform to the standards and provisions of this section and other applicable provisions of this ordinance.

C. Small professional or announcement signs for Customary Home Occupations, non-illuminated and not over two (2) square feet in area.

D. Temporary Signs as described in this ordinance, not to include snipe signs

5.6 Regulation of Off-Premise Advertising Signs

Off-premise advertising signs, where permitted by right in certain use districts, will be allowed only in accordance with the following regulations:

A. A permit is required for each off-premise advertising sign.

B. Where permitted by the terms of this ordinance, off-premise advertising signs shall comply with the following dimensional requirements.

(1) Size: The maximum size of an off-premise advertising sign shall be 150 square feet per sign face, one sign face per directional flow of traffic per sign structure.

(2) Height: The maximum height of an off-premise advertising sign shall be 25 feet.

(3) Setback: An off-premise advertising sign shall be setback 10 feet from any road, street, or highway right-of-way; if no right-of-way exists the sign shall be setback 20 feet from the nearest edge of the road, street, or highway

(4) Spacing from Other Off-Premise Advertising Signs: No off- premise advertising sign shall be located closer than 2,000 linear feet from any other off-premise advertising sign as measured from either side of the same road, street or highway.

(5) Spacing from Other Structures or Land Uses: No off-premise advertising sign

shall be located within a 1,000 foot radius of a structure used for residence, a church, or place of worship, or within a 1,000-foot radius of any property used for a school, public park or cemetery. Additionally, off-premise signs shall not be located within a 500 foot radius of the intersection of two or more roads, streets or highways or from any bridge 50 feet in length or greater.

(6) Spacing from On-Premise Signs: No off-premise sign shall be located closer than 100 linear feet from any on-premise sign.

5.7 Regulation of On-Premise Signs

On-premise signs, where permitted by right in certain use districts, will be allowed only in accordance with the following regulations:

A. A permit is required for each on-premise sign except as otherwise exempted by the provisions of this ordinance.

B. A ground sign with the name of the subdivision or multi-family development may be located on one or both sides of each major entrance into the development. A single side of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs exceed 32 square feet (per major entrance). The sign(s) shall be part of a decorative wood, brick, stone, or masonry wall of similar design compatible with the character of the subdivision or development. Each sign shall have a minimum of 50 square feet of landscaped area at the base of the sign. Any such sign shall be located at least 15 feet from any street right-of-way, and may not exceed six feet in height.

C. Where permitted by the terms of this ordinance, on-premise signs shall comply with the following regulations and dimensional requirements:

5.8 Sign Table:

District	On- Premise	Off- Premise	Dimension	Wall	Ground	Window
R-A Home Occ.	1 per lot	No	Area (Ft^2)	2	2	N/A
			Height (Ft)	N/A	6	
R-1 Home Occ.	1 per lot	No	Area (Ft^2)	2	2	N/A
			Height (Ft)	N/A	6	
R-2 Home Occ.	1 per lot	No	Area (Ft^2)	2	2	N/A
			Height (Ft)	N/A	6	
C Commercial	1 per business	Yes	Area (Ft^2)	200	60	25%
			Height (Ft)	N/A	20	
I-D	1 per business	Yes	Area (Ft^2)	200	60	25%
			Height (Ft)	N/A	20	
CMU	1 per business	No	Area (Ft^2)	200	60	25%
			Height (Ft)	N/A	20	
NC	1 per lot	No	Area(Ft2)	30	30	25%
			Height(Ft)	N/A	10	
Development	1 per Development	No	Area(Ft2)	N/A	30	N/A
			Height(Ft)	N/A	6	

Chapter 6 Parking

6.1 Off-Street and On-Street Parking

Off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established. At the time of this erection of any building or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use to another, permanent off-street parking space in the amount specified by this section shall be provided. Such parking space may be provided in a parking garage or property graded open space.

Certification of Minimum Parking Requirements. Each application for a zoning compliance permit or certificate of occupancy submitted to the Zoning Enforcement Officer as provided for in Article X shall include information as to the location and dimensions of off-street parking and loading space, and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether the requirements of this section are met.

Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that one-half of the parking space 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 on Sundays.

Remote Parking Space. If the off-street parking space required by this ordinance cannot reasonably be provided on the same lot on which the principal use is located, such space may be provided on a space within five hundred (500) feet of the main entrance to such principal use, provided such space is in the same ownership as the principal use. Said land shall be used for no other purpose so long as no other adequate provision for parking space meeting the requirements of this ordinance has been made for the principal use.

Requirements for Parking Lots in Residential Districts. Where parking lots
for more than five automobiles are permitted or required in residential districts, the following provisions shall be complied with:

a. The lot may be used only for parking and not for any type of loading, sales, repair work, dismantling or servicing.

b. All entrances, exists, barricades at sidewalks, and drainage works shall be approved by the Zoning Enforcement Officer prior to construction.

Only one entrance and one exit sign no larger than four (4) square feet in area prescribing parking regulations may be erected at each entrance or exit. No other signs shall be permitted.

Minimum Parking Requirements. The required number of off-street parking spaces for each land use is specified below:

LAND USE	REQUIRED PARKING SPACE
Automobile sales and repair garages	1 space for each 2 employees at minimum employment on a single shift, plus 2 spaces for each 300 square feet of repair or maintenance space
Automobile car washes	1 space for each 2 employees at maximum employment on a single shift in addition to enough spaces to equal to 5 times the capacity of the building.
Bowling alleys	2 spaces for each lane, plus 1 additional space for each 2 employees
Camps for tents and camping trailers	1 parking space for each site provided for tents and camping trailers plus 10 additional spaces
Church and funeral homes	1 space for each 4 seats in the main chapel
Elementary schools and junior high schools, both public and private	1 space for each classroom and administrative office
Group camp facility	1 space for each camper for which the facility is designed
Hospitals	1 space for each 4 patient beds plus 1 space for each staff or visiting doctor plus 1 space for each 4 employees
Hotels	1 space for each 2 rooms, plus 1 additional space for each 5 employees
Kindergartens or nurseries	1 space for each employee and 4 spaces for off-street drop-off and pick-up
Libraries	1 space for each 4 seats provided for patrons use
Medical offices and clinics	4 spaces for each doctor practicing at the clinic, plus 1 space for each employee
Mobile homes	2 spaces for each mobile home
Motels, tourist homes and tourist courts	1 space for each accommodation plus 1 additional space for each employee
Office, business, professional or public, including banks	1 space for each 200 square feet of gross floor area
Outdoor recreation areas and amusement parks	1 space for each 3 persons able to use such facility at its maximum capacity, plus 10 spaces for waiting, plus 1space for each 2 employees

Places of public assembly, including private clubs, lodges, auditoriums, dance halls, pool rooms, theaters, stadiums, gymnasiums, amusement parks, community centers, and all similar places of public assembly	1 space for each 4 seats provided for patron use, plus 1space for each 100 square feet of floor or ground area used for amusement or assembly, but not containing fixed seats
Rescue squads and armories	Parking equivalent to 3x the floor space in the main building
Residential dwellings, single-family and two-family	2 spaces for each dwelling unit
Residential dwellings, multi-Family	1 1/2 spaces for each dwelling unit
Restaurants, drive-in	Parking space equivalent to 5 times the floor space in the main building

Retail business and consumer service outlets	1 space for each 200 square feet of gross floor area
Sanitariums, rest and Convalescent homes for the aged, and similar institutions	1 space for each 6 patient beds, plus 1 space for each staff or visiting doctor, plus 1 space for each 4 employees
Senior high schools and colleges, both public and private	1 space for each 10 students plus 1 space for each classroom and administrative office
Services Stations	2 spaces for each gas pump, plus 3 spaces for each grease rack or similar facility
Shopping centers	1 space for each 200 square feet of gross floor area

6.2. Off-Street Loading and Unloading Space

Every building or structure used for business, trade or industry hereafter erected shall provide a minimum of 1 space as indicated herein for the loading or unloading of vehicles off the street or public alley. Such space shall have access to an alley, or if there is no alley, to a street. For the purpose of this section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet, and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

Retail, Wholesale and Industrial Operations: One loading space for each twenty- thousand (20,000) square feet of gross floor space or fraction thereof.

6.3. On Street Parking

On street parking will not be allowed to count toward your parking requirements.

Chapter 7 Reserved

Chapter 8 Special Restrictions

Section 8.1 Use Restrictions for Permitted, Conditional, and Special Uses

8.1 Special Restrictions for Permitted Uses

8.1.1 Animal Hospitals provided that all kennel areas are located in an enclosed facility.

8.1.2 Building Materials Storage and Contractor storage areas shall be enclosed by a 6 foot high fence.

8.1.3 Family Campgrounds shall provide a site plan with a maximum of 1 acre, detailing how many sites, structures, road improvements for review. They must also have approval from the Madison County Environmental Health Department.

8.1.4 Cemeteries whether private or public shall be enclosed by a minimum 4 foot high fence and shall have minimum 20 foot right-of-way to a DOT maintained road for a private and 45 foot right-of-way for a public cemetery. They shall be setback a minimum of 50 feet from any property line. They are also required to be surveyed with the survey being recorded in the Madison County Register of Deeds office.

8.1.5 Group Camp Facilities

Group camp facilities operated on a profit or non-profit basis shall meet the following requirements:

1. No camp shall have a maximum design capacity of more than 150 camp sites;

2. Each group camp shall provide a minimum of 1500 square feet per camp site;

3. All buildings and areas for organized recreation use shall be set back a minimum distance of two hundred (200) feet from any property line to be maintained as a natural buffer from adjacent lots and uses;

4. Cabins in the camp shall be a minimum distance of fifty (50) feet from one another and a minimum distance of seventy-five (75) feet from any toilet facility. No cabin shall be more than one hundred and fifty (150) feet from the toilet facilities;

5. A preliminary plat drawn to scale of not less than two hundred (200) feet to the inch nor more than fifty (50) feet to the inch shall be submitted to the County Planning Board with each group camp facility application. The sketch shall include, among other things, the requirements set forth in the above and other information that may be required by the Planning Board. The Planning Board may require a final plat incorporating any changes set forth before final approval of the camp facility is granted.

8.1.6 Campgrounds

Campgrounds providing sites for tents and camping trailers or recreation vehicles shall meet the following requirements:

1. A minimum of fifteen hundred (1500) square feet of area shall be provided for each tent or trailer space;

2. All buildings, tent spaces and trailer spaces shall be set back a minimum distance of two hundred (200) feet from any property lines to be maintained as a natural buffer from all surrounding lots and uses;

3. A sanitary source of drinking water shall not be more than two hundred (200) feet, toilet facilities not more than four hundred (400) feet, and wash houses not more than one thousand five hundred (1500) feet from any tent or trailer space. This provision shall not apply where community water and sewer connections are provided to trailers having self-contained kitchens and bathroom facilities;

4. A preliminary plat drawn to scale of not less than two hundred (200) feet to the inch nor more than fifty (50) feet to the inch shall be submitted to the County Planning Board with each camp application providing sites for tents and camping trailers. The sketch shall include among other things the requirements set forth in the above and other information that may be required by the Planning Board. The Planning Board may require a final plat incorporating any changes set forth before final approval of camp site is granted.

8.2 SPECIAL USE STANDARDS

Section 8.2.1 Special Use Standards

The following standards shall apply to all special use applications. The Board of Adjustment shall find that each will not:

a. adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use
b. be detrimental to the public welfare
c. be injurious to property or public improvements in the neighborhood

Likewise the Board of Adjustment may impose any additional conditions it feels necessary as long as they are in the spirit of intent for this ordinance.

8.2.2 Sawmills

A special use permit may be granted for a five year period as long as the following conditions are met. If at any time these conditions are violated the Madison County Zoning Office shall notify the owner in writing of each violation. The owner shall have a thirty (30) day abatement period or the special use permit shall be revoked.

The owner will have an additional sixty days to cease operation, dismantle the sawmill, and return the site to its original condition.

a. Sawdust shall be disposed of in a manner that is acceptable to the N.C. Department of Environment, Health and Natural Resources, Division of Environmental Management.

b. Access to the site shall not create a traffic nuisance to area residents.

c. All residents within one mile of the proposed site shall be notified in writing of the public hearing to be held by the Board of Adjustment regarding the issuance of a conditional use permit.

8.2.3 Landfills -

Provided all state and county health regulations are met.

8.2.4 Wastewater Treatment Plants

a. Any facilities to be constructed or located in a designated flood hazard area shall conform to the Madison County Flood Damage Prevention Ordinance and obtain permit approvals required by local, state or Federal regulations.

b. All buildings and accessory facilities and structures shall be set back at least twenty (20) feet from all property lines and shall be landscaped and provided with protective fencing when said landscaping and fencing is required by the Board of Adjustment.

c. No vehicles, equipment or materials shall be stored on the premises, except within an enclosed building.

d. All above facilities shall be subject to the developer having guaranteed, to the satisfaction of Madison County Board of Adjustment, the installation of said improvements. Madison County reserves the right to inspect, reject, stop, or otherwise cease the construction of all service facilities or improvements in the event the same are not being constructed in accordance with the plans, specification standards, policies, or other conditions placed by the Madison County Board of Adjustment. Either of the methods described below may be used to guarantee improvements:

1. Filing a performance or surety bond or an irrevocable standby letter of credit in the amount of one hundred percent (100%) of the cost to complete the work as determined by the Developer and approved by the Board of Adjustment.

2. By depositing or placing in escrow, a certified check or cash in an amount equal to one hundred twenty-five percent (125%) of the amount. Portions of the deposit may be released as work progresses as specified by the Board of Adjustment after consulting with the developer or his engineer.

8.2.5 Mining and Quarrying Operations

a. Buffer strips shall be provided as defined in Section 41 of this ordinance. Furthermore, all mine openings and quarries shall be enclosed by a cyclone type fence not less than eight (8) feet in height and located not less than ten (10) feet from the excavation edge wherever in the judgment of the Zoning Enforcement Officer they shall be necessary for safety.

b. Blasting operations shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m. Furthermore, all blasting, drilling and other sources of noise, vibrations, flying debris and dust shall be conducted in such a way as to cause the minimum nuisance or hazard to adjacent or neighboring properties at any time.

8.2.6 Hazardous Waste Disposal Operations

A conditional use permit may be granted for a one Year period as long as the following conditions are met:

1. The applicant for a sludge disposal conditional use permit shall submit to the Board of Adjustment an application for a conditional use permit containing the following information as a minimum:

   a. estimated volume of sludge produced each month,

   b. estimated solids content,

   c. chemical analysis,

   d. disclosure of any hazardous waste,

   e. proposed disposal site(s) including map,

   f. proposed method of disposal,

   g. proposed monitoring of sludge,

   h. proposed monitoring of surface and ground waters,

   i. proximity to dwellings, wells and water bodies,

   j. method of transportation,

   k. method of runoff control collection and treatment at the disposal site,

l. disclosure of Superfund Amendment Reauthorization Act (SARA) contributors to the sludge generating facility,

m. proposed application rate,

n. proposed method of site restoration when operation is complete,

o. permission from the property owner,

p. any other information specifically requested by the board.

2. Access to the site shall not create a traffic nuisance to area residents.

3. All residents within one mile of the proposed site shall be notified in writing of the public hearing to be held by the Board of Adjustment regarding the issuance of a conditional use permit.

4. The application has, in the opinion of the board, met the requirements of Section 11.3 of this ordinance, as well as the requirement that the purposed operations will not present an unreasonable risk of environmental damage.

5. Upon a finding by the board that the application meets the criteria for approval, the board shall set a performance bond that will ensure compliance with the terms of the conditional use permit and to reimburse the county for any costs that may be incurred as a result of accidents, spills or abandonment of the site. The performance bond shall be established to the satisfaction of the Board of Adjustment prior to issuance of the conditional use permit.

8.3 Reserved

8.4 Regulations Governing Manufactured Home Parks

8.4.1 Purpose

The purpose of this section is to govern the installation of Manufactured Home Parks. It is in order to promote the public health, safety and general welfare of Madison County citizens, and to ensure that adequate facilities for transportation, fire, safety, emergency access, parking, water, general safety and sewage disposal are provided for manufactured home park residents.

8.4.2 Approval/ Permit Required

Any person, firm or corporation wanting to construct or expand a manufactured home park shall first submit an application and site development plan to the Madison County Zoning Office. Once submitted the Madison County Zoning Office shall forward the application to the Madison County Board of Adjustment for a conditional use hearing.

8.4.3 Specifications for Application/Site Development Plans

Formal application for construction a new manufactured home park or expanding an existing park shall consist of a permit application and site development plan accompanied by five (5) copies of same, which shall include the following specifications:

a. A site development plan prepared by a register land surveyor or engineer outlining the entire park (including the original spaces) shall be required in all applications for a manufactured home park or the expansion of an existing park that expands such existing park by five (5) or more spaces.

b. The proposed manufactured home park site development plan shall be drawn at a scale no smaller than one inch equals one hundred feet. The following information shall be indicated on the proposed site development plan or presented as supporting documents, unless specifically waived by the appropriate authority.

1. Title Block
   - -Name and address of owner of record
   - -Manufactured home park name
   - -Location (township, county, state)
   - -Date(s) of survey(s)
   - -Graphic scale and written scale
   - -Fire district
   - -Tax parcel number
2. Roads
   - -Existing and platted roads on abutting properties and in the proposed manufactured home park
   - -Right-of-ways, location and dimensions, if applicable
   - -Proposed road name(s)
   - -Cross-section of typical internal road with indication of design standards to be met

3. Utilities
   -Utility and other easements of record on and abutting to the manufactured home park
   -Transmission lines
   -Approximate location of natural gas lines, if any
   -Storm sewers, culverts, detention ponds, and other drainage facilities, if any (proposed/actual)

4. Site Calculations
   -Acreage in total project or phase
   -Total number of manufactured home spaces
   -Linear feet in roads
   -Area of space

5. Other Details
   -Sketch vicinity map showing the relationship between the proposed manufactured home park and surrounding area
   -North arrow
   -The location and name of all water courses
   -Any natural features affecting the site
   -The location of any area of special flood hazard and floodway, if applicable
   -The location of any cemetery
   -Existing buildings or structures, railroads and bridges on the land
   -Names of adjacent property owners PIN numbers
   -The existing uses of the land
   -The location and description of all manufactured home park spaces, corners and space numbers
   -Appropriate number of plan copies
   -Park identification sign plan (sketch with dimensions)

6. A written statement from either the NC Department of Environment, Health and Natural Resources or the Madison County Health Department permitting plans for the community sewer system, if Applicable.

7. A written statement from the NC Department of Environment, Health and Natural Resources approving and permitting plans for a community water system, if applicable.

8. A copy of the erosion control plan and a written statement from the NC Department of Environment, Health and Natural Resources stating that an erosion control plan has been submitted and approved for the project, if applicable.

9. A driveway permit from the NC Department of Transportation, if applicable.

10. Any other information considered by the manufactured home park developer, the Zoning Officer and/or Planning Board that is pertinent to reviewing the plat.

8.4.4 Manufactured Home Park Construction Permit and Manufactured Home Park Certificate of Completion

The Zoning Officer may issue to the developer a manufactured home park construction permit upon receipt of a certification from the Board of Adjustment that the proposed manufactured home park plan has received a conditional use permit and is in compliance with the regulation in the section. This permit shall enable the developer to execute the park plan in the field, but shall not be construed to entitle the developer at this time to offer spaces for rent or lease, or to operate a manufactured home park as defined by this section.

If the construction of the park has not begun within six (6) months from the issue date of the manufactured home park construction permit, the permit shall become null and void.

Certificate of Completion. Once the required manufactured home park site improvements are complete, the developer shall notify the Zoning Officer. A site inspection(s) shall be performed to see that the park has been built according to the specifications and a Certificate of Completion or a list of remedial items that must be satisfied before a Certificate of Completion will be issued. Once a Certificate of Completion is issued, spaces within the park or phase may be leased and set-up permits for manufactured homes may be obtained.

8.4.5 Existing/Non-conforming Manufactured Home Parks

Any manufactured home park in existence prior to the effective date of this section may continue to operate to the extent that prior approval was granted, without being subject to the terms and conditions of this section. Any proposed expansion of said park after the effective date of this section must comply with the provisions of same as herein provided.

In-filling - If a manufactured home park existing prior to establishment and enactment of this section is to be filled and such in-fill will not require any new road construction to serve the spaces, the development will not be required to comply with the requirements of this section provided that the following conditions are met:

a. The development must occur within the original manufactured home park; and
b. No new lots are created; and
c. All setback requirements are met.

Other Expansions - If expansion of an existing manufactured home park involves new road construction, the new development will be considered a new phase and shall comply with the requirements of this sections, regardless if the proposed manufactured home park is on a different tax parcel(s) or owned by another individual.

8.4.6 Amendments to the Park Development Plan

Minor changes in the location or character of a manufactured home space or other structures may be authorized by the Zoning Officer if required by engineering or other circumstances not foreseen at the time the plan was approved, provided that such changes

meet the requirements set forth in this section. A developer proposing to increase the number of spaces shall submit a revised plan for approval by the Board of Adjustment.

8.4.7 Property Access

All manufactured home parks shall have an access road from the developed property to a state maintained road, built to the minimum road standards of this section.

8.4.8 Density

Each manufactured home space shall contain at least five thousand (5,000) square feet of ground area with a maximum number of six (6) per acre. Madison County Health Department requirements or other local and state regulations may affect the development density.

8.4.9 Separation and Setback Requirements

Each manufactured home space shall be clearly defined by permanent markers placed at all corners. No manufactured home space shall be located on ground within a defined floodway in accordance to the Madison County Flood Damage Control Ordinance. Manufactured home spaces may be located in an area of special flood hazard provided the requirements of the Madison County Flood Damage Control Ordinance are met.

Each manufactured home shall be located at least thirty (30) feet from any other manufactured home, at least twenty (20) feet from the manufactured home park boundary and at least thirty (30) feet from the center line of all interior roads and thirty (40) feet from the edge of the right-of-way of any state maintained road.

All manufactured homes shall be located at least one hundred (100) feet from any public water or sewer treatment facility.

8.4.10 Parking

Two (2) off-street parking spaces shall be provided and maintained for each manufactured home space. Each parking space shall have a minimum width of ten (10) feet and a minimum length of twenty (20) feet. Parking spaces, shall, at a minimum, be constructed using four (4) inches of crushed stone on a well-compacted sub-base of at least four (4) inches, A-B-C-M.

8.4.11 Public Road Access

Manufactured home spaces within a manufactured home park shall not have direct vehicular access to a state maintained road. Access to all manufactured homes and other structures within a manufactured home park shall be made using road located within the park.

8.4.12 Road and Design Standards

The manufactured home park roads minimum construction standards are as set forth below. Manufactured home park roads may be designated public or private.

Public manufactured home park roads shall be designed to meet the minimum road construction standards of the North Carolina Department of Transportation as set forth in
G.S. 136-102.6, with the exception of road grade and it shall not be greater than 12%.

Private manufactured home park roads shall be designed to meet the minimum road construction standards below:

a. Cul-de-sac - The required turnaround on a dead-end road in a manufactured home park shall have an unobstructed roadway radius of not less than thirty- five (35) feet. If the road length does not exceed three hundred (300) feet and if construction difficulties will not permit a turnaround, the use of a "y" or "t" or other turning space of a design that will allow a vehicle with a wheel base of at least twenty-five (25) feet to complete a turning movement with a maximum of one backing movement, shall be permitted.

b.Road Grades - Maximum road grades shall be twelve (12) percent.

c. Road Widths - Manufactured home park roads shall have a minimum roadbed width of eighteen (18) feet and shoulder width of two (2) feet.

d. Roadbed Base - After subgrade preparation, the roadbed shall be surfaced with material of no lower classification than crushed rock, stone or gravel. The crushed rock or stone size shall be from one and one-half (1 1/2) inches down, including dust. Stone shall be spread uniformly over the area to be covered and thoroughly rolled and compacted to no less than six (6) inches.

e. Maximum cut and fill slopes shall be 1.5:1.

f. No road in an area subject to flooding shall be approved if it is more than two (2) feet below the elevation of a 100 year flood.

g. Every road shall be designed to accommodate a ten (10) year storm water runoff by natural or artificial means.

h.Internal road and drainage facility maintenance shall be the manufactured home park owner's responsibility.

8.4.13 Internal Road Names and Signs and Space Numbering

All proposed roads within a manufactured home park shall be assigned a name. Such names shall be verified by the Madison County 911 operations center. All proposed road names and signs shall be approved by the Madison County Commissioners in accordance with the Road Naming Ordinance. Each manufactured home space shall have a four-inch high or larger permanent site number mounted or painted so that it is clearly visible from the adjacent road prior to the issuance of a Certificate of Completion by the Inspection Department. The manufactured home park owner is responsible for maintaining site numbers.

8.4.14 Skirting/Underpinning

It is the responsibility of all manufactured home owners to provide proper tie down and skirting and stairs. Skirting is required within sixty (60) days of the date of occupancy of the mobile home. The skirting is to be of solid skirting material (treated wood, vinyl, metal, masonry).

8.4.15 Solid Waste Disposal

Each manufactured home park shall provide a suitable means of collection and disposal of solid waste, which shall include facilities for recyclable materials, whether collected by private or public means. The method of solid waste collection and disposal shall comply with applicable regulations governing other citizens of Madison County and the plans for same shall be submitted as a part of the application.

8.4.16 Manufactured Home Park Name

A manufactured home park shall not duplicate or closely resemble the name of any existing subdivision, existing manufactured home park or other housing development located in Madison County. Proposed park names shall be approved by the Madison County Zoning office.

8.4.17 Reserved

8.4.18 Reserved

8.4.19 Appeals

Any individual, firm or corporation who has been denied the issuance of a manufactured home park construction permit or any other permit or certificate as required by this Ordinance to operate a manufactured home park by the Zoning Officer, may within thirty (30) days after receiving proper notice of such denial, appeal in writing to the Madison County Board of Adjustment. Proper notice shall be defined as written notice served personally or by certified or registered mail, return receipt requested, on the affected party. Such appeals shall be made in accordance with section 11.2(3) and 14.4 of this ordinance.

8.4.20 Penalties

Violation of the provisions of this section or failure to comply with any of its requirements shall result in the penalties set forth in section 14.4 of this ordinance..

8.4.21 Fees

A fee for reviewing and approving manufactured home parks shall be established by the Board of Commissioners and listed in the Fee Schedule in the Madison County Inspections and Zoning office.

8.4.22 Conflicting Ordinance

Wherever the provisions of any other law, ordinance or regulation impose higher standards than are required by the provision of this Ordinance, the provisions of such law, ordinance or regulation shall govern.

8.4.23 Repeal of Portions of Existing Regulations Governing Mobile Home Parks

All regulations and requirements in conflict with the provisions of this Ordinance are hereby repealed.

8.5 SPECIAL USES, PLANNED UNIT DEVELOPMENTS, AND GROUP DEVELOPMENT

The planned unit development (PUD) and group development concept offers developers the possibility of more efficient and flexible methods for developing property with respect to the appropriate permitted uses of a district.

The purpose of the planned unit development is to provide a means by which detached, semi-attached, or attached dwellings may be developed on a site under unified control, which is planned and developed as a whole or in stages, in areas which may be less suitable for conventionally developed uses and to allow for a mixture of compatible uses and the preservation of open space.

8.5.1 Applicability

A special use permit shall be required for each of the following types of Planned Unit or Group Developments:

Residential/Mixed-use Planned Developments Retail-Business District Group Developments Industrial District Group Developments

8.5.2 Definitions

A. Residential/Mixed-use Planned Developments- PUD with predominately Residential Uses. Commercial uses may not exceed twelve (12) percent for projects with less than 75 total acres. Commercial uses may not exceed twelve (10) percent for projects with 75 acres or more total acres.

B. Retail-Business District Group Developments- PUD with predominately business and retail uses. Residential Uses may not exceed five (5)percent. The residential component must comply with all open space and standards for a residential PUD.

C. Industrial District Group Developments- PUD with predominately Industrial and Heavy commercial uses. Residential uses may not exceed five (5) percent. The residential component must comply with all open space and standards for a residential PUD.

8.5.3 Procedure

A. Applications for a special use permit shall be made on the proper form obtainable from the Zoning Administrator. All applications for a special use permit shall be submitted to the Zoning Administrator and shall be forwarded to the Planning Board for its review. A request for a special use permit shall in all cases require a public hearing. The applicant shall also provide the information listed below.

1. A site plan, drawn to a scale of at least one inch to forty feet, indicating the property lines of the parcel upon which the use is proposed; the identity of neighboring properties; any adjacent streets; any existing or proposed structures, showing setbacks to rights-of-way and property lines; parking areas showing the number and arrangement of parking spaces and driveway entrances; utilities and surface water drainage; and significant natural features, such as wooded areas, streams or ponds. The site plan shall be neatly drawn and indicate north, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

2. A complete and detailed description of the use proposed, together with any other pertinent information that the applicant feels would be helpful to the Planning Board in considering the application.

3. A plan showing the size, type, and location of any signs proposed to be erected in conjunction with the use.

4. A construction schedule, including the date upon which construction is expected to begin and the date within which it is expected to be completed.

The Planning Board may at any time require the submission of additional information deemed necessary to evaluate the application under the terms of this ordinance.

B. Upon receipt of an application for a special use permit, the Planning Board 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 purposes of offering testimony and recommendations as to the application, and the Planning 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. The Planning Board may ask other departments or agencies to review the application and make recommendations.

C. The Planning Board shall grant and issue the special use permit if and only if it finds the following:

1. The use will not materially endanger the public health, safety and general welfare 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; and

4. The location and character of the use, as developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the County and its environs.

If, in the opinion of the Planning Board, any one of the above conditions shall not be met, the Board shall deny the application.

D. Within 7-days after making the decision required of it, the Planning Board shall issue its written ruling, either granting or denying the special use permit, and deliver copies thereof to the Zoning Administrator. The Zoning Administrator shall send a copy of the written ruling to the applicant or his representative, but the failure to do so shall not affect the ruling.

E. All construction approved pursuant to a special use permit shall be completed in accordance with the construction schedule as approved by the Planning Board. In the event that a significant departure from the construction schedule occurs during a project, the applicant may appear before the Planning Board and request an amendment of the special use permit. The Planning Board may extend the construction schedule only upon a finding that delays in construction have been caused by, or are expected to be caused by, circumstances beyond the control of the applicant. Unless the construction scheduled is extended by amendment of the permit, failure to complete construction within the approved time shall be considered a violation of the permit, and subject to the sanctions.

8.5.4 Additional conditions as to use.

In addition to any other requirements provided by this Ordinance, the Planning Board may, in issuing a special use permit, designate additional conditions and requirements in connection with the application as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted and on the certificate of the special use permit (or 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 permitted or any similar use.

8.5.5 Expiration of Special Use Permits.

A special use permit issued in accordance with this Section shall expire if the applicant does not commence work on the project and receive a zoning permit for such use within six months from the date of the decision. If, after commencing work under a special use permit and prior to completion of the entire project, work is discontinued for a period of twelve months, the permit shall become void, and no work may be performed until a new permit has been issued. When a Special Use Permit expires, the Planning Board shall treat reapplication for a new permit in the same manner as any other application, and the provisions of this Ordinance currently in effect shall be applicable.

8.5.6 Planned Unit Developments.

A. **Purpose and Intent.** The purpose and intent of the Planned Unit Development (PUD) is to provide a creative and aesthetic approach for residential development to be incorporated within a single site plan. The development will provide a level of

residential density suited to its location and the capacity of the land and utilities available at the site. The PUD encourages the clustering of development and requires the identification and preservation of conservation areas and the permanent preservation of open space. The requirements established in this section allow a broader range of flexibility and individuality in site design, types of residential dwellings and architectural styles, while providing for the installation of adequate vehicular parking and access, pedestrian facilities, utilities, landscaping, conservation areas and open space, screening, and other conditions which will insure the safety and aesthetic environment of the development for its residents and adjacent properties.

B. **Uses Permitted.** Within a PUD, a building or land shall be used only for the following uses:

1. Residential uses, excluding manufactured homes.
2. Commercial uses deemed compatible with the development
3. Accessory uses and structures.
4. Open space, including recreational uses.

C. **Minimum Size.** A PUD shall have a minimum area of ten (10) contiguous acres.

D. Design Requirements.

1. **Development Density.** The total residential density for the PUD shall not exceed the maximum density of two (2) dwelling units per acre. However, consistent with a conservation subdivision design, a PUD may request increased density not to exceed two (2) dwelling units per 1/2 acre.

2. **Dimensional Requirements.** All buildings and structures shall provide a side and rear setback equal to twice the setback required for the district in which the development is proposed to be located along the exterior boundaries of the project property. Within the PUD, setbacks from internal streets and other internal yard requirements are waived. The total building footprint of all principal and accessory structures shall not exceed thirty percent (30%) of the buildable acreage of the proposed site. The maximum building height of all structures in the PUD shall not exceed the maximum height of the district in which it is located.

3. **Water and Sewer Service**. A PUD shall have an approved community or public water and sewage disposal system.

4. **Soil Erosion and Sedimentation Control Plan.** Prior to any regulated land disturbing activities on a site proposed for a PUD, a soil erosion and sedimenta- tion control plan shall be submitted to and approved by the N.C. Department of Environmental Quality for the phase or portion of the site to be disturbed.

5. **Storm Water Drainage**. Storm water drainage facilities shall be designed by a licensed engineer and constructed to prevent on-site and downstream erosion and sedimentation and where feasible, designed to follow existing natural drainage. The facilities shall be designed to prevent flooding or standing water and to reduce the impact of storm water discharge into identified conservation areas. Unless otherwise approved, storm water discharge points shall be located within the site and where feasible, discharged through vegetated areas into existing natural drainage. Where proposed storm water drainage cannot be designed to follow natural drainage, new or alternative systems shall be designed and constructed to minimize the erosion and sedimentation problems within the proposed development and on adjacent properties. New storm water drainage facilities shall be designed for a 25-year, 24-hour storm. The system shall be designed, constructed and maintained to discharge storm water from the site in a manner that does not exceed the predevelopment storm water discharge. Where retention or detention facilities are used, a landscaping plan for screening these facilities shall be submitted. The storm water drainage plan shall incorporate the entire project site.

6. **Streets** All streets proposed for dedication to the public shall be constructed to N.C. Department of Transportation standards. All streets proposed for private use shall submit proposed design standards and agreements for ownership and maintenance of said private streets.

7. **Parking.** All parking for residential units shall be off-street on the same premise. All parking for commercial uses shall comply with Section 6 of this Ordinance.

8. **Outdoor Lighting and Signage.** The lighting fixtures for the safety of drives, service areas, and pedestrian walks shall be designed in keeping with the scale and architectural harmony of the project. Outdoor lighting fixtures shall be designed and located as to prevent light from shining directly on vehicular traffic, adjoining property or radiating upward. The subdivision may place a minimum number of signs indicating the name of the subdivision using ground signs not more than 24 square feet in size with stone foundations, sand blasted lettering, earth tone colors and shielded indirect white or amber light of reasonable intensity that is directed solely at the sign face.

9. **Landscape Planting.** Within a PUD, a landscaping plan shall be considered a required element of the project. The landscaping plan shall require that all unpaved disturbed surfaces be covered with a permanent plant or mulch material. The landscaping plan shall provide provisions for identifying and protecting existing trees during the clearing, grading and construction phases of the development. These measures shall include but not be limited to designated areas around the drip zone of protected trees where construction and other equipment are prohibited. Street trees shall be incorporated in the landscaping abutting all street rights-of-way. The landscaping shall be maintained and all dead materials shall be replaced by the next growing season. The plan shall also include an estimated cost of installation.

10. **Buffering.** Where the Planning Board finds that the existing vegetation and topography is inadequate between existing and proposed development buffering shall be provided to form a visual separation between the development and adjacent residential areas. Screen plantings shall include two staggered rows of mixed evergreen and deciduous trees. In addition to vegetative buffering, fencing may also be required.

11. **Electrical Service.** All exterior wiring shall be placed underground unless an alternative placement is required for safety. All exposed utility service units shall be screened by fencing, evergreen plantings and walls. The plantings shall consist of two rows of native species evergreen and deciduous trees, planted in a staggered pattern.

12. **Solid Waste.** Exterior solid waste containers, visible from adjacent properties or rights-of-way shall be located and maintained in a side or rear yard area within an enclosed, opaque fence or structure.

13. **Design.** Conformity to the following standards is encouraged, but not required:

    Where possible, the project should use indigenous materials of the region, including stone and wood. Buildings should be designed utilizing colors, materials, finishes and proportions in a manner to produce a coordinated appearance within the development and with the architectural character of the community. Preservation of existing mature trees and vegetation is encouraged. Retention of open spaces that contain wooded areas or open vistas within the development are recommended.

14. **Pedestrian Access.** Pedestrian trails and walks shall be provided to connect parking areas and the open spaces within the development. When feasible, these pedestrian trails or walks shall connect with pedestrian trails or walks on adjacent properties.

15. **Open Space Preservation**. Natural, landscaped and agricultural open space shall be permanently preserved on the site in an amount not less than thirty percent (30%) of the gross acreage of the site. The open space shall be designated on the site plan and shall be accompanied by a recordable instrument dedicating the permanent ownership and maintenance of the open space in a manner acceptable to the Planning Board.

E. **Conveyance of Common Areas and Facilities**. All areas and facilities, including but not limited to roads, parking areas, open space, recreational facilities, landscaping, common areas, lighting, signage, waste storage and pick-up facilities, within and a part of the development proposed for common ownership shall be guaranteed by restrictive covenants running with the land which describe the areas and facilities and their maintenance and improvement.

F. **Maintenance of Common Areas and Facilities.** Prior to approval of the site plans, the applicant shall submit the legally enforceable instrument or instruments that set forth the means for permanent maintenance of all common areas and facilities in the development, including but not limited to roads, parking areas, open space, recreational facilities, landscaping, common areas, lighting, signage, waste storage and pick-up facilities. The applicant shall create an owner's association and submit copies of the bylaws, rules and regulations. The instrument shall contain the following provisions:

1. The association shall be established prior to the sale of lots or units;

2. Open space areas shall be reserved in perpetuity;

3. The association shall be responsible for liability insurance, local taxes, and the maintenance of all designated common facilities which may include streets, open space and recreational facilities, pedestrian facilities, storm water facilities and easements, and

water and sewer facilities;

4. The association shall provide for the payment of member dues for the pro rata share of the cost. The assessment levied by the association may become a lien on the property;

5. The association shall have the right to periodically adjust the assessment to meet the changing needs of the development;

8.5.7 Group Development in Retail-Business and Industrial Districts

In the case of two or more buildings or uses to be constructed on a plot of ground of at least two acres not subdivided into the customary blocks and lots, and which are intended to be used for commercial or industrial purposes in a manner that will be in harmony with the character of the neighborhood, the Planning Board may issue a special use permit, provided:

1. Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the Planning Board authorize a use prohibited in the district in which the project is to be located.

2. The distance of every building from the nearest property lines shall meet the front yard setback and side yard requirements of the district in which the project is located.

3. A proposed group development project shall be so designed that the overall intensity of land use shall be no higher than that permitted in the zoning district in which the project is located. Furthermore, the design shall permit permanent retention of open space and provide for its care and maintenance.

4. The procedure for approval of group development plans shall consist of the submission of a design plan showing the proposed layout, including the location of buildings, driveways, off-street parking spaces and recreation areas prior to final approval by the Planning Board.

The Planning Board shall grant and issue the special use permit if and only if it finds the following:

1. The use will not materially endanger the public health, safety and general welfare 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; and

4. The location and character of the use, as developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the County and its environs.

If, in the opinion of the Planning Board, any one of the above conditions shall not be met, the Board shall deny the application.

8.5.8 Guarantee of Improvements

Infrastructure and Utilities:

Approval of the final plat shall be subject to the developer having guaranteed, to the satisfaction of Madison County, the installation of said improvements. Madison County reserves the right to inspect, reject, stop, or otherwise cease the construction of all service facilities or improvements in the event the same are not being constructed in accordance with the plans, specification standards, policies, or other requirements of Madison County. Where the required roadbed and utility improvements have not been completed prior to the submission of the final plat for approval, the approval of said plat shall be subject to the developer guaranteeing the installation of the improvements within a period of time specified by the Planning Board after consulting with the developer or his engineer(s). Guarantees employing lending institutions shall be institutions which are licensed to do business in North Carolina. Either of the methods described below may be used to guarantee improvements:

1. Filing a performance or surety bond or an irrevocable standby letter of credit in the amount of one hundred and twenty five percent (125%) of the cost to complete the work as determined by the developer and approved by the Planning Board.

2. By depositing or placing in escrow, a certified check or cash in an amount equal to one hundred twenty-five percent (125%) of the amount. Portions of the deposit may be released as work progresses as specified by the Planning Board after consulting with the developer or his engineer.

Landscaping:

Prior to the recordation of a final plat, all landscaping shall be guaranteed by filing a performance or surety bond or an irrevocable standby letter of credit in the amount of one hundred and twenty five percent (125%). For the purposes of this guarantee the required bond shall cover all temporary or permanent seeding to be installed to prevent sedimentation and erosion problems until required plant material is placed. It shall also cover all plants, ground cover and features of the landscaping plan submitted and approved. The time of completion for work shall be set by the Planning Board during their approval process. The Planning Board shall verify the amount of guarantee is sufficient to provide adequate funds to cover the cost of installation.
Guarantees employing lending institutions shall be institutions which are licensed to do business in North Carolina.

8.6 VACATION RENTALS

The development of a new structure intended for use as Residential Vacation Rental shall comply with all standards applicable to construction of a residence within the land use category the Residential Vacation Rental is proposed. Rental Cabins (not primarily used for permanent residences) are permitted as long as they are one per lot. More than three contiguous rental structures shall go before the Planning Board for a special use permit and shall conform to all applicable standards (however where the planning board grants a special use the lot restriction may be waived in lieu of a PUD approval). The use of a mobile home as a Residential Vacation Rental is not permitted. Any residential property used as a residential vacation rental or bed and breakfast shall comply with the following standards:

8.6.1 Residential Vacation Rentals:

A. **Purpose.** The purpose of this section is to establish a set of regulations applicable to residential vacation rentals. These regulations are in addition to all other provisions of this ordinance. In the adoption of these standards, Madison County finds that residential vacation rentals have the potential to be incompatible with surrounding residential uses, especially where several are concentrated in the same area, thereby having the potential for a deleterious effect on the adjacent full-time residents. Special regulations of Residential Vacation Rentals are necessary to ensure they will be compatible with surrounding residential uses and will not act to harm or alter the neighborhoods they are located within.

B. **Permit requirements.** Zoning Certificate of Compliance, Business Listing with Tax Assessor and Room Tax Registration (when applicable) for each residential vacation rental will be required. Where water or sewage disposal is provided by a community system, evidence shall be submitted with the application for Zoning Clearance to show that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed there is adequate service capacity available to accommodate this use.

C. **Location**. Residential Vacation Rentals shall be permitted in R-A, R-1, and R-2 zoned districts only if the current zoning requirements are met as well as any other requirements of this section.

D. **Number of Occupants allowed.** The maximum number of occupants allowed in an individual residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the on-site parking requirements set forth in subsection (h) hereof, and shall not exceed two adults per bedroom. The Zoning Certificate of Compliance shall specify the maximum number of occupants allowed in each individual vacation rental.

E. **Appearance, visibility.** The Residential Vacation Rental as well as any Accessory Structures must be in harmony with the surrounding area so as not to create or become a nuisance as interpreted by the Zoning Department.

F. **Signs.** Must conform to the sign regulations set forth in Chapter 5.

G. **Traffic**. Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicle volume normally generated by a home occupied by a full-time resident in a residential neighborhood. Over ten contiguous Residential Vacation Rentals must adhere to Section 8.9 of the Madison County Subdivision Ordinance for road design. For purposes of this section, normal residential traffic volume means up to 10 trips per day.

H. **On-site parking required.** All Residential Vacation Rental lots must have 1 parking space for each sleeping area with a minimum of 2 spaces in accordance with subsection d., above. All parking associated with a Residential Vacation Rental shall be entirely on-site, in the garage, driveway or otherwise out of the roadway. Tenants of Residential Vacation Rentals shall not use on-street parking at any time.

I. **Noise.** All residential vacation rentals shall comply with the County Noise Ordinance. No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise or vibration detrimental to occupants of adjoining dwellings.

J. **Local contact person.** All residential vacation rentals shall designate a local contact person. The local contact person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. All the requirements enumerated in this section shall continue to apply:

1. The name, address and telephone number(s) of the local contact person shall be submitted to the Department of Inspections and Zoning, the local Sheriff Office, the local fire agency and supplied to the property owners within a 300- foot radius of the Residential Vacation Rental. The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any changes in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as required in this subsection.

2. If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff's Office will attempt to reach the local contact person, the penalties as set forth in Subsection m. shall apply.

K. Effect on existing residential vacation rentals. Each individual Residential Vacation Rental in existence on the effective date of this section shall be subject to a Zoning Compliance Certificate, Business Listing, and/or Room Tax Registration, and all standards set forth in this section with the exception of location and setbacks if evidence can be provided by the owner that the vacation rental unit was in existence prior to (April 1, 2008). If the Zoning Compliance Certificate, Business Listing, and Room Tax Registration, have not been requested within 90 days after the effective date, the penalties set forth in section (m) shall apply.

L. Violation of Residential Vacation Rental. It is unlawful for any person to use or allow the use of a property that is in violation of the provisions of this section. The penalties for violation of this section are set forth in Section 14.5 of the Madison County Land Use Ordinance. Additional penalties for violation of this section may include revocation of the Zoning Certificate of Compliance. If a local contact person is not able to be reached by the Sheriff's Office, this shall be grounds for revocation of the Zoning Certificate of Compliance.

M. Inspection. Each Residential Rental shall be subject to a zoning compliance inspection and fire/safety inspection. It shall meet the requirements given by the Madison County Inspections and Zoning office.

N. Road Standard and Access

1. Access to Property: The board retains the authority to ensure that proper ingress and egress routes are available for each Residential Vacation Rental. These access routes must ensure safe and efficient movement for tenants and must not disrupt the natural flow of traffic within residential neighborhoods.

2. Emergency Vehicle Access: All access routes and driveways for Residential Vacation Rental must be designed and maintained in a manner that allows for unimpeded access by emergency vehicles. Before any zoning compliance certificate can be issued or renewed and approved by the appropriate fire official.

3. Road Maintenance: In areas where multiple Residential Vacation Rentals are adjacent or in close proximity, there may be a need for upgraded or additional road infrastructure. Owners may be required to upgrade roads to handle increased traffic volumes or to ensure emergency access.

8.6.2 Bed and Breakfast Facilities:

A. The facility shall be located in a structure originally constructed as a single-family dwelling or as an inn.

B. The facility shall be limited in the number of guest rooms it contains. Bed and breakfast facilities in residential agriculture (RA) districts shall contain no more than six guest rooms. Bed and breakfast facilities in the residential resort (R-2) zoning district shall contain no more than twelve guest rooms.

C. The owner of the bed and breakfast or a resident manager shall live on the premises.

D. The exterior advertising shall conform to the sign regulations set forth in the Madison County sign ordinance.

E. The facility shall meet all building and fire codes, as well as all applicable requirements, including any regulations adopted under authority of, the NCGS.

F. There shall be a buffer strip meeting the specifications of dimensional requirements of zoning district the facility is located in.

G.No cooking facilities shall be allowed in the lodging units.

H.Two off-street parking spaces shall be provided for the dwelling unit, and one off- street space shall be provided for each lodging unit. Parking area(s) in or adjacent to residential use districts shall be screened by vegetation, fencing or walls so that vehicles are not visible from the street or from adjacent properties. The applicant shall submit a site plan which shall indicate where the parking is to be located and the manner in which it is to be screened.

I. Each Bed and Breakfast shall be subject to all Residential Vacation Rental requirements as well as meet all applicable state and local regulations. It shall comply with all regulations set forth by the Madison County Inspections and Zoning office and this ordinance.

8.7 COMMUNICATION TOWERS

It is the desire of the County of Madison to encourage communication facilities in order to ensure an adequate level of service to the county, while at the same time, protecting the health, safety, welfare and scenic beauty of the County.

8.7.1 Communication Facility

A communication facility is a tower or other transmission or receiving device operating for the purpose of broadcasting or receiving verbal or visual communication signals.

8.7.2. Permit required

It shall be unlawful for any person, corporation or entity to erect any communication facility without first obtaining a permit from the Zoning Enforcement Officer.
Permits must be obtained for all commercial broadcast and re-broadcast facilities. A permit, however, shall not be required for the erection of any non-commercial communication facility, such as shortwave, CB and T.V. antennas, having a height from its location on the ground of less than 75 feet.

8.7.3. Application required for permits

Any individual, corporation or entity desiring to construct a communication facility shall submit an application for a permit to the Zoning Enforcement Office and shall pay an application fee in the amount of $500.

The application shall be on a form approved by the Zoning Enforcement Officer and shall include or have attached thereto at least the following information:
A site development plat which contains the following information:

1. The name of the telecommunications tower owner and/or property owner and tax identification number of the parcel.

2. All identifiable structures located on the parcel; to wit, all private and public roads, highways and underground and overhead utilities.

3. Surveyed boundary lines of the parcel containing the proposed communication facility, construction area and its fall area.

4. The names, addresses and tax parcel numbers of all the adjoining property owners.

5. The elevation of the proposed tower's base.

6. A preliminary tower design plan, prepared by a registered professional engineer showing all guideline anchors and support structures, proposed building and other proposed improvements, including access roads and utility connections,

7. Showing the proposed height of the tower, lighting and antennas and the tower's design of load.

8. The applicant shall identify all possible alternative existing structures within the proposed broadcast area and explain why given those facilities the proposed tower is necessary.

8.7.4. Special Use Permit

All communication towers shall be subject to a special use permit granted by the Madison County Board of Adjustment. A communication facility may be sited in all zoning districts of the County, other than the resort district.

8.7.5. Written Statements

Written statements shall be provided from the Federal Aviation Administration and the Federal Communications Commission establishing that the proposed communication facility complies with all regulations administered by the FAA and the FCC, or establishing that the proposed facility is exempt from administration by the FFA and the FCC.

8.7.6. Conditions to be met

1. Prior to granting a permit for construction of a communication facility, the Board of Adjustment shall conduct a public hearing as required by this Ordinance, and shall establish that the facility meets at least the following minimal standards:

    a. The facility shall be situated in such a manner so it will not fall across a public street or adjoining property lines in the event of structure failure. Same may be established by either sitting the tower a distance from the adjoining property line greater than the height of the tower, or by using a self-collapsing structure that will collapse upon itself. Any self-collapsing structure must be documented by a professional engineer.

    b. The setbacks for the communication facility and any accessory structures shall not be less than that required in the underlying zoning district in which the facility is located.

    c. The tower must be set back a distance greater than the height of it from any residence or structure on adjoining properties.

    d. A professional engineer must certify under seal his estimate as to the cost of removing the tower, and the applicant must post a bond for 125 percent of the amount of that estimate to guarantee that should the facility cease to be used that its removal cost would be made.

2. The communication facility must be of a type or height such that the Federal Aviation Administration would not require the tower to be lighted or painted.

3. All communication facilities for broadcast must be designed and constructed to provide for the co-location of a minimum of two services. Certification must be provided by a professional engineer establishing that the tower will accommodate at least four users, prior to a conditional use permit issuing.

4. The applicant must certify that future co-locations on the tower will be allowed and made available at a fair market value, and the application must outline the method to be used by the applicant in determining what would constitute a fair value.

5. As a condition for the issuance of any permit for construction of a communications facility, the owner must record in the Office of the Madison County Register of Deeds a letter of intent to allow such co-locations, which shall bind all subsequent owners for the facility.

6. No new broadcast communication facilities shall be approved unless the Board of Adjustment finds that the equipment for the proposed tower cannot be accommodated on existing towers located within a one-mile search radius of the proposed site.

7. The only acceptable reason why a communications facility could not be located on the existing tower would be that the equipment exceeds the structural capacity of the existing tower, or that the planned equipment would cause interference with equipment already located on the tower, which could not be prevented at a reasonable cost.

8. Showing must be made that the applicant for the communication facility is licensed by the Federal Communication Commission to provide communication services, or if the applicant is not such a licensee, it must demonstrate it has binding commitments from one or more FCC licensees to utilize the proposed facility.

9. The owner of a communication facility shall provide a certificate of insurance evidencing it has liability coverage in the amount of at least $1,000,000 and the certificate shall contain certification that the insurance company will notify the County of Madison 30 days prior to the cancellation or modification of said policy.

8.7.7. Additional mandatory conditions

The Board of Adjustment shall not issue a special use permit for the purposes of this Article, unless the following conditions are also made a part of the permit:

1. All communication facilities and their accessory structures and equipment shall be enclosed within a secure fence.

2. No advertising of any kind will be permitted on or about the communication facility.

3. If a communication facility ceases to function for its intended purpose for a continuing period of 90 days, the owner of the tower and/or the owner of the property upon which the property is located shall be required to dismantle and remove the entire structure within 90 days of notification of the expiration of the aforesaid 90 day period.

4. The owner of the tower shall be required to provide the Zoning Enforcement Officer a copy of any notice of cessation of operation which is filed with the FCC, within seven days of said filing, and likewise, shall be required to provide the Zoning Enforcement Officer within seven days any notices issued by the FCC directing the cessation of operation of the facility.

5. All towers shall be unpainted, light grey or environmental green.

6. The owner of the tower must allow the location of telecommunication facilities operated by the County of Madison, if it is determined that the proposed tower is situated in a location that will benefit the telecommunications system of Madison County, provided that the County of Madison makes said request within 60 days of the filing of the permit application.

7. Each telecommunication facility must be designed to survive a natural disaster without interruption in operation. Said design shall include the following: nonflammable exterior wall and roof covering, openings and all equipment enclosures shall be protected against penetration by fire and in blown embers, the tower, when fully loaded, must be designed to withstand "maximum credible earthquake" and all equipment shall be mounted in such a manner that a quake will not tip them over, throw equipment off shelves or otherwise apt to damage equipment and back up generators must be available for use at a 1*1 communication facilities.

8.7.8. Additional Requirements

The Board of Adjustment may impose additional requirements before the issuance of the permit to address the following:

a. To prevent the facility from causing significant adverse visual impact on nearby residences.

b. To provide for the public safety.

c. To ensure that the communication needs of Madison County are met.

8.7.9. Technical Assistance

If in the course of its consideration of an application, the Board of Adjustment deems it necessary, it may employ an engineer or other expert of its choosing to review the application submitted, and shall in such cases, assess the reasonable costs for same to the applicant in an amount not to exceed $2,500.

8.7.10. Renewal of Special Use Permit

An annual telecommunication permit shall be required for each communication facility constructed along with each antenna situated on it pursuant to this Article. The holder of any such permit may be required to file a report, on a form provided by the Zoning Enforcement Officer, which should demonstrate the continued compliance with the requirements of this Article. A $500 annual permit fee shall be required, and said fee shall not be prorated.

The Zoning Enforcement Officer shall make an annual inspection of each site as a part of the permit renewal to certify that all conditions set forth by the Board of Adjustment are being met, that fences are in good repair, that no unauthorized communication facilities are present and to determine whether there are any hazards associated with the facility. Failure to obtain the annual permit within 30 days after the commencement of the annual period shall result in the facility being deemed abandoned and subject to removal as required by Section 1506(c).

8.8 WIND ENERGY

8.8.1 Permit Requirement

A. No Wind Energy Facility, or addition of a Wind Turbine to an existing Wind Energy Facility, shall be constructed unless a permit has been issued to the Facility Owner or Operator approving construction of the facility under this Ordinance. Permit application of the expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements.

B. Any physical modification to an existing and permitted Wind Energy Facility that materially alters the size and/or type of Wind Turbines or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

C. The permit application shall contain the following:

1. A narrative describing the proposed Wind Energy Facility, including an overview of the project;

2. The proposed total rated capacity of the Wind Energy Facility;

3. The proposed number, representative types and height or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;

4. Identification and location of the properties on which the proposed Wind Energy Facility will be located;

5. A site plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;

6. Certification of compliance with applicable local, state and Federal regulations, such as FAA and FCC regulations.

7. An Environmental Assessment for Large Wind Energy Facilities, which shall be provided for review by the applicant to the agency point of contact and to the state clearinghouse for distribution. The applicant must also present a certification of distribution of the Environmental Assessment;

8. Other relevant information as may be reasonably requested by Madison County Board of Adjustment to ensure compliance with the requirements of this Ordinance.

9. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored;

10. Documentation of agreement between Participating Landowner(s) and the Facility Owner/Operator of the Wind Energy Facility; and

11. Signature of the Applicant.

D. Throughout the permit process, the Applicant shall promptly notify Madison County Inspections and Zoning Department of any proposed changes to the information contained in the permit application that would alter the impact of the project.

E. Changes to the approved application that do not materially alter the initial site plan may be adopted administratively.

8.8.2 Setbacks

Wind Energy Facility Type	Minimum Setback Requirements [1]			
	Occupied Buildings on Participating Landowner Property	Occupied Buildings on Non-Participating Landowner Property	Property Lines on Non- Participating Landowner Property	Public Roads
Small System	2	2.5	2	2
Medium System	2	2.5	2	2
Large Scale	2	2.5	2	2

1. The setback is calculated by multiplying the required setback number by the Wind Turbine Height and measured from the center of the wind turbine base to the property line, Public Road, or nearest point on the foundation of an Occupied Building.

8.8.3 Noise and Shadow Flicker

1. This section shall only apply to Large Wind Energy Facilities. Noise and shadow flicker issues for Small and Medium Wind Energy Facilities are addressed by setbacks, or will be addressed by an existing noise ordinance.

2. Audible sound from a Large Wind Energy Facility shall not exceed fifty-five (55) dBA, as measured at any Occupied Building of a Non-Participating Landowner.

3. Shadow flicker at any Occupied Building on a Non-Participating Landowner's property caused by a Large Wind Energy Facility located within 2,500 ft of the Occupied Building shall not exceed thirty (30) hours per year.

4. Noise and/or shadow flicker provisions may be waived if the following conditions are met:

5. Property owners may waive the noise and/or shadow flicker provisions of this Ordinance by signing a waiver of their rights.

6. The written waiver shall notify applicable property owner(s) of the noise and/or flicker limits required by this Ordinance, describe how the Wind Energy Facility is not in compliance, and state that consent is granted for the Wind Energy Facility to waive noise and/or flicker limits as required by this Ordinance.

7. Any such waiver shall be signed by the applicant and the Non-Participating Landowner(s), and recorded in the Deeds Office where the property is located.

8.8.4 Installation and Design

a. The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.

b. All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.

c. Any on-site collector system shall, to the maximum extent possible, be placed underground.

d. The visual appearance of Wind Energy Facilities shall at a minimum:

    1. Be a non-obtrusive color such as white, off-white or gray;

    2. Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and,

    3. Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

8.8.5 Decommissioning

a. The Wind Energy Facility Owner shall have 6 months to complete decommissioning of the Facility if no electricity is generated for a continuous period of 12 months.

b. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade.

c. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

8.9 Solar Energy

8.9.1 Permit Required

No Solar Energy Facility, or the addition of solar collectors to an existing Solar Energy Facility, shall be constructed unless a permit has been issued to the Facility Owner or Operator approving construction of the facility under this Ordinance. Permit application of the expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements.

8.9.2 Standards for Accessory Solar Energy Facilities

1. Design and Installation

a. To the extent applicable, the Solar Energy System shall comply with all applicable County building and construction codes as amended.

b. The design and installation of accessory solar energy systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the County Building Code and with all other applicable fire and safety requirements. The manufacturer specifications shall be submitted as part of the application.

c. All exterior electrical and/or plumbing lines must be buried below the surface of the ground and be placed in a conduit.

d. Whenever practical, all accessory solar energy systems shall be attached to a building, or located on an impervious surface. If not designed to be attached to the building, the applicant shall demonstrate that such systems cannot feasibly be attached to a building due to structural imitations of the building.

e. Accessory solar energy systems shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.

f. No portion of an accessory solar energy system shall be located within any required setback of any property.

2. **Height Restrictions.** Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. Ground or pole-mounted solar energy systems shall not exceed the maximum allowed height within the underlying zoning district.

3. **Setback.** Accessory solar energy systems must meet the accessory structure setback for the zoning district on which the system is located.

8.9.3 Standards for Large-Scale Solar Energy Facilities

1. **Design and Installation.**

   a. To the extent applicable, the Solar Energy system shall comply with all applicable County building and construction codes as amended.

   b. The design and installation of accessory solar energy systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the County Building Code and with all other applicable fire and safety requirements. The manufacturer specifications shall be submitted as part of the application.

2. **Setback**. Large Scale Solar Energy Facilities must meet all setback requirements for the zoning district on which the system is located. Additionally, the minimum setback shall be 100 feet where abutting residential property and 50 feet from adjacent roadways.

3. **Visibility and Buffers.** Where property abuts residential property, an evergreen buffer is required that will grow to 6 feet in height within 3 years. Solar panels are to be located and situated so glare does not interfere with vehicular traffic or become offensive to residences. A statement by an engineer or qualified consultant that glint and glare will not become offensive to residences and vehicular traffic may be required.

4. **Density.** Solar panels and accessory structures such as buildings and roads shall not cover more than 30% of the lot(s) where they are located. Covering is defined as impervious surface such as roads and mechanical equipment, using the base support structure as the measure, rather than the solar panel dimensions.

5. **Height Restrictions.** No structure shall achieve a height greater than the maximum allowed height within the underlying zoning district, except for poles and overhead wiring, which must receive Building inspector approval.

6. **Site Plan.** A site plan must be submitted indicating the dimensions of the parcel, adjacent land uses, proposed solar facility location and arrangement of solar panels, distance from the proposed area to all property lines, and the location of any drives or roadways. The plan must include all structures such as substations, inverters, transformers, and existence

of overhead and underground utility and transmission lines. The site plan is also to include the type and location of any buffers and fencing.

7. **Stormwater Drainage**. A pre/post installation stormwater management plan must be submitted such that the stormwater run-off rate onto neighboring properties or road right-of way is no greater after installation than prior to installation. All applicable stormwater drainage permits must be obtained prior to construction. The owner or developer must install, at their own cost, all applicable infrastructure to mitigate or abate run-off.

8. **Safety**. An electrical disconnect switch shall be clearly identified and unobstructed, and the owner must file documentation with the County Sheriff and Fire Departments showing where the disconnect switch is located and is to have emergency contact information on file with both departments.

9. **Fencing**. The site including all mechanical equipment and inverters must be enclosed by a fence at least 6' in height, with emergency access allowed 24/7 by governmental authorities.

10. **Noise.** Noise from inverters or other electrical equipment shall not exceed 40dBA at the property line.

11. **Hazardous Material.** Storage of hazardous chemicals or other materials, must be approved by the Fire department.

8.9.3 Decommissioning

1. The Solar Energy Facility owner shall have six months to complete decommissioning of the facility if no electricity is generated for a continuous period of twelve months.

2. Decommissioning shall include removal of solar collectors, buildings, cabling, electrical components, roads and any other associated facilities down to 36 inches below grade.

3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

8.10 Special Event Facility

The development of a Special Event Facility shall go before the Board of Adjustment for a special use permit and shall conform to all applicable standards. Any property used for a special event facility shall also comply with the following standards:

8.10.1 Purpose.

The purpose of this section is to establish a set of regulations applicable to Special Event Facilities. These regulations are in addition to all other provisions of this ordinance. In adopting these standards, Madison County finds that Special Event Facilities have the potential to be incompatible with surrounding residential uses, thereby having the potential for a deleterious effect on adjacent residents. Special regulations for Special Event Facilities are necessary to ensure they will be compatible with surrounding residential uses and will not act to harm or alter the neighborhoods they are located in.

8.10.2 Permit

Any person, firm, or corporation wanting to construct or expand a Special Event Facility shall first submit an application and sketch plan to the Madison County Zoning Office. Applications shall contain all information this ordinance requires and any additional information requested by the Zoning Administrator. An application will not be complete until it contains all required and requested information. After an application is complete, the Madison County Zoning Office shall forward the application to the Madison County Board of Adjustment for a special use hearing.

8.10.3 Requirements for Applications/ Sketch Plan

8.10.3.1 Narrative

A narrative describing the proposed Special Event Facility, including an overview of the project with specific hours of operation and the anticipated acoustic impact (including volume) of events and attendees;

8.10.3.2 Sketch Plan and Photos

A sketch plan showing the proposed location, height, and dimensions of all existing and proposed structures, screening, fencing, retaining walls, property lines, existing and proposed parking, access roads, and the location of any residence within 100 yards of the property line of the Lot;

8.10.3.3 Elevation Drawings or Photos

An elevation drawing or photos of the existing or proposed buildings and a material list to show the structural details of the building, communicate exterior design choices, and give an idea of what the finished building will look like.

8.10.4 Landscaping Buffers

The facility and area associated with the use shall be screened from adjoining properties by a buffer strip.

The buffer strip shall comply with the requirements in the definition of a buffer strip.

8.10.5 Use Separation

All equipment, structures, and parking shall be a minimum of thirty feet from all property lines and one-hundred feet from any occupied residential structure on adjacent properties.

8.10.6 Noise Level

All Special Event Facilities shall adhere to the Madison County Noise Ordinance. Additionally, any sound or noise originating from a Special Event Facility shall not exceed 45dBA as measured from any property line.

8.10.7 Structural Requirements

The facility shall meet all North Carolina State Building Code requirements and any Environmental Health requirements for sewage disposal and water supply.

8.10.8 Parking

Special Event Facilities shall comply with the parking requirements of the Madison County Land Use Ordinance and the maximum occupancy according to the North Carolina State Building Code. Parking surfaces are not required to be paved. Parking requirements can be met with a written agreement or lease for offsite parking.

8.10.9 Signage

One On-Premise sign is allowed in accordance with the Madison County Land Use Ordinance.

8.10.10 Existing Special Event Facilities|Non-conforming Uses

All Special Event Facilities legally in existence and use prior to the adoption of Section 8.10 may continue to operate during an amortization period of one year without being subject to the terms and conditions of Section 8.10. However, all Special Event Facilities, regardless of their existence prior to the adoption of Section 8.10, shall comply with Sections 8.10.6 and 8.10.13 upon adoption of Section 8.10. All Special Event Facilities must comply with Section 8.10 and its subparts within one year after adopting Section 8.10, including applying for and obtaining a special use permit from the Board of Adjustment.

8.10.11 Fireworks

Fireworks are not permitted except for sparklers, fountains, and novelty fireworks items that do not explode or are not intended to spin or leave the ground and fly through the air and are legal for individual purchase in North Carolina.

8.10.12 Local Contact Person

All Special Event Facilities shall designate a local contact person who shall provide their contact

information, including email and phone number for business and emergency contact.

8.10.13 Violation of Special Use Permit or Section 8.10

Except as specifically provided herein, if at any time after a special use permit has been issued for a Special Event Facility and it is determined that the conditions imposed and the agreements made in the special use permit have not been or are not being fulfilled or there has been a violation of Section 8.10, the zoning administrator may issue a warning and the permit holder will have ten (10) days to come into compliance with all permit and ordinance requirements. Upon any subsequent violation, the County shall issue a notice of violation. Notices of violation may be appealed to the Board of Adjustment consistent with the procedures provided in this ordinance. If a special use permit is terminated due to the issuance of a notice of violation, it may be reinstated only after a public hearing is held before the Board of Adjustment, and the notice is either reversed or, in the event the notice is either affirmed or not appealed, a new special use permit is applied for and approved by the Board of Adjustment.

8.11 Biomass Facility

The development of a Biomass Facility shall go before the Board of Adjustment for a special use permit and shall conform to all applicable standards. Any property used for a Biomass Facility shall also comply with the following standards:

8.11.1 Special Use Standards

8.11.1.1.Compatibility: The proposed use must be compatible with the surrounding area and not have a negative impact on the surrounding properties or the community. It should not create excessive noise, traffic congestion, or other adverse effects that could disrupt the neighborhood.

8.11.1.2 Public Health and Safety: The proposed use must meet health and safety standards. This can include compliance with fire codes, building codes, and other regulations related to public health and safety.

8.11.1.3 Environmental Impact: The proposed use shall not have an adverse impact on the environment. This may involve considerations such as stormwater management, erosion control, slope stability, natural resource conservation, energy consumption, and emissions discharged from the proposed use.

8.11.1.4 Traffic and Parking: The proposed use should not significantly increase traffic congestion or parking demands beyond what the infrastructure can accommodate. Adequate parking spaces and access points should be provided to ensure safe and efficient circulation of vehicles.

8.11.1.5 Neighborhood Impact: The proposed use should not disrupt the rural character or quality of the surrounding neighborhood. Factors such as aesthetics, scale, design, and landscaping may be considered to ensure the proposed use blends well with the existing built environment.

8.11.2 Purpose.

The purpose of this section is to establish a set of special regulations applicable exclusively to Biomass Facilities. These regulations are in addition to all other provisions of this ordinance. In adopting these standards, Madison County finds that Biomass Facilities have the potential to be incompatible with surrounding residential uses, thereby having the potential for a deleterious effect on adjacent residents. Special regulations for Biomass Facilities are necessary to ensure they will be compatible with surrounding uses and will not act to harm or alter the area they are located in.

8.11.3 Permit

Any person, firm, or corporation wanting to construct or expand a Biomass Facility shall first submit an application and site plan to the Madison County Zoning Office. An application will not be complete until it contains all the required and requested information and is certified complete by the Zoning Administrator in writing to the applicant, notifying them that the application has been forwarded to the Board of Adjustment

8.11.4 Submittal Requirements

8.11.4.1 A narrative describing the proposed Biomass Facility, including an overview of the

project;

8.11.4.2 A site plan showing the proposed location and dimensions of all existing and proposed structures, screening, fencing, property lines, access roads, turnout locations, ancillary equipment, transmission lines, and the location of any residence within 100 feet of the perimeter of the facility;

8.11.4.3 Standard drawings of the Biomass Facility system components;

8.11.4.4 Copies of any unredacted lease agreement and easement(s);

8.11.4.5 Evidence that the electrical utility provider has been informed of the customer's intent to install an interconnected, customer-owned generator (off-grid systems shall be exempt from this requirement);

8.11.4.6 Other relevant studies, reports, certifications, and approvals as may be reasonably requested by Madison County to ensure compliance with this Article; such as a Traffic Impact Analysis; Stormwater Managment Plan; Grading Plan; Appraisal of Impact of Proposed Use on properties within 100 yards of the proposed use; final approvals of all permits required from environmental regulators; Geotechnical analysis if the site contains slopes in excess of 18%

8.11.4.7 Decommissioning plans that describe the anticipated life of the facility, the estimated decommissioning costs in current dollars, and the anticipated manner in which the facility will be decommissioned and the site restored; and

8.11.4.8 Signature of the property owner(s) and the owner/operator of the facility (if different than the property owner).

8.11.5 Hours of Operation The hours of operation allowed shall be compatible with the land uses adjacent to the facility. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 7 am.

8.11.6 Landscaping Buffers The facility and area associated with the use shall be screened from adjoining properties by a buffer strip of a minimum of 150 feet. The planting materials shall comply with the requirements in the definition of a buffer strip.

8.11.7 Screening Facilities shall be enclosed by a sight-obstructing screen of at least 6 feet in height adjacent to public roads and 8 feet in height adjacent to properties of a residential, educational, or institutional nature. All such screens must be maintained in a sound and stable manner for the life of the operation. If state or federal requirements for screening are more stringent, such requirements shall be applicable.

8.11.8 Open Space Requirements A minimum of 15 percent of the gross site area shall be landscaped open space.

8.11.9 Use Separation Two hundred feet minimum from any property line; Four hundred feet minimum from any residence.

8.11.10 Noise All Biomass Facilities shall adhere to the Madison County Noise Ordinance. Additionally, Equipment-producing noise or sound up to 70 decibels shall be located no closer than 1000 feet to the

nearest residence.

8.11.11 Disturbances The facility shall meet all requirements of the State of North Carolina regarding noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

8.11.12 Structural Requirements

8.11.12.1 Compliance with Building Code: The facility shall meet all requirements of the North Carolina State Building Code.

8.11.12.2 Electric Code: All components must comply with the current edition of the National Electric Code and be UL-listed.

8.11.12.3 Underground Wiring: Any electric wiring shall be located underground, except where wiring is brought together for interconnection to system components and/or the local utility power grid.

8.11.13 Parking Biomass Facilities shall comply with the parking requirements of the Madison County Land Use Ordinance and the maximum occupancy according to the North Carolina State Building Code. Parking surfaces are not required to be paved. The Zoning Administrator should not grant the permit unless it is determined the parking generated by the facility can be accommodated without undue disruption or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.

8.11.14 Access Access to the facility shall be by way of a collector or higher classified road and shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated access.

8.11.15 Dust All unpaved areas shall be maintained in a manner that prevents dust from leaving the property.

8.11.16 Signage No signage shall be permitted on the perimeter fence, with the exception of one (1) sign not to exceed 32 square feet that displays the name, address, and emergency contact information of the facility as well as appropriate warning signs.

8.11.17 Permit Requirements The facility shall obtain all applicable state and federal permits. The facility must comply with all requirements as set forth by the North Carolina Division of Environmental Quality.

8.11.18 Disposal of Toxic/Hazardous Matter Disposal of toxic/hazardous matter at any Biomass Facility shall be expressly forbidden.

8.11.19 Violation of Special Use Permit or Section 8.11

In the event of a violation of a special use permit or Section 8.11 for a Biomass Energy Facility, the following actions and procedures shall be followed:

8.11.19.1 Initial Warning: If it is determined that the conditions and agreements specified in the special use permit have not been fulfilled or there is a violation of Section 8.11, the zoning administrator will issue a warning. The permit holder will have ten (10) days to bring their

operations into compliance with all permit and ordinance requirements.
8.11.19.2 Subsequent Violations: In case of any subsequent violations, the County will issue a notice of violation indicating non-compliance with the permit or ordinance.
8.11.19.3 Appeal Process: The permit holder has the right to appeal the notice of violation to the Board of Adjustment, following the procedures outlined in this ordinance.
8.11.19.4 Termination of Special Use Permit: If a notice of violation leads to the termination of the special use permit, the permit may only be reinstated through the following processes:

a. Public Hearing: A public hearing will be held before the Board of Adjustment to reconsider the permit. During this hearing, the notice of violation will be reviewed and evaluated.
b. Reversal or New Application: If the notice of violation is reversed during the public hearing, the original special use permit will be reinstated. Alternatively, if the notice is affirmed or not appealed, a new special use permit application must be submitted and approved by the Board of Adjustment.

Please note that these procedures are applicable unless specifically stated otherwise in this ordinance.

8.12 Data Processing Facility

The development of a Data Processing Facility shall go before the Board of Adjustment for a special use permit and shall conform to all applicable standards. Any property used for a Data Processing Facility shall also comply with the following standards:

8.12.1 Special Use Standards

8.12.1.1.Compatibility: The proposed use must be compatible with the surrounding area and not have a negative impact on the surrounding properties or the community. It should not create excessive noise, traffic congestion, or other adverse effects that could disrupt the neighborhood.

8.12.1.2 Public Health and Safety: The proposed use must meet health and safety standards. This can include compliance with fire codes, building codes, and other regulations related to public health and safety.

8.12.1.3 Environmental Impact: The proposed use shall not have an adverse impact on the environment. This may involve considerations such as stormwater management, erosion control, slope stability, natural resource conservation, energy consumption, and emissions discharged from the proposed use.

8.12.1.4 Traffic and Parking: The proposed use should not significantly increase traffic congestion or parking demands beyond what the infrastructure can accommodate. Adequate parking spaces and access points should be provided to ensure safe and efficient circulation of vehicles.

8.12.1.5 Neighborhood Impact: The proposed use should not disrupt the rural character or quality of the surrounding neighborhood. Factors such as aesthetics, scale, design, and landscaping may be considered to ensure the proposed use blends well with the existing built environment.

8.12.2 Height

8.12.2. Height: Systems, equipment and structures (excluding electric transmission lines and utility poles) shall not exceed 35 feet in height.

8.12.3 Use Separation

8.12.3.1. All equipment and structures shall be a minimum of fifty feet from the facility's boundary as delineated on the site plan, and one-quarter mile (1,320 feet) from any church, school, or residence.

8.12.4 Submittal Requirements

8.12.4.1 A narrative describing the proposed data processing facility, including an overview of the project;

8.12.4.2 A site plan showing the proposed location and dimensions of all equipment, existing and proposed structures, screening, fencing, property lines, access roads, turnout locations, ancillary equipment, and the location of any church, school, or residence within one quarter mile (1,320 feet) of the perimeter of the facility;

8.12.4.3 A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, additional separation from surrounding uses, etc;

8.12.4.4 Other relevant studies, reports, certifications, and approvals as may be reasonably requested by Madison County to ensure compliance with this Article; and

8.12.4.5 Signature of the property owner(s) and the owner/operator of the facility (if different than the property owner).

8.12.5 Structural Requirements

8.12.5.1. The facility shall meet all North Carolins State Building Code requirements
:

8.12.5.2. An electric wiring shall be located underground, except where wiring is brought together for interconnection to system components and/or the local utility power grid.

8.12.6 Access

8.12.6.1All roads shall be of sufficient width to accommodate emergency vehicle access as determined by the Madison County Fire Marshall

8.12.7 Security Fencing

8.12.7.1. Security fencing, a minimum of eight feet in height, shall be provided along the

entire perimeter of the facility.

8.12.8 Screening

8.12.8.1. The entire perimeter of the facility shall be screened from adjoining properties by a buffer strip. The buffer strip is defined in Chapter 2 Definitions.

8.12.9 Signage

8.12.9.1. No signage shall be permitted on the perimeter fence, except for one (1) sign not to exceed 32 square feet that displays the facility's name, address, and emergency contact information, as well as appropriate warning signs.

8.12.10 Noise

8.12.10.1. The amount of noise generated by the facility shall comply with the requirements of the Madison County Nosie Ordinance and shall not disrupt the activities of the adjacent land uses..

Chapter 9 Reserved

Chapter 10 Administration and Enforcement

10.1 Zoning Enforcement Officer

The County Commissioners shall appoint an administrative officer to enforce this ordinance. The assistance of other persons may be provided as the County Commissioners may direct.

If the Zoning Enforcement Officer finds that any of the provisions of this ordinance are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

The Zoning Enforcement Officer shall not make a final decision on an administrative decision covered by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the Zoning Enforcement Officer or if the applicant or other person subject to that decision is a person with whom the Zoning Enforcement Officer has a close familial, business, or other associated relationship. If the Zoning Enforcement Officer has a conflict of interest, the decision shall be assigned to the County Manager.

The Zoning Enforcement Officer shall not be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless he or she is the owner of the land or building involved. No staff member or other individual or employee of a company contracting with the County to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the County, as determined by the County.

For the purpose of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

10.2. Certification of Zoning Compliance Required

No building, sign, or other structure shall be erected, moved, added to, or structurally altered until a certificate of zoning compliance shall have been issued by the Zoning Enforcement Officer. No certification of zoning compliance shall be issued except in conformity with the provisions of this ordinance except after written order from the Board of Adjustment.

10.3. Application for Certificate of Zoning Compliance

All applications for a certificate of zoning compliance shall be accompanied by

two sets of plans showing the dimensions and shape of the parcel to be built upon, the exact sizes, uses, and locations of the parcel or buildings already existing, if any, and the location and dimension of the proposed building or alterations. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this ordinance. A fee adopted by the Board of Commissioners shall be charged for the processing of each application.

10.4. Health Department Approval of Water Supply and Sewage Disposal Facilities

The Zoning Enforcement Officer shall not issue a certificate of zoning compliance for any use, building or purpose proposed for location outside of any incorporated municipality without written approval of any and all needed or proposed water supply and sewage disposal facilities from the County Environmental Health Officer. Issuance and use of a certificate of zoning compliance shall be subject to all terms and qualifications imposed by the County Environmental Health Officer.

10.5. Remedies Available

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance, the Zoning Enforcement Officer or any other appropriate county authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction or mandamus, or other appropriate action or proceeding to prevent such violation.

Chapter 11 Board of Adjustment

11.1 Establishment of Board of Adjustment

A Board of Adjustment is hereby established. Said board shall consist of five members. Members of the board shall be appointed by the Board of County Commissioners. Initial terms of office shall be as follows: Two members appointed for a term of one year; two members appointed for terms of two years; and one members appointed for term of three years. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the board shall be three-year terms. The members of the Board of Adjustment shall be residents of the county.

The Board of County Commissioners shall appoint two alternate members to serve on the Board of Adjustment in the absence or temporary disqualification for any cause of any regular member. Such alternate members shall be appointed for three-year terms, provided, however, that in the case of the first appointment of alternate members, one shall be appointed for a three-year term and one shall be appointed for a two-year term. Such alternate members while attending any regular or special meeting of the board and serving in the absence of any regular member shall have and exercise all the powers and duties of such regular member so absent.

11.2 Proceedings of the Board of Adjustment

1. The board shall elect a chair and a vice-chair from among its members, who in turn will appoint a secretary and such other officers as may be authorized by the Board of County Commissioners. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine, with meetings occurring no less than once per calendar quarter. Such chair, or in his or her absence, the vice-chair, may administer oaths and compel the attendance of witnesses by subpoena. Accurate minutes shall be kept of all meetings, and shall include records of all examinations and other official actions of the board. The minutes shall indicate the vote of each member upon every question, or, if absent and failing to vote, indicating such fact.

2. Voting Requirements for Variances - For the Board of Adjustment to grant a variance from the development regulations, a concurring majority of four-fifths (4/5) of the board members present and voting shall be required. This heightened voting requirement ensures careful consideration and substantial support for any deviations from standard development regulations, reflecting the significance of such decisions.

3. A concurring simple majority of three-fifths (3/5) vote of the Board of Adjustment shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari

4. A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed exparte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. For the purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the

step, half, and in-law relationships. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the required four-fifths (4/5) supermajority if there are no qualified alternates available to take the place of such members.

5. An appeal to the board may be taken by any person, firm, or corporation aggrieved, or by the county officer, department, board, or agency affected by any decision of the Zoning Enforcement Officer based on whole or in part upon the provisions of this ordinance. Such appeal shall be taken within thirty (30) days of a decision or determination by the Zoning Enforcement Officer. The party or parties making the appeal shall file a notice of appeal with the Zoning Enforcement Officer, specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the Zoning Enforcement Officer's decision was made. An appeal stays all proceedings in furtherance of the decision being appealed, unless the Zoning Enforcement Officer certifies to the Board of Adjustment after the notice of appeal has been filed, that by reason of the facts stated in the certificate, a stay would, in the opinion of the Zoning Enforcement Officer, cause imminent peril to life or property, in which case proceedings shall not be stayed or otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record, o application, on notice to the officer from whom the appeal is taken and on due cause shown.

11.3. Powers and Duties of the Board of Adjustment

1. **Administrative Review.** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer in the enforcement of this ordinance.

2. **Special Uses:** Conditions Governing Application. To grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses as authorized by this ordinance and set forth as special uses under the various use districts. The board shall not grant a special use permit unless and until:

    a. A written application for a special use permit is submitted indicating the section of this ordinance under which the special use permit is sought.

    b. A public hearing is held. Notice of such public hearing shall be posted on the property for which the special use permit is sought and in a local newspaper at least ten (10) days prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two consecutive weeks.

    c. The Board of Adjustment finds that in the particular case in question the use for which the special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this ordinance.

If at any time after a special use permit has been issued by the Board of Adjustment finds that the conditions imposed and the agreements made have not been or are not being fulfilled by the holder of a

special use permit, the permit shall be terminated and the operation of such use discontinued. If a special use permit is terminated for any reason it may be reinstated only after a public hearing is held.

3. **Variances.** To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating:

    a. that special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same district;

    b. that a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

    c. that said circumstances do not result from the actions of the applicant;

    d. that granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district;

    e. that no nonconforming use of neighboring land, structures or buildings in the same district, and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance

4. Notice of public hearing shall be given as set forth in subsection 11.3(2)(b). At the public hearing which is held, any party may appeal in person or by agent or attorney .

5. The Board of Adjustment shall make findings that the requirements of Section 11.3(3) have been met for a variance

6. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of a variance and that the variance is the minimum one that will make possible the reasonable use of the land, building or structure.

7. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

8. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 14.5 of this ordinance.

9. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use

expressly or by implication prohibited by the terms of this ordinance in said district.

11.4. Decision of the Board of Adjustment

In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or in part, or modify any order, requirement, decision or determination, and to that end shall have the powers of the administrative official from whom the appeal is taken.

Chapter 12 Planning Board

12.1 Powers and Duties of Planning Board

A. **Generally.** The powers and duties of the Planning Board are as follows.

B. Specifically.

1. Acquire and maintain in current form the basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;

2. Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the overall development of the county. The comprehensive plan shall be the Planning Board's recommendations to the Board of Commissioners for the development of the county, including, but not limited to, land uses whether it be present or future, playgrounds, parks, and other public ways, grounds, and open space; the most desirable patterns of economic development, coordination between municipalities and the county, and infrastructure assessment within the area;

3. Prepare and recommend ordinances promoting orderly development of the area in accordance with the adopted land use plan, including a zoning ordinance and subdivision regulations. The Planning Board may initiate, from time to time, proposals for amendment of the zoning ordinance and of subdivision regulations based upon its studies. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the zoning ordinance and subdivision regulations;

4. Issues preliminary and final plat approval as stated in the Subdivision Ordinance;

5. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer in regards to family, special, and minor subdivisions;

6. To hear and decide applications for Special Use Permits which the Planning Board is required to rule upon under this Ordinance, specifically Campgrounds (Group), Group Developments, and Planned Unit Developments. To decide such questions as are involved in determining whether a special use permit should be granted. To grant special use permits with such conditions and safeguards as are appropriate under this Ordinance, or to deny special use permits when not in harmony with the intent of this Ordinance and would adversely affect the public interest. A special use permit may be granted by the Planning Board only after determining through a quasi-judicial process that the Planning Board is empowered under a specific section of this Ordinance to grant the special use permit and that the granting of the special use permit will not adversely affect the public interest.

Before any special use permit shall be issued, the Planning Board shall make written findings certifying compliance with all specific rules governing the individual special use and that satisfactory provision and arrangement have been made concerning the following wherever applicable:

(a) Ingress and egress to property and proposed structure with particular

reference to automotive and pedestrian safety, convenience, traffic flow and control, and access in case of fire or catastrophe.

(b) Refuse and service areas, with particular reference to the items in (a) above.

(c) Off-street parking and loading areas where required with particular attention to the items in (a) above and to the economic, noise, glare or odor effects of the special use on adjoining properties and generally in the district.

(d) Utilities, with reference to location, availability, and compatibility.

(e) Screening and buffering, with reference to type, dimensions, and character.

(f) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.

(g) Required yards and other open spaces.

(h) General compatibility with adjacent property and other property in the district

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7. Keep the Board of Commissioners and general public informed and advised as to these matters;

8. Make other recommendations which it sees fit for improving the development of the area; and

9. To exercise any other powers and to perform any other duties as are authorized or required elsewhere in this subchapter, the North Carolina General Statutes, or by the Board of Commissioners

Chapter 13 Amendments

13.1 Amendments

This zoning ordinance, including the zoning map, may be amended by the Board of Commissioners in accordance with the provisions of this article.

13.2 Initiation of Amendments

Proposed changes or amendments may be initiated by the Planning Board or one or more owners of property within the area proposed to be changed or affected.

13.3 Application

Before any action of a proposed change to the zoning map, an application shall be submitted to the office of the Zoning Administrator. The application shall contain the name(s) and address(es) of the owner(s) of the property in question, and the location of the proposed zoning regulation or district as shown on the application forms supplied by the county. All applications requesting a change in the zoning map shall include a description of the property in question. After the Zoning Administrator has received a completed application, she or he shall refer the application to the Madison County Planning Board. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each application for a rezoning and no amendments to the zoning ordinance or the zoning map shall be considered by the Board of Commissioners until the Board of Commissioners receives a recommendation from the Planning Board. The Board of Commissioners is not bound by the recommendations of the Planning Board. When adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted land use or comprehensive plan and explaining why the Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

A member of the Board of Commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

13.4 Planning Board Action

The Madison County Planning Board will meet at regular intervals to consider any proposed amendments. The Planning Board shall make its recommendation as to any and all proposed amendments within 30 days after the submittal of said amendments to the board. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any

other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Commissioners.

Members of the Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of the Planning Board shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associated relationship. For the purpose of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

13.5 Public Hearing

Before enacting any amendment to the ordinance, the Board of Commissioners shall hold a public hearing thereon. Public notice of the hearing shall be given as required by NCGS 160D-6-1 and G.S. 160D-6-2, provided below:

1. **Newspaper Notice**. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in Madison County, said notices to be published the first time not less than ten (10) days and not more than twenty-five (25) days before the date fixed for such public hearing.

2. **Mailed Notice**. When an amendment to the Official Zoning Map (zoning map amendment) is proposed, the owner of that parcel of land, as shown on the county tax listing, that is the subject of a proposed zoning amendment, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. Such notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Board of Commissioners that fact and such certificate shall be deemed conclusive in the absence of fraud.

3. **Alternative to Mailed Notice.** The first class mail notice required in subsection (2), above, shall not be required if the zoning map amendment proposes to change the zoning designation of more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the County elects to use the expanded published notice provided for in this subsection (3). In this instance, the County may elect to either make the mailed notice provided for in subsection (2), above, or may as an alternative elect to publish notice of the hearing as required by G.S. 160D-6-1 (and enumerated in subsection (1), above), but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the

area of the general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (2), above.

4. **Posted Notice.** When a zoning map amendment is proposed, the County shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons.

13.6 Fees for Amendments

Property owners or their agents shall pay a fee to Madison County for each application for a zoning amendment to defray the costs of advertising the public notice and other administrative expenses.

Chapter 14 Legal Provisions

14.1 Conflict With Other Laws

Whenever the regulations of this ordinance require a greater width or size of yards, or require a greater percentage of a lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

14.2 Separability

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

14.3 Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict herewith are repealed.

14.4 Duties of the Zoning Enforcement Officer, Board of Adjustment, Courts, and County Commissioners on Matters of Appeal

It is the intention of this ordinance that all questions arising in connection with the enforcement of this ordinance shall be presented to the Board of Adjustment only on appeal from the Zoning Enforcement Officer and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. It is further the intention of this ordinance that the duties of the Board of Commissioners in connection with the ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set out in this ordinance, and that the duties of the Board of Commissioners in connecting with this ordinance shall be only the duty of considering and passing upon any proposed amendments or repeal of this ordinance as provided by law.

14.5 Penalties for Violation

1. Violations of the provision of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or Special Use or Conditional Use Permits, shall constitute a misdemeanor, punishable by a fine of up to five-hundred ($500) dollars or a maximum thirty (30) days imprisonment as provided in G. S. 14-4.

2. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or Special Use or Conditional Use Permits, shall also subject the offender to a civil penalty of one-hundred ($100) dollars for each day the violation continues. If the offender fails to pay the penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the county in a civil action in the nature of the debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation and did not take an appeal

to the Board of Adjustment within the prescribed time.

Nothing herein contained shall prevent Madison County from taking such other lawful actions prescribed in G.S. 153A-123 as are necessary to prevent or remedy any violation. Madison County may enforce this ordinance by anyone, all, or any combination of the remedies authorized and prescribed by this section and G.S. 153A-123. Each day that a violation of this ordinance continues to exist shall be considered a separate and district offense.

Section 14.5. Effective Date

This ordinance shall take effect and be in force from and after its passage and adoption, this 25th day of April 2023.

Appendix A
List of Amendments to the Madison County Land Use Ordinance

April 2023

1. Assembly Hall Land Use Definition and Uses Eliminated
2. Facility Definition Added
3. Special Event Facility Definition Added
4. Chapter 3 Establishment of Districts Amended to Eliminate Permitted Assembly Use; Added Special Event Facilities as a Special Use
5. Table 1 Summary of Permitted Uses Amended to Eliminate Assembly Uses; Added Special Event Facilities
6. Grammar and Numbering Scrivners Errors corrected

October 2023

1. Table of Contents
2. Chapter 3 Establishment of Districts amended to add the R-B Retail Business Land Use District Permited Uses, Special Uses and Dimensional Requirements
3. Table 1 Summary of Permitted Uses Amended to include RB Retail Business Land Uses
4. Chapter 8 Section 6 Vacation Rentals amended to update Traffic, Square Footage [eliminated] Road Standards and Access

January 2024

1. Chapter 11 Board of Adjustment
2. Scrivners Errors Corrected Chapter 3

April 2024

1. Chapter 2 Biomass Facility, Large Biomass Facility, Small Biomass Facility, Annual Biomass Throughput definitions added
2. Chapter 3 Large Biomass Facility added as a special use in the Industrial Land Use District; Small Biomass Facility added as a special use in the Industrial, Residential- Agricultural, Commercial and Retail Business Land Use Districts
3. Chapter 8 Special Requirements were added to be considered for the required special use permit application for land use approval of a Biomass Facility

May 2024

1. Chapter 8 Data Processing Facility created as a Special Use in Commercial (small) and Industrial (small and large) Land Use Districts.

May 2025

1. Chapter 3 – Expanded, as a Special Use, the availability of Feed and Seed Store in Residential - Agricultural Land Use District.