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Alleghany County

Property Rights Protection Ordinance



ARTICLE 1
Authorization, Title, and Intent

1.1 Authorization

The Alleghany County Board of Commissioners enacts this Ordinance pursuant to its planning and regulation of development powers, as set forth in and authorized by Article 18 of Chapter 153A of the North Carolina General Statutes.

1.2 Title

This ordinance shall be known as the Alleghany County Property Rights Protection Ordinance.

1.3 Intent

(a) *General.* This ordinance is designed to assist the citizens of Alleghany in guiding future development within the county. It was developed with the intent to promote the orderly development of the county in order to protect the safety, health and general welfare of the citizens of Alleghany County, without depriving individual property owners of their rights.

(b) *Specific Objectives.* The more specific objectives of this ordinance are to:

- (1) where practical, follow the guidelines and recommendations of the adopted Alleghany County and Town of Sparta Land Development Plans.
- (2) minimize problems or conflicts caused by potentially incompatible land uses;

ARTICLE 2 Application

2.1 Area of Jurisdiction

This ordinance shall include all land lying within the borders of Alleghany County, except that land currently within the town limits of Sparta and its extraterritorial jurisdiction.

2.2 Uniform Application of Regulations

These regulations established herein shall be minimum regulations and be uniformly applied, except as hereafter provided in this ordinance.

2.3 Uses

No building or land shall hereafter be used or occupied and no building, use of land, or part thereof, shall be erected, constructed, moved or structurally altered except in conformity with the regulations herein specified.

2.4 Buildings

No building shall hereafter be erected, constructed, or altered so as to exceed the requirements as specified herein.

2.5 Compliance with Other Laws and Regulations

Provisions herein may reference other applicable laws and regulations that shall be adhered to in addition to the requirements specified in this ordinance.

ARTICLE 3

Definitions

3.1 General Definitions

Except as otherwise provided, all words used in this ordinance shall have their customary dictionary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. The word "shall" is always mandatory.

3.2 Specific Definitions

When used within the framework established by this ordinance, the following words or phrases shall have the attendant meanings:

Accessory Use - A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Administrator - The person appointed by the Board of Commissioners to administer the provisions of this ordinance.

Affected Property Owner - The owner of property in the vicinity of a proposed development which will be impacted either positively or negatively by that proposed development.

Agribusiness - Any individual, partnership, corporation or organization primarily supplying services or goods (such as equipment, feeds, or supplies) to producers, or marketable agricultural products, including greenhouses, nurseries, farm cooperatives and the like which are not otherwise specifically defined as agriculture by the North Carolina General Statutes.

Agricultural Land - Any parcel of land which is used in the raising of agricultural, dairy, or forest products, livestock, poultry, or fur-bearing animals.

Agricultural Use - A parcel which is receiving an agricultural assessment by the Alleghany County Property Tax Administrator.

Amenities - Made or natural features which enhance or make more attractive a particular site for development.

Billboard - See Signs.

Board of Commissioners - The Alleghany County Board of Commissioners.

Bona Fide Farm - Crop lands, timber lands, pasture lands, apple orchards, idle or other farm lands as well as any farm houses, barns, poultry houses, greenhouses, nurseries, farm cooperatives and tenant houses for workers, as long as such houses for workers shall be in the same ownership as the farm and located on the farm.

Buffer - The portion of a yard where special plantings may be required by the *Property Rights Protection Ordinance* to separate and partially screen two adjacent land uses that are ordinarily incompatible by virtue of their use.

Building see also Structure - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any person, animal, process, equipment, or goods.

Change of Use - Any use which is not identical to the **most recent** use of a building or land.

Compatible - Uses or activities capable of existing together in harmony.

Conditional Use - A use of land or structure that has completed the multi-step process specified herein which allows for the proper integration of compatible uses into the community.

Conditional Use Permit - A permit issued by the planning board or the Alleghany Board of Commissioners that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements.

Contiguous Development - Areas where adjacent properties are developed.

Corner Lot - A lot abutting upon two or more streets at their intersection and where the interior angle formed by the intersection of the street center lines do not exceed 135 degrees.

County Attorney - An attorney licensed in North Carolina hired by the Board of Commissioners to provide legal advice to the elected board and county employees.

Cul-de-sac - Dead-end residential roadways which afford access to lots with an appropriate turn-around facility at the end.

Developer - Any individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to bring about development.

Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, or storage of equipment or materials.

Dwelling Unit (single and multi-family) – A building, manufactured home, or modular home providing complete independent living facilities for a single or multi-family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Two or more manufactured homes which are combined on one lot or parcel shall be considered as a single dwelling unit if they are joined together in one living unit for the use of a single family and meet all of the requirements for a “dwelling unit” under the amended Alleghany County Watershed Protection Ordinance.

Easement - A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Engineer - A person licensed to practice engineering in the State of North Carolina.

Excavation - The action by which existing elevations or topography are changed by digging, cutting, or scooping of the surface.

Expanded Use - The further development of a developed site.

Facade - The exterior wall of a building exposed to public view, or that wall viewed by persons not within the building.

Home occupation - A business, profession, occupation, or trade which is conducted within a residential building for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the lot, and which does not adversely affect the character of the lot or surrounding area.

Home occupation, rural - An accessory use subordinate to the primary residential use of the property operated by persons residing in the principal building on the same parcel of land upon which the home occupation is located. Additionally, such use may be carried out in no more than one (1) building separate from the principal building on the same parcel of land.

Junkyard - Any open area which is maintained, operated, or used for storing, keeping, salvaging, abandoning, buying or selling junk, **operating as a business**, regardless of length of time that junk is stored or kept but shall not include County operated facilities

Lot - A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

Manufactured Home Park - A tract of unsubdivided land occupied or proposed to be occupied by two (2) or more manufactured homes. It includes any service building, structure, enclosure, or other facility used as a part of the park.

Non-conforming Building or Development - Means any legally existing building or development which fails to comply with the current provisions of this ordinance.

Open Space - Land within a proposed development site excluding areas devoted for buildings, structures, roadways, and parking.

Parcel - A deeded piece of land.

Planning Board – The Alleghany County Planning Board

Planning Department – The Alleghany County Planning Department.

Principal Use - The primary or predominant use of any site.

Prohibited Use - A use that is not permitted.

Recreational Vehicle - A vehicle, which is:

- A. built on a single chassis;
- B. designed to be self-propelled or permanently towable by a light duty truck; and
- C. not designed for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle Park - A tract of unsubdivided land occupied or proposed to be occupied by two (2) or more recreational vehicles.

Site Plan - A plan which has been submitted to the County by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Site Plans do not have to be prepared by a registered surveyor or engineer. It is at the discretion of the landowner how to prepare the Site Plan meeting the requirements found herein.

Regulation - Any enactment by the Board of Commissioners whether it is an ordinance, resolution, or order.

Residential Lot - A deeded lot which is used for single, duplex, and multi-family dwelling units.

Setback Line - The lines on the front, rear, and sides of a lot which delineates the area within which a structure may be built and maintained.

Sign - Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

Staff - Those persons employed by the Board of Commissioners, whether under direct employment or by contractual agreement, to administer this ordinance.

Structure - Anything constructed or erected which is above grade including a manufactured home and a storage trailer. For purposes of this Ordinance structure does not include landscape features, such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, walls or fences, shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, privies, outdoor fireplaces, gate houses, burial vaults, cemetery markers or monuments, bus shelters, or wharves.

Structure, Accessory - A structure detached from a principal building on the same zoning lot, the use of which is customarily incidental to the principal building. This includes freestanding satellite dishes, any other devices which access satellites and amateur radio antennae. Items excluded include doghouses, fences, and other minor personal property.

Temporary Use - A use carried for a limited period of time during one calendar year.

Undeveloped Land - A parcel of land which is not being actively used and cannot be classified in any other land use category.

Use-by-right - A use which, because of its nature and impact, is not required to submit to the review procedures specified for conditional uses, provided it meets the development criteria specified in this ordinance.

Variance - An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

ARTICLE 4
Establishment of District

4.1 Open District Established

The intent of the Board of Commissioners is to provide land development standards that will promote the health, safety and welfare of the county's citizens while at the same time not overregulate individual property rights. A flexible, innovative land use management system, as opposed to the traditional Euclidean zoning system, provides a method for allowing the reasonable and orderly development and use of land in the county, and for permitting differing land uses while at the same time recognizing effects of change.

All the territory within Alleghany County's planning jurisdiction shall be within one district. Within this district a limited number of uses are prohibited, exempt, or allowed-by-right. The vast majority of uses shall be allowed as conditional uses, only after review and approval as specified herein.

4.2 Use District Map

The official use district map of Alleghany County, North Carolina, with all information shown thereon, shall constitute a part of this ordinance and shall hereafter be referred to as the use district map.

ARTICLE 5
General Provisions for Compliance

5.1 The Terms of Compliance

Within this district are a limited number of prohibited uses, exempt or uses-by-right. All other uses, including all changes of use, not specifically prohibited, are required to obtain a conditional use permit issued pursuant to requirements found in this ordinance.

5.2 Prohibited Uses

The following uses shall be prohibited:

- (1) nuclear waste disposal, storage, or management facilities; and
- (2) any incineration, landfill, or waste disposal facility not established by the county to meet the county's solid waste disposal needs.

5.3 Exempt Uses

The following uses are exempt from this ordinance *without* any compliance permit from the Administrator:

- (1) Single-family dwelling units on an individual lot;
- (2) incidental agriculture in conjunction with a residential use that shall not be objectionable by reason of odor, dust, noise, pollution and erosion or drainage;
- (3) bona fide farm, forestry or logging operations on a temporary basis, or portable sawmill; (Agribusiness shall specifically not be included in the definition of bona fide farming.)
- (4) temporary yard and garage sales by a resident owner; temporary bazaars, temporary flea markets and temporary sales conducted by a nonprofit organizations;
- (5) wayside stands for the sale of only agricultural or horticultural products;
- (6) **home/residential based businesses that operate within the principal single-family dwelling unit that are not objectionable by reason of odor, dust, noise, or pollution; and**
- (7) existing development occupied on the effective date of this ordinance or one established as a vested right.

5.4 Uses-by-Right

The following uses shall be a use-by-right with a compliance permit from the Administrator (except those prohibited uses in Section 5.2):

- (1) expansion of a commercial, industrial, or institutional use where the proposed floor area will not exceed sixty (60) percent of the existing floor area;
- (2) **a new use on a site or in a building which is identified with the same two-digit North American Industry Classification System (NAICS) as the previous use. The purpose of this provision is to allow developed land to continue to be used in a similar fashion. Since two digits of the NAICS is so broad in scope, the following conditions will apply:**
 - a) **sexually oriented businesses and businesses that sell alcohol do not qualify for this use-by-right provision;**
 - b) **the new use does not qualify for this use-by-right provision if the new use requires a building permit;**
 - c) **the new use does not qualify for this use-by-right provision if the new use requires additional land or a substantial change in the use itself occurs.**

5.5 Conditional Uses

All new uses not prohibited, exempt, or a use-by-right, shall be considered a conditional use that requires a permit subject to the review processes specified herein.

5.6 The Burden of Proof

The burden of proof shall rest with the applicant and all of those concerned in all proceedings required by this ordinance.

5.7 Changing the Use of Previously Developed Land

Proposals to change the use of land developed prior to the effective date, shall obtain approval prior to the initiation of any change. Approval shall be granted only upon completion of the requirements of this ordinance.

ARTICLE 6
Permit Application Process

6.1 Applicability

No person shall undertake any development activity or use of land that is subject to this ordinance without the appropriate permit.

6.2 General Requirements

- (a) The owner of the property or their authorized agent shall submit all applications. The Administrator may require reasonable proof from any person submitting an application.
- (b) An application for any permit shall be submitted in such form, number of copies and format as prescribed in this ordinance.
- (c) The Administrator may waive submission of required elements of information when in his/her opinion such information is otherwise available or is not necessary.
- (d) All applications for permits shall be submitted, reviewed and processed in accordance with the requirements specified in this ordinance.

6.3 Pre-Application Conference

Prior to submission of an application, the developer should meet with the Administrator for the purpose of discussing the following issues:

- (a) to determine if the proposed development is considered to be a prohibited use or exempt use. If the proposed development is considered to be a prohibited use, the project will be denied. If the proposed development is considered to be an exempt use, then the developer will not be required to meet the provisions of this Ordinance.
- (b) to determine whether a compliance or conditional use permit is required for their project.
- (c) If determined that a compliance permit is required, then the developer shall apply for a compliance permit in accordance with this Ordinance.
- (d) If determined that a conditional use permit is required, then the Administrator and applicant should discuss the site, the general area in which the site is located, and the goals and objectives of the Alleghany County Property Rights

Protection Ordinance. This will give the applicant an opportunity to learn about the Alleghany County Land Development Plan and possible community compatibility issues that should be addressed in the application.

6.4 Compliance Permits

If the use is listed as a use-by-right and complies with all the development standards in this Ordinance, the Administrator shall have the authority to issue a compliance permit. However, if the Administrator determines the use:

- (a) is not a use-by-right, the applicant may appeal the interpretation to the Planning Board or seek an amendment from the Board of Commissioners; or
- (b) cannot comply with all dimensional requirements, the applicant may appeal to the Board of Commissioners for a variance.

6.5 Conditional Use Permits

In order to apply for a conditional use permit, the applicant must participate in an assessment process that provides a mechanism to assess potential development in relationship to the specific community objectives listed in Article 1, Section 1.3(b) of this Ordinance.

6.5.1 Land Development Plan Assessment

The Alleghany County Land Development Plan (ACLDP) was created and implemented to provide a basis for sound and effective planning. The ACLDP provides direction in land use planning and infrastructure planning to help guide the growth and development of the community. The ACLDP establishes a pattern for the location, mix, and density of existing development and makes general recommendations for the location, mix, and density of future development. The ACLDP is a means for establishing a logical, political, and legal rationale for development policy. The Alleghany County Planning Board will utilize the ACLDP's information, objectives and recommendations as a guide when deciding on an issuance of a conditional use permit. Upon receipt of a complete application, the Administrator shall evaluate the proposal in relation to the Alleghany County and Town of Sparta Land Development Plans.

(a) Review of All Existing Land Development Constraints

During the pre-application conference, the Administrator will review with the applicant all existing physical and legal development constraints that may affect the proposed development. Examples of these constraints are illustrated in the ACLDP that include items such as topography, soils, infrastructure; and local, State and Federal laws. All other existing local, State and Federal laws not identified by the ACLDP should also be

considered at this time. The applicant must indicate on the application that they are capable of overcoming any existing physical constraints and will abide by all existing legal constraints.

(b) **Review of Alleghany County's Land Classification and Design Growth Management Plans**

During the pre-application conference, the Administrator will review with the applicant the ACLDP's land classification and design growth management plans. These plans identify items such as development classifications, development categories, general recommended locations for some of the development categories and recommended growth/infrastructure corridors. The applicant must indicate on the application whether or not their proposed development location coincides with the recommendations of the ACLDP.

6.5.2 Community Compatibility Assessment

The initial way to assess community compatibility will be to compare the type and amount of existing development within 2,000 feet of the proposed new or expanding development. Where applicable, a NAICS Code should be associated with the proposed new or expanding development. All existing development within 2,000 feet of the proposed development site should be identified and associated with a NAICS Code where applicable. The Administrator will be responsible for collecting this data and assigning the NAICS codes. Although it may be impossible for the Administrator to complete this process during the pre-application process, the Administrator will discuss this with the applicant at that time.

By identifying the type and amount of existing development within 2,000 feet of the proposed new or expanding development, many potential problems or conflicts caused by incompatible land uses can be identified. In order to minimize problems or conflicts caused by potentially incompatible land uses, the potential problems or conflicts must be identified and addressed. During the pre-application process, the Administrator will review with the applicant potential problem or conflict areas by asking the following questions:

- (a) Does the proposed project create a new or increased level of unsightly views for the affected property owners?
- (b) Does the proposed project create a new or increased level of noise nuisance for affected property owners?
- (c) Does the proposed project create a new or increased level of artificial lighting, glare on affected property owners?
- (d) Does the proposed project create a new or increased level of water run-off problems on affected property owners?
- (e) Does the proposed project create a new or increased level of odor nuisances for affected property owners?

- (f) Does the proposed project impact land values for affected property owners?
- (g) Does the proposed project create new or increased traffic that creates an unsafe environment for the affected property owners?

The applicant must address the above questions in the application itself. If the applicant answers yes to any of the above questions, then the applicant must indicate what steps (if they believe is necessary) they are willing and/or able to take in order to either alleviate or reduce the potential problem or conflict areas.

6.6 Filing the Application

Developers proposing a conditional use shall submit one (1) copy of a completed conditional use application to the staff along with the appropriate fees. Within two (2) working days of submission, the staff shall determine whether the application and list are complete and accurate and whether the correct fees have been paid.

6.7 Payment of Fees, Refunds

Developers proposing conditional uses shall pay a non-refundable fee of \$50.00.

6.8 Sketch Plan

The developer shall submit to the staff a sketch plan showing how development is proposed for the site. It shall show how individual buildings are to be situated on the site. Distances from these buildings to property lines and locations for signs and outdoor lighting shall also be shown. Proposed deed restrictions shall also be presented at this time. In either case, this sketch plan may be rough in nature and need not be exactly to scale. All distances and dimensions, however, shall be shown.

ARTICLE 7
Government Review and Action for Conditional Use Permit

7.1 County Review and Action- Authority

After the land development plan assessment, community compatibility assessment and application process has been completed, the county shall act on the request. The Planning Board shall have the authority to grant conditional use permits.

7.2 The Public Hearing

The Planning Board shall hold a public hearing on the proposed project. The procedure shall be as follows:

(a) *The Participants, Notification.* The public hearing shall be advertised in the local newspaper at least 10 days prior to the hearing. The public hearing will be scheduled during a regularly scheduled Planning Board Meeting. The Administrator shall notify the following parties of the date, time, and place of the public hearing.

(1) All affected and/or adjoining property owners within 2,000-feet shall be informed of the hearing by 1st class mail.

(2) The developer shall be informed of the hearing by certified mail. Failure of the developer to attend this public hearing shall lead to an automatic annulment of the proposal.

(b) *The Hearing Officer.* The Administrator, or his representative, shall be designated by the Planning Board to preside at all public hearings. The Hearing Officer shall present the completed application to the Planning Board and the public. The developer shall be allowed to explain in detail to the Planning Board and to the public the contents of the application.

(c) *Relevant Topics to be Discussed.* The topics covered in section 6.5 (Conditional Use Permits) shall be considered relevant for discussion during the hearing. It is recommended that these topics be paramount in presentations given.

(d) *Time Limits for Presentations.* A total of one hour shall be allotted for input before the Planning Board. Those favoring more stringent measures to assure compatibility shall be allotted thirty (30) minutes as shall those who do not favor such measures. A **majority** vote of the Planning Board **members who are present** shall be necessary to grant additional time to either party. Strict adherence to these limits shall be required.

7.3 Planning Board Deliberations

Following the public presentation at the hearing, the Planning Board may confer and discuss the presentations as well as receive input from the staff. Debate shall center on those relevant topics in 6.5 and all sub-categories.

7.4 Planning Board Decision

The Planning Board shall either deny or approve the proposal. In making its decision, the Planning Board will use the following as guidance:

- (a) Basis of Denial – Any denial of a conditional use permit will be based upon the following:
 - (1) the applicant’s proposal could not sufficiently meet the goals and objectives of the Land Development Plan.
 - (2) the applicant’s proposal could not sufficiently minimize the problems or conflicts caused by incompatible land uses as identified by the Community Compatibility Assessment process (6.5.2).
 - (3) the applicant’s proposal could not meet the development standards of this Ordinance.

The motion to deny the conditional use permit will specifically identify why and how the requirements of this Ordinance have not been met. As amenities and characteristics change, future development on the site remains possible through a new application.

- (b) Basis of Approval – Any approval of a conditional use permit will be based upon the following:
 - (1) the use is a conditional use as specified by this Ordinance;
 - (2) the use does sufficiently meet the goals and objectives of the Land Development Plan.
 - (3) the applicant has successfully minimized the problems or conflicts caused by incompatible land uses as identified by the Community Compatibility Assessment Process (6.5.2).
 - (4) the applicant has demonstrated that the development has not dramatically increased or added to problems or conflicts caused by incompatible land uses.
 - (5) the use meets all required conditions and specifications imposed by this Ordinance and the Planning Board.

In granting the conditional use permit, the Planning Board may add reasonable and appropriate conditions deemed necessary under which the project could be made compatible. The Planning Board shall state in specific detail the recommended provisions to be required to achieve compatibility. The specific provisions shall be entered into the minutes of

the meeting at which the conditional use permit is granted. The provisions shall also be incorporated onto the conditional use permit itself.

(Decision/Possible Continuance) If additional information is needed, Chairman should state for the record that the hearing is continued until the next regularly scheduled meeting (should be within reasonable time). The Planning Board shall make its decision no later than its next regularly scheduled meeting. Should the Planning Board elect to wait this extra time, the date, time and place of the next meeting shall be announced publicly at the conclusion of the public hearing.

If the conditions are acceptable to the applicant, the Administrator shall issue a conditional use permit with the specific requirements included. Depending upon the size and scope of the project, the Planning Board may empower the Administrator to review and approve the site plan as required by Article 8 of this Ordinance. Any action taken by the Administrator under this provision shall be presented to the Planning Board for informational purposes.

Quorum and Vote Required. A quorum of the Board, necessary to conduct any business of the Board, shall consist of four-fifths (4/5) of the total membership of the Board.

The concurring vote of four-fifths (4/5) of the total membership of the Board shall be necessary in order to:

- A. Reverse any order, requirement, decision, or determination of the Planning Department;
- B. Decide in favor of the applicant any matter upon which it is required to pass by this Ordinance; or
- C. Approve an application for an appeal or variance.

7.5 The Developer' s Decision

Conditions set down by the Planning Board on the Conditional Use Permit are binding under law. The developer shall carry out all compatibility requirements set forth through the public hearing process. In the event that, for financial or other reason, the developer decides not to proceed with the proposal as mandated by the Planning Board, the Administrator, upon written notification from the developer, shall close the file on the project.

7.6 The Effect of Denial or Withdrawn Proposals.

Developers whose projects have been rejected or withdrawn after a public hearing shall not be eligible to submit the same project for a second review under terms of this Article for a minimum of six (6) months. This date shall be determined from the date of the public hearing. In the event the developer alters the project in compliance with comments voiced at either the informal compatibility meeting or public hearing, the six-month waiting period shall be waived. The provisions of this Article shall then apply.

ARTICLE 8

Site Plan Review

8.1 Site Plan Review

A site plan shall be prepared after the conditional use permit has been issued. A site plan is a graphic representation of a proposed development as well as existing characteristics of the property. It shows how the project will comply with the specific development requirements in the ordinance as well as any conditions attached during the review process.

8.2 Review Process

(a) *Submission of the Plan for Review.* Within three (3) months of the approval of the conditional use permit and at least ten (10) days before the regular meeting of the Planning Board, the developer shall submit a site plan to the Administrator. The Administrator shall then review the site plan to determine if it contains all the required information and includes any conditions agreed upon during the review process. The Administrator shall report his findings to the Planning Board.

(b) *Failure to Submit Plan.* Should the site plan not be submitted within the required three (3) months, the proposal shall be returned to Article 6 – Permit Application Process. At this point the developer shall be required to resubmit to another informal compatibility meeting.

(c) *Action by the Planning Board.* The Planning Board meeting shall take one of the following courses of action:

(1) Approve the site plan;

(2) Approve conditionally the site plan. The developer shall have one (1) month to comply with the changes and return with the corrected site plan to the Administrator;

(3) Disapprove the site plan only when the plan fails to comply with the development standards specified in the ordinance or any conditions applied during the review process. As in (2) above the developer has one (1) month to make the specified changes and resubmit to the Planning Board.

(d) *Failure to Resubmit Site Plan.* In the event the developer fails to resubmit a conditionally approved or denied site plan within one (1) month, the proposal shall be returned to the compatibility process where he shall pay fees as prescribed and resubmit to another informal compatibility meeting.

8.3 Uses Subject to Site Plan Review

A site plan shall be prepared for all conditional uses. However, the Administrator shall have the authority to waive any application requirements where the type of use or scale of the proposal makes the information unnecessary or impractical.

8.4 Site Plan Specifications

The following information shall be shown on all site plans, however the Administrator may waive some site plan requirements, provided sufficient information is given to provide adequate review:

- (a) Title block
 - (1) name of developer.
 - (2) the number as assigned by the staff.
 - (3) name and address of the owner.
 - (4) a graphic and written scale.
 - (5) the total acreage involved in the site.
- (b) Site boundary along with its dimensions.
- (c) The dimensions of all existing or proposed buildings and their distances from property lines.
- (d) The location of the septic tank and lateral lines, or the point of access to public sewerage, if available.
- (e) The point of access to public water or the location of the private well.
- (f) The location and dimensions of all existing and proposed utility easements.
- (g) The location of all outdoor lighting fixtures.
- (h) The location, dimensions, and height of all existing and proposed signs.
- (i) The location, dimension, and surface type of all existing and proposed parking facilities.
- (j) The distances from property lines to all entrances onto adjacent roadways.
- (k) The name, location and dimension of all roadways, and rights-of-ways.

- (l) A north arrow.
- (m) A vicinity map showing the entire site whether or not all of it is proposed for development. This shall be illustrated at a minimum scale of one (1) inch to 2,000 feet (available from the staff).
- (n) The location of any municipal or county line which crosses or falls adjacent to the site.
- (o) The locations, dimensions, and extent of any land to be dedicated to public use including any improvements to be made to that land.
- (p) The locations, dimensions, and extent of any buffer areas or green space required by the compatibility assessment, to include types and sizes of trees, fences, and berms.
- (q) Any other information that may be considered necessary by the Administrator for full and proper consideration of the plans.

8.5 Completion of Project

No development shall be occupied until all building code requirements as well as all development standards and conditions imposed during the review process are met. If the development fails to comply with any development requirements imposed by the conditional use permit, the Planning Board shall revoke the permit **by majority vote**.

8.6 Periodic Reinspection

The Administrator shall periodically inspect the use and maintenance of the subject property to ensure continued compliance with these regulations.

8.7 Certifications Required on Site Plans

No certifications shall be required on site plans.

8.8 Building Permits

Within six (6) months of the approval of the site plan by the Planning Board the developer shall apply for building permits from the Allegheny County Building Inspection Department.

8.9 Compliance with the Conditional Use Permit

All terms and conditions set down on the conditional use permit shall be completed within twelve (12) months of the approval of the site plan. Should the developer need to extend this deadline, a written request shall be forwarded to the Planning Board at least five (5) days before its next regular meeting. Extensions shall be determined and granted by the Planning Board.

ARTICLE 9
Nonconforming Uses and Buildings

9.1 General

Any parcel of land, use of land, building or structure existing at the time of the adoption of this ordinance, or any amendment, that does not conform to the use or dimensional requirements of the open district may be continued and maintained subject to the following categories of nonconforming uses.

9.2 Nonconforming Vacant Lots

Nonconforming vacant lots are ones that have been platted and recorded in the office of the Register of Deeds of Alleghany County, which at the time of adoption of this ordinance fail to comply with the minimum area of the open district. Any such nonconforming lot may be used for any of the uses permitted in open district.

(a) Where the lot area is not more than 20 percent below the minimum specified in this ordinance the Administrator is authorized to issue a compliance permit.

(b) Where the lot area is more than 20 percent below the minimum specified in this ordinance the board of adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.

(c) 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 than the minimum requirements of the open district such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance.

9.3 Nonconforming Occupied Lots

Nonconforming occupied lots are ones occupied by buildings or structures at the time of the adoption of this ordinance that fail to comply with the minimum lot requirements for the open district. These lots may continue to be used without complying with the specific requirements for use or dimensional requirements.

9.4 Nonconforming Open Uses of Land

Nonconforming open uses of land are lots used for storage yards, used car sales, auto wrecking, junkyards, and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not

permitted to be established hereafter, under this ordinance, in the open district. A legally established nonconforming open use of land may be continued except as follows:

- (a) When a nonconforming open use of land has been changed to conforming use, it shall not thereafter revert to any nonconforming use.
- (b) Nonconforming open use of land shall be changed only to conforming use.
- (c) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- (d) When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district where the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

9.5 Nonconforming Uses of Structures

Nonconforming uses of structures are ones used at the time of enactment of this ordinance for purposes or uses not permitted in the open district. Such uses may be continued as follows:

- (a) An existing nonconforming use may be changed to another nonconforming use of the same or higher NAICS Code classification, provided that the other conditions in this article are met. For the purpose of this ordinance, the rank order of uses from higher to lower shall be: 1) residential, 2) public, 3) commercial, and 4) industrial;
- (b) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use;
- (c) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except:
 - (1) structural alterations as required by law or ordinance to secure the safety of the structure; or
 - (2) maintenance and repair necessary to keep a structure in sound condition; or
 - (3) expansion of a nonconforming use of building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use.
 - (4) if the expansion is in compliance with Article 5.4 : Uses-By-Right.

(d) When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not hereafter be used except in conformance with the regulations of the district where it is located.

9.6 Reconstruction of Damaged Buildings or Structures

Any nonconforming use which has been damaged by fire, wind, flood or other causes, may be repaired and used as before provided:

- (a) the damage to the building does not exceed 75% of its assessed value;
- (b) repairs are initiated within twelve (12) months and completed within two (2) years of such damage;
- (c) the total amount of space devoted to a nonconforming use may not be increased; and
- (d) reconstructed buildings may not be more nonconforming with respect to dimensional restrictions.

9.7 Nonconforming Manufactured Homes

Beginning with the passage of this ordinance, a nonconforming manufactured home park shall not be enlarged or altered so as to create additional spaces until the park has been made to conform to the provisions for mobile home parks.

ARTICLE 10
Administration

10.1 Board of Commissioners

The Board of Commissioners shall have the following powers and duties to be carried out in accordance with this ordinance which include, but are not limited to, the following:

- (a) to hear and decide appeals and to review any specific order, requirement, decision, or determination made under this ordinance by the Administrator or the Planning Board; and
- (b) to hear and decide petitions for variances from this ordinance;
- (c) to take such other action not delegated to the Planning as the Board may deem desirable and necessary to implement the provisions of this ordinance.

10.2 Planning Board

The Planning Board shall have certain powers and duties to be carried out in accordance with this ordinance which include, but are not limited to, the following:

- (a) to review and make recommendations to the Board of Commissioners on all matters relating to this ordinance within the jurisdiction of Alleghany County, whenever such matters require the attention of the Board of Commissioners; and
- (b) to adopt such rules of procedure necessary for the administration of its responsibilities consistent with this ordinance.
- (c) *Establishment of Board.* A Planning Board shall be established consisting of **five (5) members**.
- (d) *Powers and Duties.* The Planning Board shall have powers and duties to be carried out in accordance with this ordinance which include, but are not limited to, the following:
 - (1) to review and act upon all conditional uses;
 - (2) to initiate and make amendments to the text of this ordinance;
 - (3) to adopt such rules of procedure necessary for the administration of its responsibilities consistent with this ordinance; and
 - (4) to assume any other duties assigned by the Board of Commissioners.

10.3 Staff

(a) *The Administrator.* The Board of Commissioners shall designate the Administrator and it shall be his duty to administer and enforce the provisions of this ordinance. Appeal from a decision of the Administrator may be made to the Planning Board as provided in Article 11.

(b) *General Duties.* In addition to any authority granted by other laws and ordinances, the Administrator shall have certain powers and duties to be carried out in accordance with this ordinance which include, but are not limited to, the following:

- (1) serving as advisor and staff to the Planning Board and to the Board of Commissioners with regard to their functions under this ordinance, and to inform such bodies of all facts and information at their disposal with respect to applications for amendments to the text of this ordinance, or any other matters brought before them;
- (2) maintaining the text of this ordinance;
- (3) maintaining development review files, and other public records, related to the administration and enforcement of this ordinance;
- (4) granting minor variances from conditions of this ordinance when such variance is not of a substantial nature and is in keeping with the spirit and intent of this ordinance;
- (5) reviewing applications for compliance permits, conditional use permits, and variances to determine compliance with the intent and provisions of this ordinance;
- (6) authorizing the issuance of certificates of compliance after determining that the provisions of this ordinance have been met;
- (7) assisting the public in its understanding of the process by ensuring staff assistance in answering questions, providing simple instructions regarding procedure and applications, and by interpreting the ordinance; and
- (8) establishing such rules of procedure as are necessary and proper for the administration of his responsibilities under this ordinance.

(c) *Records.* The Administrator shall ensure that appropriate records are maintained of all applications for permits, site plans submitted, and permits issued. These shall be made available for inspection during regular business hours by any interested party.

(d) *Inspection and Enforcement.* The Administrator shall conduct or authorize inspections of premises and take other lawful action to ensure compliance with the provisions of this ordinance.

10.4 Conditional Use Permit

- (1) the use is a conditional use as specified in Article 5;
- (2) the use meets the goals of the Alleghany Land Use Plan;
- (3) the use will not materially endanger the public health, safety, morals, or general welfare if located where proposed;
- (4) the use will not substantially injure the value of adjoining or abutting property; and
- (5) the use meets all required conditions and specifications imposed by the Planning Board;

(e) In granting the conditional use permit, the Planning Board may designate those conditions which, in its opinion, assure that the use in its proposed location will be harmonious with the area where it is located, with the spirit of this ordinance, and clearly in keeping with the public welfare. All such conditions shall be entered in the minutes of the meeting at which the conditional use permit is granted and on the use permit itself. All specific conditions shall run with the land and shall be binding on the original applicant for the conditional use permit, their heirs, successors and assigns.

(f) If the Planning Board denies the conditional use permit, the motion to deny shall specify the requirements of this ordinance which the application fails to meet. The Board shall enter the specific findings for its action in the minutes at which the action is taken.

(g) Granting a conditional use permit does not exempt applicants from complying with other requirements of this ordinance, unless the conditional use permit provides the contrary.

(h) In any case where the conditions of a permit have not been or are not being met, the Administrator shall give the grantee notice of intention to revoke the permit. Said notice shall be given at least ten (10) days prior to any legal enforcement action initiated by the Administrator. Once revoked, no building permit or certificate of compliance under the conditional use permit shall be issued, and all completed structures shall be regarded as non-conforming uses. When plans are required to be submitted and approved as part of the application for a conditional use permit, minor modifications of the original plans may be authorized by the Administrator.

(i) No appeal may be taken from the action of the Board of Commissioners in granting or denying a conditional use permit except through the Alleghany County Superior Court.

10.5 Certificate of Compliance

It is illegal for any person to occupy or use any land, building or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of compliance.

A certificate of compliance shall be issued if the requirements of this Ordinance and other applicable laws or codes have been met. Occupancy of such building or site prior to the issuance of the certificate is a violation subject to the provisions of Article 14 of this Ordinance.

ARTICLE 11
Appeals, Variances, and Interpretations

11.1 Appeals

(a) *Notice.* An appeal from any final order or decision of the Administrator or Planning Board may be taken to the Board of Commissioners by any person aggrieved. An appeal is taken by filing a written notice of appeal with the Administrator and Planning Board which specifies the grounds for the appeal. A notice of appeal shall be considered filed when delivered to the Administrator.

(b) *Timing.* An appeal must be taken within thirty (30) days after the date the decision or order is made.

(c) *Materials.* Whenever an appeal is filed, the Administrator shall transmit to the Board of Commissioners all the materials of the case.

(d) *Stays.* An appeal stays all actions by the Administrator enforcing the requirements of this ordinance.

11.2 Variances

(a) *Applications.* An application for a variance shall be submitted to the Board of Commissioners by filing a copy of the application with the Administrator.

(b) *Determination.* In considering all proposed variances to this ordinance, the Board of Commissioners shall, before making any finding in a specific case, first determine that the proposed variance *will not*:

- (1) allow the establishment of a use not otherwise permitted;
- (2) extend in area or expand a non-conformance;
- (3) prevent the adequate supply of light and air to adjacent property;
- (4) materially diminish or impair established property values within the surrounding area; or
- (5) in any other respect impair the public health, safety, morals, and general welfare.

(c) *Variances.* A variance may be granted by the Board of Commissioners if it concludes that strict enforcement of this ordinance would result in practical difficulties or unnecessary hardships for the applicant, that the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit, and that by granting the

variance public safety and welfare will be assured and substantial justice will be done. It may reach these conclusions if it finds that:

- (1) if the applicant complies with the provisions of this ordinance, he can secure no reasonable return from, or make no reasonable use of his property;
- (2) the hardship results from the application of this ordinance;
- (3) the hardship is one suffered by the applicant's property rather than by the applicant, his neighbors, or the general public;
- (4) the hardship is not the result of the applicant's own actions; and
- (5) the hardship is one peculiar to the applicant's property rather than one shared by surrounding properties and/or properties in the same area.

(d) *Conditions.* Before granting a variance, the Board of Commissioners may attach such conditions thereto which are necessary to further ensure the public health, safety, morals, and general welfare. Such conditions may address the location, size and nature of proposed buildings, structures, or uses and any other development criteria the board deems appropriate which are in harmony with the spirit and intent of this ordinance.

11.3 Interpretations

The Board of Commissioners is authorized to review interpretations of the Administrator and to pass upon disputed questions.

11.4 Requests to be Heard Expeditiously

The Board of Commissioners shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, and obtain the necessary information to make sound decisions.

11.5 Burden of Proof in Appeals and Variances

The burden of presenting evidence sufficient to allow the Board of Commissioners to reach the conclusions on these issues, remains with the applicant seeking the variance.

11.6 Board Action on Appeals and Variances

(a) *Motions.* With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths

vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order.

(b) *Voting.* Before granting a variance, the Board of Commissioners must take a vote and vote affirmatively (by four-fifths majority) on the required findings stated. Insofar as practicable, a motion to make affirmative findings on each of the requirements set forth in subsection 11. 2 (b) above shall include a statement of the specific reasons or findings of fact supporting such motion.

ARTICLE 12
Amendments

12.1 Amendments In General

This ordinance may be amended, changed, modified or repealed subject to the procedures and rules established by law and in the following sections.

12.2 Amendment Procedures

(a) *Initiation of Request.* The Board of Commissioners may, on their own motion or upon petition, initiate the process to amend, change, modify, or repeal this ordinance.

(b) *Planning Board Consideration of Proposed Amendments.*

(1) All amendments shall be referred to the Planning Board for its consideration.

(2) The Planning Board shall submit its recommendation in writing to the Board of Commissioners, within sixty (60) days of first consideration. If a recommendation is not made in that time period, the Board of Commissioners shall proceed to act on the application.

(c) *Public Hearing.*

(1) No amendments of this ordinance may be adopted until a public hearing has been held on such by the Board of Commissioners.

(2) The Administrator shall publish a notice of the public hearing on any amendments to this ordinance once a week for two successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

(3) The notice required or authorized by this section shall:

(a) state the date, time, and place of the public hearing;

(b) summarize the nature and character of the proposed change;

(c) state that the full text of the amendment can be obtained from the Administrator; and

(d) state that substantial changes in the proposed amendment may be made following the public hearing.

(d) *Board of Commissioners Action on Amendments.*

(1) At the conclusion of the public hearing on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed amendment(s), refer it for further study, or take any other action consistent with its usual rules of procedure.

(2) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time.

(e) *Resubmission of a Change Request.* No proposed change in the ordinance, if denied by the Board of Commissioners, may be resubmitted within one year from the date of such denial, unless the Administrator shall find that changing conditions in the area or new information concerning the requested warrants a resubmission of the request.

ARTICLE 13

Legal Provisions

13.1 Complaints Regarding Violators

Whenever the Administrator receives a written, signed complaint alleging a violation of this ordinance, the Administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

13.2 Liability

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

13.3 Procedures Upon Discovery of Violation

(a) If the Administrator finds that a provision of this ordinance is being violated, they shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the Administrator's decision or order may be appealed to the Board of Commissioners in accordance with this ordinance.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this ordinance.

13.4 Penalties and Remedies for Violation of the Ordinance

(a) Violations of the provisions of this ordinance or failure to comply with any of these requirements, including violations of any conditions and safeguards established in connection with grants of variances or conditional use permits, may constitute a misdemeanor, punishable by a fine of up to \$50 **per violation**, or a maximum thirty (30) days imprisonment, or both.

(b) 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 conditional use

permits, may also subject the offender to a civil penalty of **\$25/day**. If the offender fails to pay within ten (10) days after being cited for a violation, this penalty may be recovered by the jurisdiction in a civil action in the nature of debt, a civil penalty may not be appealed to the Board of Commissioners if the offender was sent a final notice of violation in accordance with this ordinance and did not take an appeal to the Board of Commissioners within the prescribed time.

(c) This ordinance may also be enforced by any appropriate equitable action.

(d) On each day that any violation continues after official written notification by the Administrator that such violation exists may be considered a separate offense for purposes of the penalties and remedies specified in this section.

(e) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this ordinance.

13.5 Permit Revocation

(a) A conditional use permit may be revoked by the Administrator if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing board.

(b) Before a conditional use permit may be revoked, all of the notice and hearing and other requirements shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(2) Before a conditional use permit may be revoked, the Administrator shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

(3) No persons may continue to make use of land or buildings in the manner authorized by any conditional use permit after such permit has been revoked in accordance with this section.

13.6 Judicial Review

(a) Every decision of the Board of Commissioners granting or denying a conditional use permit and every final decision of the Board of Commissioners shall be subject to review by the Superior Court of Allegheny County by proceedings in the nature of certiorari.

(b) The petition for the writ of certiorari must be filed with the Alleghany County Clerk of Court within thirty (30) days after the later of the following occurrences:

(1) A written copy of the board's decision has been filed in the County Manager's office;

(2) A written copy of the board's decision has been sent to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case; and

(3) A copy of the writ of certiorari shall be served upon Alleghany County.

13.7 Relation to Other Ordinances and Regulations

It is not intended that these regulations in any way, annul, or interfere with the existing provisions of any other law or ordinance except any ordinance which these regulations specifically replace. It is not intended that these regulations interfere with any easements, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of land or the use, size, location, or orientation of buildings, open space, or ancillary facilities, then the provisions of these regulations shall control.

13.8 Severability

If any section or specific provision of these regulations are found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, or standard except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

13.9 Vested Rights

Upon the effective date this ordinance, or any amendment thereto, a vested right may be established when:

(a) a use, structure, or parcel of land existed at the time of enactment of this ordinance, or any amendment thereto;

(b) a business who at the time of enactment of this ordinance is paying any enacted taxes and fees as imposed by Alleghany County;

(c) an officially approved building permit so long as the permit is valid, unexpired or unrevoked at the time of enactment of this ordinance or any amendment thereto.

(d) a site plan describing with reasonable certainty the type and intensity of use is approved in accordance with the requirements of this ordinance. A vested right established in accordance with G.S. 133A-344.1 shall be in effect for two years.

13.10 Adoption and Effective Date

The effective date of this Ordinance shall be the date of its adoption by the Board of Commissioners.

Adopted this the 15th day of May, 2006.

ATTEST:

(sig: Karen Evans)
Karen Evans
Clerk to the Board

(County Seal)

ALLEGHANY COUNTY BOARD OF
COMMISSIONERS:

(sig: Eldon Edwards)
Eldon Edwards, Chair

Absent
Warren Taylor, Vice-Chair

(sig: Graylen Blevins)
Graylen Blevins, Member

(sig: Sandy Carter Herndon)
Sandy Carter Herndon, Member

(sig: Ken Richardson)
Ken Richardson, Member

Attachment A Development Standards

After the compatibility meetings and the public hearing process, the Planning Board may impose conditions on each conditional use permit. However, at a minimal, all uses shall comply with the development requirements as stated herein.

** Minimum Lot Area and Width are controlled by Health Department

1. Minimum Yard Requirements

Type of Use	Front Yard Setback (feet)	Side Yard Setback (feet)	Corner Lots Setback (feet)	Rear Yard Setback (feet)
Duplex	40	15	25	25
Multi-family	40	15	25	25
Commercial, Industrial, or Institutional	**	**	**	**

*All measurements are from centerline of private road or easement

** Commercial, Industrial or Institutional setbacks to be determined by the Planning Board.

2. Maximum Lot Coverage

Type of Use	Maximum lot Coverage (1)
Duplex and Multi-family	40 percent
Commercial, Industrial, and Institutional	75 percent (2)

(1) The Alleghany County Watershed Protection Ordinance imposes a lower impervious limits in designated water supply watersheds.

(2) The remaining part of the site shall be maintained in live vegetative cover.

3. Maximum Height of Building

<u>Type of Use</u>	<u>Maximum Height (1) (feet)</u>
Duplex and Multi-family	40
Commercial, Industrial, and Institutional	80

(1) Chimneys, water, fire, radio and television towers, church spires, domes, cupolas, cooling towers, roof signs, elevator bulkheads, smokestacks, flag poles, silos, granaries, windmills, oil derrick and similar structures and their necessary mechanical appurtenances may be erected above the height limits herein established

4. Parking Standards

All development shall be provided with adequate parking facilities to handle the expected number of automobiles for that site. Spaces shall be provided as follows: (Use classifications for buildings are the same as those definitions used in the North Carolina Building Code.)

- (a) Assembly, business, and mercantile buildings shall be provided with one space per 300 square feet of floor space.
- (b) Factory and industrial buildings shall be provided with one and one-half (1.5) spaces per three (3) employees, computed on the total employment.
- (c) Institutional buildings shall be provided with one (1) space per five (5) persons identified in the building' s occupant load figures.
- (d) Residential projects shall be provided with two (2) spaces per dwelling unit.

A parking space shall not be less than eight and one-half (8-1/2) feet by eighteen (18) feet. Some spaces may be down-sized for use by smaller automobiles. Total space requirements of (a) through (d) shall be met in any case, however. Specific requirements for handicap parking are addressed in Volume IC of the North Carolina Building Code.

5. Lighting Standards

Outdoor lighting shall be designed so as to minimize light from directly hitting adjacent property or any public right-of-way.

6. Manufactured Home Parks

(a) *Review procedure.* Manufactured home parks located in Allegheny County are required to meet certain development standards to ensure compatibility with surrounding land uses, provide for attractive, well planned projects, and to promote the public health, safety, and welfare of the county. The Administrator or a member of their staff shall review development plans for manufactured home parks prior to the submittal to the Planning Board. The Planning Board shall review the plans and make recommendations regarding the proposed parks.

(b) *Site Plan Requirements.* At least five (5) copies of all required plans, drawings, and specifications shall contain the following information:

- (1) General Information - Including topographical features, streams, vegetation, soil types, flood prone areas, historic sites, and other features.
- (2) Timing of Development - The proposed schedule of development including phases or stages likely to be followed.
- (3) Public Water and Sewer System - Location of public water and sewer lines presently in existence, connections to these lines, manholes, pumping stations, fire hydrants, and other necessary features. *(All manufactured home park must have public water and sewer service or approved treatment facilities as required by the appropriate authorities.)*
- (4) Stormwater Drainage System - Proposed stormwater drainage system.
- (5) Streets, Curbs and Gutters, Electrical Systems, and Street Lights - Proposed location and design of streets, curbs, and gutters, electrical systems, and street lights.
- (6) Grading Plan and Sedimentation Control Measures - Proposed grading plan and sedimentation control measures.
- (7) Street Access, Easements, Monuments, Property Lines - Proposed street access, easements, monuments, and property lines.
- (8) Sidewalks - Proposed location and design of sidewalks.
- (9) Parking, Loading, Circulation - The proposed location and extent of parking and loading areas, including parking spaces and circulation routes,

shall be shown.

(10) Floor Plans and Building Layouts - Proposed location of all structures, including numbers and dimensions of all spaces.

(11) Landscaping, Screening, and Fencing - Proposed location of landscaping elements, including screening and fencing. (The developer should make every reasonable effort to preserve existing vegetation. By preserving existing vegetation, potential erosion is minimized and natural buffers are provided. The Planning Board may allow appropriate existing vegetation to substitute for landscape requirements if the intent of this ordinance is not undermined.)

(12) Refuse Collection - Proposed method of collection and location of receptacles.

(13) Name of park, names and addresses of the owner(s), designer or surveyor.

(14) Date, scale, and north arrow.

(15) Boundaries of the tract with bearings, distances, and metes and bounds.

(16) Vicinity map showing the location of the park, surrounding land uses, and names and addresses of all adjoining property owners.

(c) *Development Standards.*

(1) **Minimum Area** - Each manufactured home park shall be developed on a tract not less than two (2) acres in size and shall contain at least two (2) manufactured home spaces available at first occupancy.

(2) **Setbacks** - No manufactured home shall be located closer than: (*Distances shall be measured from the outermost part of the unit, including tongue.*)

(a) Forty (40) feet from a State highway right-of-way;

(b) Thirty (30) feet from the exterior boundary of the park;

(c) Twenty-five (25) feet from another manufactured home; and

(d) Twenty (20) feet from edge of any roadway surface in the park.

(3) **Streets and Driveways** - All streets within the manufactured home park shall meet minimum Private Road, County Standard Requirements.

- (a) All roads shall have adequate access at street line.
- (b) All internal streets must have a minimum of four (4) inches of crushed and packed stone or North Carolina Department of Transportation ABC compacted stone.
- (c) Two-way street - A minimum width of no less than eighteen (18) feet with three (3) feet shoulder on both sides of the street.
- (d) One-way street - A minimum width of fourteen (14) feet with a three (3) feet shoulder on both sides of the street.

Each manufactured home space must be served by a driveway connecting to an internal street. No space shall have direct access to a State highway.

(5) **Off-Street Parking** - Each manufactured home space shall have two (2) off-street parking spaces surfaced with pavement or a minimum of four (4) inches of crushed stone or gravel, extending to the internal street serving the space.

(6) **Dead-end streets** - Dead-end streets shall be provided with a cul-de-sac at least fifty (50) feet in diameter or with adequate turn around room.

(7) **Signs** - Permanent signs for identification of manufactured home parks shall be no more than fifty (50) square feet in size, and no closer than twenty (20) feet to any property line. One (1) such sign is permitted per park entrance that is located along state maintained road frontage. Illumination of such signs must be indirect, non-flashing, and the source must not be visible from adjoining property or public streets or roads.

(8) **Buffer Strip** - A buffer strip, at least ten (10) feet in width, shall be provided by the developer on park boundaries. It shall consist of evergreen foliage or berm. All vegetation must be maintained in a healthy condition by the owner or developer. Dead or damaged plants shall be replaced promptly.

(9) **Water and Sewage Service** - Manufactured home parks shall install public water and sewerage systems constructed and approved by the appropriate agencies prior to the approval of park development plans by the Planning Board.

(10) **Drainage** - Each manufactured home space shall be graded so as to provide proper drainage. No manufactured home space shall be located in an area subject to flooding or seasonal high water table. (See FEMA Maps and Alleghany County Soil Survey).

(12) **Sale by Owner** - Manufactured homes shall not be sold within a park, except that an individual owner shall be allowed to sell the manufactured home in which he resides or the owner or operator of the park may sell a unit that meets the requirements of subsection (13) below.

(13) **Sale by Operator** - The owner or operator of a park shall not sell manufactured homes within that park unless the unit for sale shall be placed individually and separately upon an existing space where all design standards and utilities have been completed as specified by this ordinance, and unless said unit is being or has been occupied as a residence.

(14) **Office Space** - Within a manufactured home park, one manufactured home may be used for an administrative office.

(15) **Solid Waste** - All garbage and refuse in every manufactured home park shall be stored in suitable water-tight and fly-tight receptacles. If dumpster-type containers are to be used, all units shall be located on a concrete, asphalt, or similar base, abutting a driveway and shall be enclosed, with the exception of the driveway side, with a wood or masonry fence at least six (6) feet in height. One refuse container with at least an eight (8) cubic yard capacity shall be required for every ten (10) manufactured home spaces.

(16) **Skirting** - All manufactured homes shall be skirted with approved materials if not placed on a permanent foundation within ninety (90) days.

(d) *Local Review.*

The Planning Board, based on its findings, shall approve or disapprove the manufactured home park plan within thirty (30) days after submittal to them by the Administrator. If approved, the Administrator shall issue the owner or developer a construction permit, retain one (1) copy of the plan for the committee, and forward one (1) copy of the plan to the developer. If disapproved, the reasons for such action and the recommended changes shall be given to the park developer or agent.

(e) *Issuance of Permits.*

After approval of the manufactured home park plan, the Administrator is authorized to issue a construction permit. The intent of this permit is to enable the construction of the park according to the approved plans and shall not be construed to entitle the recipients to offer spaces for rent or lease, or to operate a manufactured home park as defined in this ordinance.

When the construction of the manufactured home park is completed, the developer shall apply to the Administrator for an operating permit. The Administrator, the electrical

inspector, and a representative of the Appalachian District Health Department (if applicable) shall make an on-site inspection of the park.

(1) If the park meets the development standards, the Administrator shall issue the developer an operating permit.

(2) If the park does not meet the development standards, the Administrator shall delay issuance of the operating permit until it meets the development standards.

(3) When a manufactured home park is to be developed in stages, the proposed park plan shall be submitted for the entire development, and application for an operating license may be made for each stage developed.

(f) *Use of Manufactured Homes for Storage is Prohibited*

All manufactured homes must be maintained in a habitable condition

7. Recreation Vehicle Parks

(a) *Use.* Recreational parks shall be used only by travel trailers, pickup coaches, motor homes, camping trailers, other vehicular accommodations and tents suitable for temporary habitation and used for travel, vacation and recreation purposes. All recreational vehicles should be road worthy.

(b) *Site Plan.* In addition to any other information required by the Administrator, the site plan shall include the name and address of the applicant, a small vicinity map, as well as a map showing the property dimensions, the location and dimension of each recreation vehicle site, the location and use of all service and recreational facilities, all interior accessways, and the location of all proposed facilities for sanitation, solid waste, and drainage and fire prevention. Site plans shall be approved by the Appalachian District Health Department and the North Carolina Department of Transportation for ingress and egress to and from public roads.

(c) *Area and Site Requirements.*

(1) No park shall be less than two (2) acres in size.

(d) *Location and Access.* A RV park shall have adequate right-of-way per decision of the Planning Board

(e) *Exterior yard requirements.* A setback of forty (40) feet from a public right-of way or from a property line abutting a residential lot shall be required.

(f) *Accessory Uses.* Each park shall have at least one telephone available to the public that is 911 emergency equipped.

(g) *Parking.* Adequate parking and maneuvering space shall be provided on site.

(h) **Roads.** Roadways within the park shall be private and consist of a stabilized travelway packed gravel, marl, paving or other suitable materials and shall meet the following minimal widths.

→ One-way, no parking	12 ft
→ One-way, with parking on one side or two-way with no parking	20 ft
→ Two-way with parking on one side	27 ft
→ Two-way with parking on both sides	34 ft

(i) **Buffers.** A buffer strip, at least ten (10) feet in width, shall be provided by the developer on park boundaries. It shall consist of evergreen foliage or berm. All vegetation must be maintained in a healthy condition by the owner or developer. Dead or damaged plants shall be replaced promptly. Water frontage is exempt.

8. Salvage Yards and Junkyards

Site Standards:

- (a) Minimum setback shall be determined by the Planning Board.
- (b) No salvage yard or junkyard shall be permitted to locate or expand within two thousand (2,000) radius of any structure used for residential purposes (other than primary owner), and any property used as a hospital, nursing or convalescent home, retirement home, life care community, school, or church.
- (c) Yards shall comply with Chapter 40 of the North Carolina Fire Prevention Code.
- (d) Designated loading and unloading areas shall be provided within the buildable portion of the property in question. Loading and unloading shall be prohibited in any other location.
- (e) Yards shall not locate or expand within five hundred (500) feet of any watercourse such as a stream, river, reservoir, pond, lake or drainage ditch.
- (f) Yards shall not be permitted to locate or expand within the one hundred (100) year floodplain as shown on the latest Federal Emergency Management Agency maps of Alleghany County.

(g) Yards shall not locate or expand within one thousand (1,000) feet of any water course such as a stream, river, reservoir, pond, or lake that is located in any water supply watershed (WS-I through WS-IV) or any outstanding resource watershed.

(h) Yards shall have deeded direct access to a state maintained road.

(i) Bona fide garages, repair shops, and service stations where the short-term storage of no more than forty-five (45) days is incidental to the business, shall not apply to these requirements.

(j) The Planning Department, Planning Board or Board of Commissioners may, in its discretion, consult or require consultation with Environmental Review Offices, (Local, State or Federal Agencies). If additional recommendations are made, it is at the discretion of the Planning Department, Planning Board or Board of Commissioners to require implementation of these recommendations.

Lighting: Outdoor lighting shall be so designed so as to minimize light from directly hitting adjacent property or any public right-of-way.

Screening and Fencing: The use shall be totally enclosed by an opaque wood fence or other approved materials. In addition, a vegetative buffer shall be planted along all property lines, leaving space for an ingress and egress location. All vegetation must be maintained in a healthy condition by the owner or developer. Dead or damaged plants shall be replaced promptly. Yards shall not be visible from any adjacent property or public right-of-way.

Additional Requirements: If the ownership of an approved auto salvage yard or junkyard is transferred to another individual, group, or entity, the new owner(s) shall complete a 'change of ownership' form with the Local Planning Office.

Local Review: Site plan should be submitted to the Planning office with the following information included:

- (a) Name/Owner
- (b) Address, City, State, ZIP
- (c) Phone #
- (d) Physical Address of Salvage Yard/Junkyard
- (e) Site plan including property boundaries, acreage, adjacent property owners, screening, fencing, ingress and egress and any watercourses.
- (f) Recommendations by other Environmental Review Offices (as required).