

# UNIFIED DEVELOPMENT ORDINANCE



**TOWN OF SEVEN DEVILS**

**NORTH CAROLINA**

**ADOPTED OCTOBER 8, 2012**

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## **Article 1. GENERAL PROVISIONS**

### ***Section 1. Preamble***

The Town of Seven Devils is a residential and recreational community whose citizens and governance are committed to managing its growth, with a primary focus on owner occupied single family homes, and on the preservation and enhancement of the distinctive and irreplaceable beauty of its mountain setting. It is the intent of the Town of Seven Devils to achieve and maintain this vision by the establishment of this document.

### ***Section 2. Authority and Enactment***

The Town Council of the Town of Seven Devils, North Carolina, pursuant to the authority granted by the General Statutes of North Carolina, particularly Chapter 160A, Articles 8, 15; Chapter 160D-102 through 1405, 160D-801 through 808, Chapter 143, Article 21 and Chapter 113A, Article 4, hereby ordains and enacts into law the following Articles and Sections.

Wherever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section, or the section that most nearly corresponds to the superseded section.

### ***Section 3. Short Title***

This Ordinance shall be known and may be cited as the Unified Development Ordinance for the Town of Seven Devils, North Carolina.

### ***Section 4. Purposes in View***

In accordance with North Carolina G.S. 160 D-6-4(d), 6-5(a) and -7-1, the Town Council affirms that adopting this Ordinance is consistent with the adopted Town of Seven Devils Comprehensive Land Use Plan. The Council considers periodically reviewing, updating, and revising the Ordinance to be reasonable and in the public interest.

### ***Section 5. Application***

It is not intended that this Ordinance repeals, abrogates, annuls, impairs, or interferes with any existing easements, covenants, deed restrictions, agreements, rules, or regulations previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

### ***Section 6. Jurisdiction***

The provisions of this Ordinance shall apply throughout the Town of Seven Devils corporate limits and any extraterritorial jurisdictions, as may be modified from time to time. In addition to other locations required by law, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the Town Hall of Seven Devils.

Bona Fide Farms Exempt

This Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses within the planning area as defined in Article 3, Section 2 except that any use of such property for non-farm purposes shall be subject to such regulations. Chapter 160D-9-3

**Section 7. Required Conformance to Ordinance Provisions**

Except as otherwise specifically provided in the Ordinance, no land or structure shall hereafter be used or occupied and no structure, or part thereof shall be constructed, altered, renovated, or moved except in compliance with all of the applicable provisions of this Ordinance. Additionally, a Site Improvement Completion Verification form (See Figure 10.7) is required before requesting a Certificate of Occupancy (CO) or final inspection.

**Section 8. Fees**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for, but not limited to, zoning permits, construction permits, conditional use permits, zoning amendments, appeals, variances, sign permits, subdivision plat approval, and other administrative relief. The Town Council shall determine the amount of such fees, which shall be as set forth in the Town's Annual Operating Budget Ordinance or as established by resolution of the Council filed in the office of the Town Clerk.

**Section 9. Effective Date**

The provisions of this Ordinance shall become effective on March 11, 2014.



## **Article 2. ADMINISTRATIVE MECHANISM**

### **Section 1. Town Council**

The Town Council, as the governing body of the Town of Seven Devils, acts in its legislative capacity when considering proposed amendments to the text of this Ordinance or to the zoning maps and shall observe the procedural requirements set forth in Article 19 of this Ordinance.

When considering amendments to this Ordinance or the zoning map the Town Council shall follow the regular voting and other requirements as set forth in other provisions of the town charter, or **general law**.

### **Section 2. Town of Seven Devils Planning Board**

#### **(a) *Establishment of the Planning Board***

The Planning Board for the Town of Seven Devils, North Carolina, and any extraterritorial areas that the Town may establish in the future, is hereby created under the authority of the General Statutes of North Carolina, Chapter 160D-3-1.

The Seven Devils Planning Board, hereinafter referred to as the Planning Board, shall consist of seven (7) voting members, appointed by the Town Council. Vacancies will be filled by the Town Council based on recommendations from the Planning Board. Applicants for Planning Board membership should have knowledge and/or experience in planning and evaluation, experience in working with municipal governments, and have demonstrated interest in the overall development of the Town. Members must also be property owners or registered voters in the Town of Seven Devils. An application, including qualifications, for Planning Board membership should be submitted to the Town Clerk. Applications are then passed on to the current Planning Board for recommendation and then to the Town Council for approval. Town Council members shall not simultaneously serve on the Planning Board.

If the Town establishes any Extraterritorial Jurisdictions (ETJ), then a proportional number of Planning Board members will reside in the ETJ and these shall be in addition to the seven (7) members who are property owners or registered owners within the corporate limits of the Town of Seven Devils.

The representatives of the ETJ shall have equal rights, privileges, and duties with other members of the Planning Board on all matters affecting the Town's ETJ and shall have voice without vote on all matters affecting only the Town within its municipal boundaries. The Planning Board may vote to extend voting privileges to ETJ representatives on a case-by-case basis. The respective County Commissioners shall appoint Planning Board members from the ETJ.

#### **(b) *Tenure***

Members of the Planning Board shall be appointed to serve terms of two (2) years or until their respective successors have been appointed, and they may be reappointed. The terms of the members shall be staggered so that all terms do not expire simultaneously.

(c) *Officers*

The Planning Board shall elect a Chairman and Vice-Chairman from among its members, for a term of one (1) year with eligibility for reelection. Officers shall be elected as the first item of New Business at the first regular meeting of the calendar year of the Board in accordance with the provisions set forth in the Seven Devils Rules of Procedure.

Both the Chairman and Vice-Chairman shall be full-time residents and property owners of the Town of Seven Devils.

- Residency requirements shall meet one or more of the following: Voter registration in Avery or Watauga County, NC,
- Drivers license or other state issued ID showing a local Town address
- Utility billing statement with Town of Seven Devils mailing address

(d) *Powers of the Planning Board*

The following powers shall be granted to the Planning Board:

- Monitor implementation of the adopted Comprehensive Land Use Plan for the Town of Seven Devils, North Carolina to ensure the continued orderly growth and development of the Town and its environs.
- Monitor implementation of the adopted Unified Development Ordinance for the Town of Seven Devils, North Carolina, and its amendments. Alterations or amendments shall be submitted to the Planning Board for consideration and recommendation to the Town Council.
- The Planning Board shall also, from time to time (not to exceed five years) examine the provisions of the Unified Development Ordinance and the location of zoning district boundary lines, and shall submit a report to the Town Council recommending amendments, if any, shown to be in the interest of public health safety and general welfare.
- Review and make recommendations to the Town Council on proposed plats of land subdivision, and proposed amendments to the Unified Development Ordinance regulations.
- Advise the Town Council on land use issues that arise from observation and studies of general development problems, neighborhood standards of development in similar sites, and Planning Board deliberations and analyses of land use proposals.

- Enter upon private lands individually or as a group and make examinations or surveys as necessary for the performance of its official duties. Site visits are appropriate when owners agree that site visits are required to facilitate decisions.
- Cooperate with other commissions, boards, or agencies of the Town of Seven Devils or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Planning Board's purview, or of mutual interest.
- Distribute to the public, for their information, studies, plans, or recommendations, which, in the opinion of the Planning Board, will promote the orderly development of the community.
- Direct the attention of the appropriate Town officials to needed enforcement of any ordinance affecting the general development of the community.
- Coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the general development of the community.
- Exercise such other powers and to perform such other duties as are authorized or required elsewhere by the N.C. General Statutes, or by the Town Council.
- Operate under the rules of procedure adopted by the Seven Devils Town Council and keep a record of meetings, including attendance of its members, its resolutions, findings, recommendations, and actions.

(e) *Regular Meetings of the Planning Board*

The Planning Board holds regular meetings on the 3rd Tuesday of each month. If a regular meeting falls on a legal holiday, the meeting shall be held on the next business day. Meetings shall be held at Town Hall and shall begin at 5:30 pm. A copy of the Planning Board's current meeting schedule shall be filed with the Town Clerk. Meetings shall be open to the public in accordance with Chapter 143, Article 33C of the N.C. General Statutes.

(f) *Attendance at Meetings*

Any member of the Planning Board who misses more than three (3) consecutive regular meetings or more than half (1/2) the regular meetings in a calendar year may lose his or her status as a member of the Planning Board, and may be replaced by the Town Council or respective County Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Planning Board. The only exception being, in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

(g) *Quorum and Voting*

A quorum of the Planning Board must be present at any meeting for any official action to be taken. The concurring vote of a simple majority (more than half) of those members present shall be necessary to take any official action.

A Planning Board member should not vote on recommendations (consistent with the Rules of Procedure of the Town of Seven Devils, Rule 21) 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.

### **Section 3. Seven Devils Board of Adjustment**

#### **(a) *Establishment of the Board of Adjustment***

The Board of Adjustment for the Town of Seven Devils, North Carolina, and any extraterritorial areas that the Town may establish in the future, is hereby created under the authority of the General Statutes of North Carolina, 160D-1-9(d),-3-2,-4-3(b),-4-5,-4-6,-7-2,-7-5,-14-5.

The Board of Adjustment shall consist of five (5) voting members and two alternates appointed by the Town Council. Members and alternates must be property-owners of the Town of Seven Devils or registered voters. Each alternate member shall have and may exercise all the powers and duties of a regular member. Alternates shall be called upon using a rotating schedule.

If the Town establishes any Extraterritorial Jurisdictions (ETJ), then a proportional number of Board of Adjustment members will reside in the ETJ, and these shall be in addition to the five (5) members who are property owners or registered owners within the corporate limits of the Town of Seven Devils.

The representatives of the extraterritorial jurisdiction (ETJ) of the Town of Seven Devils shall have equal rights, privileges, and duties with other members of the Board on all matters affecting the Town's ETJ and shall have voice without vote on all matters affecting only the Town within its municipal boundaries. The Board may vote to extend voting privileges to ETJ representatives on a case-by-case basis. The respective County Commissioners shall appoint Board of Adjustment members from the ETJ.

#### **(b) *Tenure***

Members and alternates of the Board of Adjustment shall be appointed at the first meeting of the new calendar year following the municipal elections. According to NC State General Statute 160D-3-2, both members and alternates will serve terms of three (3) years.

#### **(c) *Officers***

The Board of Adjustment shall elect one (1) member to serve as Chair and preside over its meetings, and shall elect a Vice-Chair and other officers and committees, as it may deem necessary. The term of the Chair and other officers shall be one (1) year, with eligibility for reelection. Officers shall be elected as the first item of New Business at the first regular meeting of the calendar year of the Board in accordance with the provisions set forth in the Seven Devils Rules of Procedure.

#### **(d) *Powers of the Board***

The following powers shall be granted to the Board of Adjustment:

- Hear and decide special use permits, request for variances, and appeals of decisions of administrative officials charged with the enforcement of the ordinance. (As used in this section, the term "decision" includes any final and binding order, requirement, or determination).

- The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special use permits.
- Hear and decide appeals decisions of administrative officials charged with enforcement of the UDO and may hear appeals arising out of any other ordinance that regulates land use or development.
- Make interpretations of the Zoning Map, including disputed questions of zoning district boundary lines or lot lines and similar questions as they arise in the administration of this Ordinance.
- Enter upon private lands and make examinations or surveys, either individually or in a group, as necessary for the performance of its official duties. Site visits are appropriate when owners agree that site visits are required to facilitate decisions.
- Hear and decide requests for Vested Rights.
- Hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development, or any matter as required by the provisions of this Ordinance.

(e) *Regular Meetings*

The Board of Adjustment shall hold regular meetings as needed on the 4th Tuesday of each month. If a regular meeting day falls on a legal holiday, the meeting shall be held on the next business day. The meetings shall be held at Town Hall and shall begin at 5:30 pm. A copy of the Board of Adjustment's current meeting schedule shall be filed with the Town Clerk. Meetings shall be open to the public in accordance with Chapter 143, Article 33C of the NC General Statutes.

The Board of Adjustment shall keep a record of its meetings, including attendance of its members, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

(f) *Attendance at Meetings*

Any members of the Board (regular or alternate) who miss more than two (2) consecutive meetings in a calendar year may lose their status as a member of the Board of Adjustment, and may be replaced by the Town Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences and shall not affect the member's status on the Board of Adjustment. The only exception being, in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

(g) *Voting*

A minimum of four (4) voting members shall be required to take any action. The concurring vote of four-fifths (4/5) of the membership of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.

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 requisite supermajority if there are no qualified alternates available to take the place of such members.

A member of any board exercising quasi-judicial functions pursuant to this Article 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 violations of due process include, but are not limited to, a member- prior to hearing the matter- having a fixed opinion that is not susceptible to change, undisclosed ex parte 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.

Every member of the Board of Adjustment present must vote unless excused by the remaining members of the Board of Adjustment. The alternate shall replace an excused member. The remaining Board members may excuse any Board member from voting who has not been witness to the entire testimony relevant to the motion being voted upon. Any Board member who wishes to be excused from voting shall inform the Chair of this fact. The Chair shall then take a vote of remaining members to decide if the Board member shall be exempt from the vote. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the Board of Adjustment or by law, or the member's official conduct, as defined by the Board of Adjustment. In all other cases, a failure to vote by a member who is physically present in the Board of Adjustment chamber, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(h) *Appeals of Board of Adjustment Actions*

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-14-2. An aggrieved party may appeal every decision of the Board of Adjustment to the Watauga or Avery County Superior Court. A petition for review shall be filed with the clerk of superior court no later than 30 days after the decision is effective or after written copy thereof is given in accordance with subsection (g) above. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(i) *Oaths*

The chair of the Board, or any member acting as chair, and the clerk (Town Clerk) to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

(j) *Subpoenas*

The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons withstanding under G.S. 160D-14-2(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(k) *Notice of Evidentiary Hearings*

Notice of Evidentiary Hearings conducted pursuant to this section (quasi-judicial proceedings) shall be mailed to the person or entity whose appeal, application, or request is the subject of the Hearing; to the owner of the property that is the subject of the Hearing if the owner did not initiate the Hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the Hearing; and to any other persons entitled to receive notice as provided by the Unified Development Ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

**Section 4. Zoning Administrator**

The Zoning Administrator, or designee, after taking an Oath of Office and being sworn into office as specified in North Carolina G.S. 11-7.1, shall administer all provisions of this Ordinance unless otherwise indicated. All references to the Town Planner and the Planning Department in this Ordinance shall be construed to mean Zoning Administrator or designee.

The following powers and duties shall be granted to the Zoning Administrator in the administration of the provisions of this Ordinance:

- 1) Granting the appropriate permits.
- 2) Making inspections of buildings or premises as necessary in the performance of the duties required to enforce this Ordinance.
- 3) Making all necessary determinations and interpretations as required by this Ordinance.

- 4) Proposing and promulgating administrative mechanisms necessary to implement and enforce the provisions of this Ordinance.

Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance or to grant exceptions to the actual meaning of any clause, standard, or regulation contained in this Ordinance

### **Article 3. GENERAL DEFINITIONS**

#### ***Section 1. Word Interpretation***

For the purpose of this Ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

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.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely discretionary.

The word "will" is always mandatory and not merely discretionary.

The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."

Terms not herein defined shall have the meanings customarily assigned to them.

#### ***Section 2. Definitions – General***

**Accessory Use:** Uses of land that are found on the same parcel as the principal use, but are subordinate and incidental to the principle use.

**Accessory Structure:** A structure located on a property and permitted by this ordinance such as a detached carport or garage or a utility shed. Permitted Accessory Structures are listed in Table 6.1.

**Adjacent Property:** Any property within one hundred (100) feet of the property in question.



**Aggrieved Party:** Parties who can either show an interest in the property affected or, if the party is a nearby property owner, some special damage, distinct from the rest of the community, amounting to a reduction in the value of their property.

**Alley:** A strip of land owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**Amusement and Recreation Facility:** A private profit-making facility providing recreational and amusement activities. Examples include commercially operated golf courses; snow skiing and tubing facilities, ziplining facility, non-motorized biking, equestrian facility, and tennis club. Additionally, the Board of Adjustment may consider other recreation and amusement activities on a case-by-case basis.

**Apartment:** A room or set of rooms fitted with housekeeping facilities and usually leased as a dwelling.

**Base Flood:** Flood having a 1% chance of being equaled or exceeded in any given year.

**B&B / Bed and Breakfast:** A commercial enterprise offering lodging and breakfast, usually in a private home.

**Best Management Practices (BMP):** A structural or nonstructural management-based practice used singularly, or in combination with other practices, to reduce non-point-source inputs to receiving waters in order to achieve water quality protection goals.

**Bona Fide Farm:** A farm that has received “Bona Fide” status from the State of North Carolina, Avery County, or Watauga County.

**Buffer / Buffer Yard:** A horizontal distance from the property line that may only be occupied by screening, utilities, pedestrian ways, and landscaping materials.

**Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

**Building Inspector:** See Zoning Administrator.

**Building, Principal:** A building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located.

**Built-upon Area:** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover, including buildings; pavement; gravel walkways, driveways, and roads; recreation facilities (e.g., tennis courts); etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Business, General:** Commercial establishments that, in addition to serving day-to-day commercial needs of a community also supply the more durable and permanent needs of a whole community.

**Business, Recreational:** Commercial establishments that support recreational opportunities.

**Calendar Day:** A regular workday, excluding weekends and legal or other holidays identified by the Town of Seven Devils Personnel Employee Handbook.

**Carport:** A roofed, open-sided permanent shelter for a parked automobile, either projecting from the side of a house or as a separate structure, that is architecturally similar to the house.

**Car Lot:** A commercial site on which cars, trucks and similar vehicles are displayed for purchase.

**Cemetery:** Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**Certificate of Completion:** A document issued by the Zoning Administrator or his or her designee that certifies construction has been completed in compliance with the approved plans and specifications.

**Certificate of Occupancy:** A document issued by the Zoning Administrator or his or her designee certifying compliance with all applicable state and local laws, including all terms of approved permits, and authorizing occupancy of a building or structure.

**Citizen of Seven Devils:** A person whose legal domicile is the Town of Seven Devils.

**Clubhouse:** A building occupied by a club or used for club activities.

**Cluster / Cluster Development:** A grouping of residential units in LDR zoning districts under MDR requirements with designated open space.

**Commercial:** Of or relating to the exchange, purchase, or sale of commodities or services.

**Comprehensive Land Use Plan:** A plan, or any portion thereof, adopted by the Town of Seven Devils Town Council that establishes goals, objectives, and policies designed to manage the quantity, type, location, timing, and quality of development and redevelopment in the Seven Devils community.

**Conditional Use: (prior to 1-1-2021)** A use of land, buildings, or structures that is identified in this Ordinance as a use that, because of its inherent nature, extent and external effects, requires special care in the control of its location, design, construction, and methods of operating in order to ensure protection of the public health, safety, and welfare.

**Conditional Use Permit: (prior to 1-1-2021)** A permit given by the Board of Adjustment that delineates the conditions under which a use of property is allowed.

**Council:** The governing body of the Town of Seven Devils, consisting of five (5) council members, as established in the Charter of the Town of Seven Devils.

**Critical Area:** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one (1) mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one (1) mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first).

**Day Care Facility:** A licensed facility for child and family care.

**Dedication:** A legal gift by the owner or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is involved, dedication must be made by written instruments and is completed with an acceptance by the Seven Devils Town Council.

**Development:** Use or occupancy of any land or structure, or construction, erection, alteration, or moving of any structure.

**Drainageway:** The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

**Driveway:** A vehicular way, other than a street, alley, or easement, that provides vehicular access from a street to or through off-street parking and/or loading areas for three (3) or fewer residences.

**Dwelling:** A building or structure (except a mobile home) that is or is intended to be used for living or sleeping by one (1) or more human occupants.

**Easement:** A publicly dedicated and recorded right-of-way that provides only a secondary means of access to abutting property and is not intended for general traffic circulation. The purpose and permitted use is recorded, whether for utility installation or general use.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or governmental agencies of traffic distribution systems; water, sewage, steam, gas, electrical, or communication transmission or distribution systems; and stormwater collection and distribution systems; including streets, sidewalks, street lights, bus passenger shelters, traffic signals, pipes, hydrants, pumping stations, wires, curb-and-gutter, catch basins, drains, or other similar equipment and accessories reasonably necessary for the provision of adequate service by such public utilities or governmental agencies, but not including buildings or other substantial above-ground structures.

**Existing Development:** Those projects that are built or those projects that, at a minimum, have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good-faith reliance upon having received valid local government approval to proceed with the project, or
2. Having an outstanding valid building permit as authorized by the North Carolina General Statutes 160D-1-2, or
3. Having expended substantial resources (time, labor, money) and having an approved site-specific or phased development plan as authorized by North Carolina General Statutes 160D-1-2.

**Existing Lot of Record:** A lot that is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Avery or Watauga County prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**Family:** One or more individuals related by blood, marriage, or adoption that occupy a premises and live in a single, non-profit housekeeping unit, including domestic servants, live-in help and

foster children, provided that a group of more than two (2) persons who are not related by blood or marriage shall not be deemed to constitute a family.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. As used in this ordinance, the term refers to that area designated as a floodway in the Flood Boundary and Floodway Map issued by the FEMA Flood Map Service.

**Front yard:** The portion of the property between the road frontage and the front of a residential structure.

**Front Yard Setback:** The setback shall be thirty (30) feet from the edge of the road travel surface, but in no case may any structure or component part of the structure protrude into the right-of-way.

**Green Space:** Protected open space usually located adjacent to natural features that is managed for conservation and/or recreation purposes.

**Gross Land Areas:** All area within the boundaries of a zoning lot.

**Habitable Floor:** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or any combination thereof.

**Hazardous Material:** Any substance listed as such in EPCRA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Height (of a structure or part thereof):** The vertical distance from the sill (sole) plate on the foundation wall to the highest portion of the structure, excluding chimneys. Chimneys can protrude no more than three (3) feet above the ridgeline of the house.

**Height Limitation, Primary:** The maximum height allowed for any structure located at the minimum setback required for such structure, as shown in Article 7, Section 7 of this Ordinance.

**Home Business:** A commercial enterprise conducted in a residential unit.

**Hotel / Motel:** A building or group of buildings, excluding private residences, intended primarily for rental or lease to transients by the day, week, or month.

**HQW / High-Quality Water:** Water so designated by the State of North Carolina.

**Impervious:** Does not allow liquid to pass through.

**Kennel:** Any lot on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold.

**Loading, Off-Street:** Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

**Lot:** Land bounded by lines legally established for the purpose of property division. As used in this Ordinance, unless the context indicates otherwise, the term refers to a zoning lot.

**Lot Line:** A line that marks the boundary of a lot:

1. **Interior:** Any lot line that is not a street lot line; a lot line separating a lot from another lot.
2. **Street:** Any lot line separating a lot from a street right-of-way or easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.

**Manufactured Home:** A mobile home constructed (pre-1964) with the standards set forth by the U.S. Department of Housing and Urban Development.

**Manufactured Home Community:** Any lot, tract or parcel of land used, maintained, or intended to be used, leased, or rented for occupancy by two (2) or more manufactured homes together with accessory structures provided in connection therewith. This definition shall not include trailer sales lots on which unoccupied manufactured homes are parked for the purpose of inspection or sale.

**Mixed-use Facility:** A building with more than one use.

**Modular Unit:** A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements that are to be incorporated into a structure at the site. In addition to the other requirements of this definition, modular units must meet all structural, electrical, mechanical, plumbing, heating, and other provisions of the North Carolina State Building Code or its amendments.

**Non-conforming Feature:** A physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this Ordinance or a subsequent amendment thereto, but that does not conform to the density regulations of Article 7 or the design standards of Article 8 of this Ordinance, applicable to such use, building, structure, or development of land, including, but not limited to, non-conforming structures, non-conforming signs, non-conforming parking facilities, and non-conforming lighting.

**Non-conforming Lot:** A lot that was lawfully created prior to the effective date of this Ordinance or a subsequent amendment thereto, but that does not conform to the minimum gross land area or minimum lot width requirements established in Article 7 of this Ordinance for the zoning district in which it is located.

**Non-conforming Use:** A use of land, buildings, or structures that was lawfully established prior to the effective date of this Ordinance or a subsequent amendment thereto, but does not conform to the Use Regulations of Article 5 of this Ordinance for the zoning district in which it is located.

**Non-residential Development:** All development other than residential development.

**Open-air Market:** Any permanent or temporary display of goods in an open or partially opened setting.

**Open Space:** Property permanently reserved for recreation or conservation.

**Parking, Off-Street:** Space located outside of any street right-of-way or easement and designed to accommodate the parking of motor vehicles.

**Pervious Surface:** A surface that allows liquid to pass through or diffuse.

**Place of Assembly:** A place designated to accommodate the assembly of persons attending an event.

**Plat:** A map or plan of a parcel of land that is to be or has been subdivided.

**Premise:** A structure or part of a structure used as a unit for residential or commercial purposes.

**Private Utilities:** Water and sewer infrastructure that are owned and operated by a private entity or its designee.

**Public Utilities:** Water and sewer infrastructure that are owned and operated by a governmental agency or its designee.

**Quorum:** A majority of the actual voting membership of the council or board, excluding vacant seats. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

**Recreation Facility, Non-Profit:** A private non-profit facility providing recreational activities, including private country clubs, social clubs, golf courses, ski facilities, riding stables, tennis clubs, and athletic fields.

**Rental Property:** Property used by persons who do not own the property and who pay regular amounts to use the property.

*Short-term Rental:* Rental of residential property for a period of less than ninety (90) days.

*Long-term Rental:* Rental of residential property for a period of more than ninety (90) days.

**Resident of Seven Devils:** A person who lives in the Town of Seven Devils.

**Residential Development:** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, duplexes, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc.

**Right-of-Way:** A strip of land designated by the owner or other authority over which other persons may legally pass, and on which may be constructed road or utilities.

**Setback, Interior:** The horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the interior lot line (See Table 7.1).

**Setback, Street:** The horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the street lot line (See Table 7.1).

**Single Family Dwelling Performance Guarantee:** Monetary deposit (amount established by the Town Council and recorded in the Town's Annual Budget Ordinance) required before receiving a letter from the Town to obtain a building permit or beginning construction. The purpose of the deposit is to guarantee completion of construction, compliance with the Town's ordinances, and as a deposit for any damages done to Town owned properties such as road damage, water infrastructure, or completing erosion control measures. Additionally, the deposit can be held when site completion cannot be achieved because of seasonal constraints.

**Site Improvement Completion Verification:** Form for recording/verifying that site improvements comply with the UDO. At the end of any construction activity, the Zoning Administrator must inspect the construction site to verify that all site work performed complies with the UDO. The Zoning Administrator must complete this form before the issuance of any final inspection or Certificate of Occupancy.

**Site-Specific Development Plan:** A plan that has been submitted to the Town by a landowner, describing with certainty the type and intensity of a use for a specific parcel or parcels of property.

**Special Use (after 1-1-2021)** A use of land, buildings, or structures that is identified in this Ordinance as a use that, because of its inherent nature, extent and external effects, requires special care in the controls of its location, design, construction, and methods of operating in order to ensure protection of the public health, safety, and welfare.

**Special Use Permit (after 1-1-2021)** A permit given by the Board of Adjustment that delineates the conditions under which a use of property is allowed.

**Stables:** A building in which livestock are housed and fed.

**Start of Construction:** For new construction, the start of construction is the date the zoning permit is issued. For all other construction, the start of construction is the date the building permit was issued.

**Street:** A thoroughfare consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Seven Devils or the State of North Carolina.

**Street Frontage Width:** The horizontal distance measured along a straight line connecting the points at which the street lot line abutting a street intersects with interior lot lines and/or other street lot lines (See Table 7.1).

**Street Yard:** The area of all the property of a lot fronting on a street. The required minimum street yard shall be ten feet wide from the road surface.

**Structural Alteration:** Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

**Structural Walkway:** An uncovered walkway providing access to a residence and attached to a component part of the house or garage. Regardless of whether in or out of the setback a structural walkway must be a minimum of forty two (42") inches wide (from inside to inside of main support posts) and can be up to a maximum of sixty (60") inches wide (from inside to inside of main support posts).

**Structure:** Anything constructed or erected that requires location on the ground or that is attached to something having a fixed location in the ground, including but not limited to principal and accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas, and transmission poles, towers, and cables.

1. Accessory: A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

2. Principal: A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

**Sustainable Development:** Development that is sensitive to and does not exceed the ability of the land to provide needed water, to renew vegetation, to absorb wastewater and to remain in place on slopes.

**Temporary Portable Building (Construction Related):** A temporary portable building directly related to the development of a lot and limited in duration to a time period extending from issuance of the initial Zoning Permit for such development to issuance of the final Certificate of Occupancy for the development.

**Town Manager:** The Chief Administrative Officer for the Town of Seven Devils.

**Toxic Substance:** Any substance or combination of substances (including disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring, or other adverse health effects.

**Use:** The specific activity or function for which land, a building, or a structure is designated, arranged, intended, occupied, or maintained.

1. Accessory: Any use of a piece of land that is subordinate to, and in support of, the principle use of the land.
2. Principal: The primary use and chief purpose of a lot or structure.

**Variance:** A relaxation of the strict terms of a specific provision of this Ordinance authorized by the Board of Adjustment in accord with the provisions of Article 17 of this Ordinance.

**Vested Rights:** The right pursuant to North Carolina General Statute 160D-1-8 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

**Water and Waste-water Treatment Plant:** The use of land, buildings, or structures by a public utility, private utility, or government agency to provide sanitary treatment of community water supplies and / or wastewater discharges.

**Watershed:** The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

**Zoning Permit:** A permit issued by the Zoning Administrator authorizing the recipient to make use of property in accord with the requirements of this Ordinance.

**Zoning Administrator:** The chief enforcement officer of the Unified Development Ordinance. The Town Manager or his/her designee shall assume the duties of Zoning Administrator.

**Zoning Lot:** A legally subdivided lot shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.



#### **Article 4. ZONING DISTRICTS**

##### ***Section 1. Establishment of Zoning Districts***

There are hereby created seven (7) classes of zoning districts with the designations and general purposes listed below and the specifically permitted and prohibited uses tabulated in Article 5 and as otherwise provided for in this Ordinance.

- (a) *Low-Density Residential District* (LDR): The Low-Density Residential District is established to provide a zone of low-density single-family homes.
- (b) *Medium-Density Residential District* (MDR): The Medium-Density Residential District is established to provide a zone of single-family homes at a greater density than permitted in the Low-Density Residential District.
- (c) *High-Density Residential District* (HDR): The High-Density Residential District is established to provide a zone of higher-density residential development. Permitted uses include multi-family structures such as duplexes, townhouses, etc.
- (d) *Snowcloud Residential District* (SC): The Snowcloud Residential district is established to apply to the existing Snowcloud Subdivision in order to make zoning requirements consistent with the existing Snowcloud development.
- (e) *Recreational Business District* (RB): The Recreational Business District is established to provide a zone of commercial development intended to provide, and directly support, recreation opportunities.
- (f) *General Business District* (GB): The General Business District is established to allow a larger group of commercial uses than the Recreational Business District.

- (g) *Parks District (P)*: The Parks District is established to protect land and water resources permanently for future generations to enjoy.

## **Section 2. Zoning Map**

The boundaries of the above districts are hereby established as shown on a map entitled Official Zoning Map, Town of Seven Devils, North Carolina. Said map and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as is fully written herein. Said map shall be retained in Town Hall.

### **(a) Zoning Map Amendment**

The Official Zoning Map, as provided for in this Article may from time to time be amended or may be repealed through the following procedure:

1. A proposal to amend or repeal the Official Zoning Map with regard to a certain area or a particular piece of property may either be initiated by the Planning Board or otherwise submitted to the Planning Board through the Zoning Administrator by any person who owns property or resides within the zoning jurisdiction of the Town.
2. According to NC Case Law, rezoning may not be based on assurances that the applicant will make specific use of the property. Also, in enacting a zoning or unified development ordinance a municipality is engaged in legislating, not contracting. Therefore, it is the intent of this ordinance that the applicant for rezoning shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property.
3. An application for a change in the zoning classification of property within the Town's jurisdiction shall be submitted at least thirty (30) days prior to a regularly scheduled Planning Board meeting. See Figure 4.1 for application form, guidelines, and fees.
4. An application for a change in the zoning classification of property within the Town's jurisdiction shall be accompanied by a fee to partially defray the public expense in keeping records relating to the application and performing other services in processing the application.

Timely advertisement of a public hearing on the property and timely notification of those property owners immediately adjacent to the property will be the responsibility of the Town. The Town of Seven Devils will be responsible for placing a sign on the property notifying the public of the request for a change in zoning classification. No refund of the fee or any part thereof shall be made once the application is filed unless the applicant withdraws the application by written notice before letters of notice are sent to adjoining property owners or publication of the public hearing, whichever is sooner. The amount to be refunded will be

reduced by 50% after Planning Board consideration. No amount will be refunded after the Public Hearing has been advertised. No action will be taken, and no application will be valid until such fee has been paid. A fee shall not be required if the Planning Board initiates the application.

If the applicant proposes any substantial change to the application subsequent to Planning Board consideration, an amended application shall be submitted and reviewed as an original application with applicable fees.

5. The Zoning Administrator shall present any properly completed application at the next regularly scheduled meeting of the Planning Board. The Planning Board will make a recommendation concerning any proposed zoning amendments to the Town Council. Within sixty (60) days of the first consideration of the Planning Board, the Town Council will hold a public hearing and make a final decision for or against any proposed amendment. All amendment procedures shall be in accordance with Article 19 of this Ordinance.
6. Any application for a change in the zoning regulations that has been denied may not be resubmitted until the expiration of one (1) year from the date of denial. If a new application is submitted, within the one (1) year waiting period, and is a request for a rezoning to a different zoning district classification than the previous application, the application will be considered.
7. In the event that additional territory is brought under the jurisdiction of this Chapter either by annexation or otherwise, the Zoning Administrator shall prepare recommendations for appropriate zoning of such territory and forward them to the Planning Board for study and recommendation to the Town Council.

(b) *Status of Copies*

Copies of the Zoning Map or portions thereof may be made. However, the Official Zoning Map is the final and sole authority as to the zoning status of land within the Town.

(c) *Zoning Map Replacement*

When all or part of the official zoning map becomes damaged, lost, destroyed, worn or difficult to interpret because of its age, condition, number of changes or otherwise, replacement may be authorized by resolution of the Town Council. A new edition shall not change the zoning status of any property unless approved by the Town Council, but errors and omissions may be corrected. Such replacements will be authenticated by the Town Clerk and shall bear the date of the authorizing resolution.

**Figure 4.1: Application for Change in Zoning Classification of Property - Town of Seven Devils**

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

**Description of Property**

Location of Property: \_\_\_\_\_

Size of Property \_\_\_\_\_ County \_\_\_\_\_ PIN # \_\_\_\_\_

Current Zoning District \_\_\_\_\_ Change Current Zoning to \_\_\_\_\_

The property is best suited for the requested change for the following general reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Applicant Information**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone # (s): \_\_\_\_\_

E-mail: \_\_\_\_\_

**Property Owner Information**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone # (s): \_\_\_\_\_

E-mail: \_\_\_\_\_

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.

- Two (2) copies of current zoning map with location of property indicated.
- Two (2) copies of any additional information the applicant intends to present at the public hearing.
- A list of names and addresses of the owners of property within 100 feet of the property in question.
- Personal or Certified Check in the amount determined by the current Fee Schedule for each application for a zoning classification change to cover the necessary administrative costs.

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) days before the next scheduled meeting of the Planning Board.

\_\_\_\_\_  
Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Amount Paid \_\_\_\_\_ Received by \_\_\_\_\_ Date \_\_\_\_\_

**Figure 4.2: Requirements for Public Hearing and Property Owner Notification in Relation to Application for Change in Zoning Classification of a Property**

Notice should include:

- Party requesting the public hearing.
- Date, time, and place where public hearing is to be located.
- Subject of the Hearing (including location of property and requested zoning changes).
- Contact Information for the Town of Seven Devils:

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

To comply with North Carolina State Law, notices must be published in a local newspaper of general circulation to actual paid subscribers, as outlined in NCGS 1-597, such as the Watauga Democrat.

Notices must be published for two (2) consecutive weeks, starting at least ten (10) calendar days but not more than twenty-five (25) calendar days before the scheduled public meeting.

Notices must be mailed, through first class mail, to owners of all property within 100 feet of the property in question. Property owners can be identified through Watauga County or Avery County tax records. These notices must be postmarked at least ten (10) but not more than twenty-five (25) calendar days before the scheduled public meeting. The same notice that was placed in the newspaper can be mailed to the property owners.

Sample Notice:

## **Public Hearing**

The Town of Seven Devils will hold a Public Hearing at 5:30 pm on Monday, June 20, 2011 at Town Hall. The Public is invited to discuss the request by J & D Development to rezone a twenty (20) -acre tract on Windy Meadows from Low-Density Residential (LDR) to Medium-Density Residential (MDR). For more information, please contact The Town of Seven Devils at 157 Seven Devils Road, Seven Devils, N.C. 28604. Phone: (828) 963-5343.

## **Article 5. USE REGULATIONS**

### ***Section 1. Intent***

It is the intent of this Article to provide for sound development in accordance with the Comprehensive Land Use Plan and to promote the organization of land uses so as to minimize conflicts between different types of land use activities. Further, it is the intent of this Article to encourage developers to utilize land and public facilities more efficiently and to provide flexibility in the relation of buildings to each other and to critical environmental areas. Wherever this Ordinance appears to be in conflict with Article 9, or any Town of Seven Devils Ordinance regulating the use of land or the development thereof, the Board of Adjustment shall, upon application for review by the affected property owner, interpret the intent of regulation and establish conditions under which the intent will be satisfied.

### ***Section 2. Establishment of Permitted Uses***

Except as otherwise specifically provided in this Ordinance, regulations governing the use of land and structures within the various zoning districts are hereby established as shown in Table 5.1, Table of Permitted Uses and/or included in Use Definitions.

### ***Section 3. Permitted Uses***

Refer to Table 5.1.

### ***Section 4. Applicability of Use Regulations***

Uses of land or structures not expressly listed in Section 3 (Table 5.1) as permitted uses or conditional uses in a zoning district are prohibited uses and shall not be established in that zone.

Uses listed as special uses in a zoning district may be established in that district only upon issuance and recordation of a Special Use Permit in accordance with the procedures and conditions specified in Article 14 of this Ordinance.

## ***Section 5. Cluster Subdivisions***

The Town of Seven Devils allows clustering of residential units in LDR zoning district as a way to minimize the impact of development on the land while also minimizing costs to the developer. In return for reduced lot size requirements, the developer is expected to site dwellings and infrastructure in a way that requires the minimum possible land disturbance and the greatest possible protection of steep slope, rock formations, streams, and vegetation.

The maximum number of units shall not exceed the total number of acres of the parcel. (If the site contains six acres, it may contain a maximum of six houses).

All requirements for a Cluster Subdivision are identical to the requirements for a subdivision located in MDR.

Open space shall be provided in Cluster Subdivisions by using land that is not required by lot size. The remaining land not used by residential lots is considered open space. The amount of open space is determined by subtracting from the total square footage the amount of square feet to be used by residential lots (MDR zoning district lot size). The remainder is the amount of square feet to be used as open space.

The open space shall be dedicated as open space use by the developer, his heirs, or successors in title or through a property owners' association's operating documents. The owner of open space shall be responsible for its maintenance. An instrument providing for the dedication of open space shall be submitted with the preliminary plat. The required open space shall be located on land situated within the subdivision.

**TABLE 5.1 - TABLE OF PERMITTED USES**

**KEY: "---" = Not Permitted; "P" = Permitted; "S" = Special Use Permit required**

	<b>LDR</b>	<b>MDR</b>	<b>HDR</b>	<b>SC</b>	<b>RB</b>	<b>GB</b>	<b>Park</b>
<b>Agricultural Uses</b>							
Livestock: stables, petting zoo, kennel	---	---	---	---	S	S	---
Non-livestock, greenhouse	---	---	---	---	---	P	---
<b>Residential Uses</b>							
Dwelling, 1 Unit	P	P	P	P	---	P	---
Dwelling, 2 Unit/ Duplex	---	---	P	---	---	P	---
Dwelling, 3 to 4 Dwelling Units	---	---	P	---	---	P	---
Dwelling, Max. 3 story – 6 units per story						P	---
Cluster Development	P	---	---	---	---	---	---
<b>Community Facilities</b>							
Place of Worship	---	---	---	---	---	P	---
Day Care Facilities: child and family care	---	---	---	---	---	P	---
Park, greenway, playground	S	S	S	S	P	P	P
Hospital, Clinic, Sanitarium, Nursing Home	---	---	---	---	---	P	---
Library, Museum	----	---	---	---	S	P	---
Private Utilities, Waste Treatment Plant	S	S	S	S	S	S	---
Clubhouse	S	S	S	S	S	S	---
Place of Assembly	---	---	---	---	S	S	---
<b>Commercial Uses</b>							
Business Retail Sales/Rentals	---	---	---	---	S	P	---
Restaurant, Tavern, Snack Bar	---	---	---	---	S	P	---
Mixed Use Facility	---	---	---	---	S	S	---
Hotel, Motel, Rooming House	---	---	---	---	S	P	---
B&B in Private Residence	S	S	S	S	---	P	---
Business or Professional Offices: bank, doctor, veterinarian, lawyer, clerical, etc.	---	---	---	---	S	P	---
Amusement and Recreation Facility, i.e., snow skiing/tubing, golf, ziplining, non-motorized biking, equestrian facility, and tennis club	---	---	---	---	S	S	---
Business Services	---	---	---	---	---	P	---
Communication and Television Tower	---	---	---	---	---	S	---
Manufactured Home Community	---	---	---	---	---	P	---
Open Air Market	---	---	---	---	---	S	---
Service Station, Auto Sales	---	---	---	---	---	S	---



**NOTE: Government, commercial, and private communication towers shall have appropriate landscaping and must be constructed in a manner that includes the most current concealment strategies and methods.**

## **Article 6. ACCESSORY USES**

### ***Section 1. Intent***

It is the intent of this Article to establish standards for accessory uses and structures in the Town of Seven Devils.

### ***Section 2. Establishment of Permitted Accessory Uses***

Except as otherwise specifically provided in this Ordinance, regulations governing accessory structures and uses of land within the various zoning districts are hereby established as shown in Table 6.1, Table of Permitted Accessory Uses.

### ***Section 3. Permitted Accessory Uses***

Refer to Table 6.1.

### ***Section 4. Applicability of Use Regulation***

Accessory structures or uses of land not expressly listed in Table 6.1 as permitted uses or Special uses in a zoning district are prohibited uses and shall not be established in that zone.

Accessory uses listed as Special uses in a zoning district may be established in that district only upon issuance and recordation of a Special Use Permit in accordance with the procedures and conditions specified in Article 14 of this Ordinance.

Accessory uses and structures may not be constructed or established on a property until the principal use, or construction of the principal structure, has commenced.

### ***Section 5. Intensity Regulations***

Accessory structures shall be included in calculation of Maximum Lot Coverage as described in Article 7 of this Ordinance.

Maximum height of any accessory structure shall be twenty-five (25) feet unless limited elsewhere.

**TABLE 6.1 - TABLE OF PERMITTED ACCESSORY USES**

**KEY: "---" = Not Permitted; "P" = Permitted; "S" = Special Use Permit required**

	<b>LDR</b>	<b>MDR</b>	<b>HDR</b>	<b>SC</b>	<b>RB</b>	<b>GB</b>
Antenna, Satellite Dish (1 meter Maximum)	P	P	P	P	P	P
Storage Shed (Not to exceed 200 sq. ft.)	P	P	P	P	P	P
Swimming Pool	P	P	P	P	P	P
Gazebo, Open Shelter	P	P	P	P	P	P
Garage/Carport	P	P	P	P	P	P
Fountain	P	P	P	P	P	P
Greenhouse (Not to exceed 160 sq. ft.)	S	S	S	S	P	P
Walk-in Food Coolers	---	---	---	---	P	P
Fuel Tanks (In ground)*	P	P	P	P	P	P
Fence	P	P	P	P	P	P

\*Side and rear yard setbacks shall be fifteen (15) feet.

## **Article 7. INTENSITY REGULATIONS**

### ***Section 1. General Intent***

It is the intent of this Article to provide for performance standards which serve to define the development character of an area, and to ensure the compatibility of the development, the environmental characteristics, accessibility levels and special amenities of the development site with surrounding land uses and development intensities. It is further intended that the establishment of intensity regulations reflect the protection of critical environmental areas and suitability of land for particular levels of development intensity in accordance with the Comprehensive Land Use Plan.

### ***Section 2. Density, Lot Size, Height Limit, and Setback Regulations***

Refer to Table 7.1.

### ***Section 3. General Applicability of Intensity Regulations***

No land or structure shall be used or occupied and no structure or part thereof, shall be constructed, erected, altered, or moved except in compliance with the intensity regulations specified herein for the zoning district in which the land or structure is located.

No portion of land used in connection with an existing or proposed structure or use of land which is necessary to comply with the intensity regulations of Table 7.1 shall also be used, through sale or otherwise, as part of the land required in connection with another development. Exceptions and issues not addressed by this provision are: existing easements, common ownership of wells, drain fields, road rights-of-way, retained mineral and timber rights.

### ***Section 4. Lot Size***

The size of a zoning lot shall be defined as the entire area within its boundaries as described in a fee simple deed.

### ***Section 5. Density***

Density is the number of dwelling units allowed per acre.

### ***Section 6. Lot Coverage***

Lot coverage is defined as the area of impervious surface (buildings, decks, gravel or paved driveways or walkways) as a percentage of the lot size.

## ***Section 7. Building Height***

The height of a structure shall be defined as the vertical distance from the sill (sole) plate on the foundation wall to the highest point of the building. The highest point of the building shall be the highest point:

- a. of the peak of the highest roof; or
- b. of railings, decking, or other such attachments which may be affixed to and rise above the roof (not to include chimneys that rise above the roof which shall be limited to a maximum of three (3) feet high above the ridgeline of the house.

## ***Section 8. Lot Width***

Lot width shall be defined as the distance between side lot lines, measured along the line that demarcates the required front setback.

## ***Section 9. Front Yard Setback***

The setback shall be thirty (30) feet from the edge of the road travel surface, but in no case may any structure or component part of the structure protrude into the right-of-way.

## ***Section 10. Side Yard Setback***

Side yard setback is the distance between side lot lines and the closest wall or projection of a building, including decks, porches, and overhangs.

## ***Section 11. Rear Yard Setback***

Rear yard setback is the distance between the rear lot line and the closest wall or projection of a building, including decks, porches, and overhangs.

## ***Section 12. Exceptions to Setback Requirements***

The following features are not subject to the required setbacks unless located in the street yard:

- a. Freestanding signs and projection signs provided such signs comply with standards established in Article 11, Section 5(a).
- b. Fences not exceeding five (5) feet in height.
- c. Retaining walls not exceeding four (4) feet in height.
- d. Bridges, transmission poles, towers, cables, and pad-mounted transformers.

- e. One walkway providing access to a residence that is consistent with the definition of structural walkway (can be located in street yard if approved by zoning administrator).

***Section 13. Minimum House Size***

(a) *Single Family*

All homes constructed within the planning jurisdiction of Seven Devils shall have a recommended minimum square footage of one thousand three hundred (1,300) heated square feet on the main level above grade.

(b) *Multi Family*

All multi-family units constructed within the planning jurisdiction of Seven Devils shall have a recommended minimum square footage of eleven hundred (1,100) heated square feet per dwelling unit above grade.

<b>Zoning District</b>	<b>LDR</b>	<b>MDR</b>	<b>HDR</b>	<b>SC</b>	<b>RB</b>	<b>GB</b>
<b>Minimum Lot Size</b>	<b>43,560 sq. ft.</b>	<b>14,500 sq. ft.</b>	<b>21,500 sq. ft.</b>	<b>---</b>	<b>5,000 sq. ft.</b>	<b>5,000 sq. ft.</b>
<b>Maximum Density (dwelling units/acre)</b>	<b>1</b>	<b>3</b>	<b>6</b>	<b>3</b>	<b>---</b>	<b>18</b>
<b>Maximum Lot Coverage</b>	<b>25%</b>	<b>35%</b>	<b>50%</b>	<b>---</b>	<b>50%</b>	<b>50%</b>
<b>Maximum Height</b>	<b>35 feet</b>	<b>35 feet</b>	<b>35 feet</b>	<b>35 feet</b>	<b>50 feet</b>	<b>50 feet</b>
<b>Minimum Lot Width</b>	<b>100 feet</b>	<b>100 feet</b>	<b>50 feet</b>	<b>--</b>	<b>50 feet</b>	<b>50 feet</b>
<b>Minimum Lot Depth</b>	<b>---</b>	<b>---</b>	<b>---</b>	<b>--</b>	<b>75 feet</b>	<b>75 feet</b>
<b>Minimum Front Yard Setback<sup>2</sup></b>	<b>30 feet</b>	<b>30 feet</b>	<b>30 feet</b>	<b>*3</b>	<b>30 feet</b>	<b>30 feet</b>
<b>Minimum Side Yard Setback<sup>2</sup></b>	<b>15 feet</b>	<b>15 feet</b>	<b>12 feet</b>	<b>*3</b>	<b>12 feet</b>	<b>10 feet</b>
<b>Minimum Rear Yard Setback</b>	<b>15 feet</b>	<b>15 feet</b>	<b>12 feet</b>	<b>*3</b>	<b>12 feet</b>	<b>12 feet</b>

**Table 7.1 – DENSITY, LOT SIZE, HEIGHT LIMIT, AND SETBACK**

### **REQUIREMENTS**

1. The minimum lot size of lots with average slopes greater than 40% shall be increased by 150%; the minimum lot size of lots with average slopes between 30% and 39% shall be increased by 100%; the minimum lot size of lots with average slopes between 20% and 29% shall be increased by 50%. The slope of a lot will be calculated in accordance with Article 9, Subdivision regulations.
2. The Front Yard Setback shall be thirty feet from the edge of the road travel surface, but in no case may any structure or component part of the structure protrude into the right-of-way. Lots with dual road frontage shall adhere to Front Yard setback requirements on all road frontages.
3. Structures shall be located no less than 15 feet from another structure and structures shall be located no less than 5 feet from a road or an adjacent residential subdivision.
4. In lieu of the lot size increases noted in 1) above, the minimum lot sizes for lots with slopes greater than 19.99% may be relaxed by 1/3 with approval from the Zoning Administrator. Approval is contingent upon the property owner submitting a "site and pre-construction plan" that has been certified by a qualified engineer

addressing and alleviating all concerns associated with building on steep slopes, i.e., stormwater runoff, erosion, structural integrity, and other site improvement location and integrity issues that may be present because of unique situations at the lot, minimizing potential impact upon adjoining and nearby properties.

5. The total height of the exposed upslope foundation wall cannot exceed three (3) feet (block or concrete covered with stucco). The maximum height of the down slope foundation wall (block or concrete covered with stucco) cannot exceed fifteen (15) feet as measured from the ground up. Any portion of the foundation wall taller than fifteen (15) feet (as measured from the ground up) must have an exterior cover (siding) the same or similar to the above grade exterior walls.

## **Article 8. COMMUNITY DESIGN STANDARDS**

### **Section 1. Intent**

It is the intent of this Article to provide design standards that preserve the landscape character of the community, improve the aesthetic quality of the built environment, promote retention and protection of existing vegetation, reduce the impact of development on the natural environment, enhance the value of current and future development, and increase privacy for residential zones. Developments should be arranged to be visually harmonious both within the development site and in relation to adjacent development. Insofar as is practicable, developments shall be arranged to preserve or enhance vistas and to avoid visual monotony.

### **Section 2. Building Appearance Standards**

#### **(a) Intent**

It is the intent of this Section to provide general building appearance standards for development in Seven Devils and its planning jurisdiction in order to ensure that such development will be arranged and constructed in a visually harmonious manner and will reflect the basic character of the development site and its surrounding community.

#### **(b) Applicability**

Except as otherwise provided in this Ordinance, no land or structure shall be used or occupied and no excavation, removal of soil, clearing of a site or placing of fill shall take place on land contemplated for development and no structural alteration, including additions of a building, shall be constructed except in compliance with the design standards contained herein.

#### **(c) Material Requirements**

##### **1. Exterior Walls for All Construction**

- a. Exterior siding materials (excluding foundation): Recommend against exposed concrete block, exposed poured concrete, and exposed (unpainted) metal.
- b. The recommended maximum height of exposed foundation concrete masonry (which includes stucco) and designer block foundation shall be 15 feet as measured from the ground up.

##### **2. Roofing for All Construction**



- a. Recommend against roofing materials: Tar/gravel, and unpainted metal roofing.
- b. Roofs shall have a slope of 4:12 or greater for at least 50% of the total roof area.

(d) *Front of Lot*

For houses, the side of the lot adjoining the street is considered the front. It is this frontage to which “front setback” applies. In case a property faces two streets, the property will have two “front setbacks.” The exposed foundation wall can be no more than three (3) feet on the side of the house facing the highest street frontage.

(e) *Structural Walkways*

Recognizing that the topography of some lots in Seven Devils slopes significantly downward from road level, a single uncovered walkway providing access to a residence and attached to a component part of the house or garage is permitted in the setback area. Regardless of whether in or out of the setback a structural walkway must be a minimum of forty two (42”) inches wide (from inside to inside of main support posts) and can be up to a maximum of sixty (60”) inches wide (from inside to inside of main support posts).

(f) *Additional Requirements for Commercial Development*

1. Applicability

The design criteria contained in this Article shall apply to all new commercial development or redevelopment for which a Zoning Permit is required. The expansion, alteration, or reconstruction of an existing development shall be considered redevelopment if the value of the expansion, alteration, or reconstruction is greater than 50% of the existing value of the structure prior to the expansion, alteration, or reconstruction. The value of the existing structure shall be based on the structure’s tax value; the value of the redevelopment shall be based on construction cost.

2. Exterior Walls and Facades

Except to the extent prohibited by North Carolina State building codes, the wall area on the first floor of a building fronting a street shall have a recommended minimum of 30% windows and doors.

3. Roofing

All rooftop mechanical and electrical equipment shall be screened from the view of streets and adjacent property.

**Section 3. Landscaping**

(a) *Intent*

It is the intent of this Section to establish minimum standards for the design of landscapes in order to preserve the landscape character of the community and to improve the appearance, quality, and quantity of landscaped areas in the built environment. This includes provision of and preservation of landscaping in order to contribute to groundwater recharge and retardation of stormwater runoff, provide shade for cooling, provide visual and sound buffering, safeguard and enhance property values, and protect and enhance the natural environment.

(b) *Applicability*

These landscape requirements shall be applicable to the following construction:

1. Construction of new structures for which a Zoning Permit is required. Landscape requirements do not apply to temporary structures such as a job shed associated with construction activities.
2. Expansions of structures used for multi-family, recreational, or commercial uses that increase the footprint of existing structures by at least 30% or that add at least three thousand (3,000) square feet to existing structures.
3. All new parking areas, with the exception of parking for one- (1) and two- (2) family homes.
4. Change in use of an existing structure if such change requires a change in use group.

(c) *Existing and Added Vegetation*

Existing vegetation shall be preserved in accordance with Section 10 (Tree Protection). Added vegetation shall be hardy to Zone 6, as developed by the Department of Agriculture, and hardy to high winds. Added trees shall be six (6) feet in height unless of a diminutive variety and added shrubs shall be one (1) foot in height unless of a diminutive variety. Preferably, added vegetation should be native to the area.

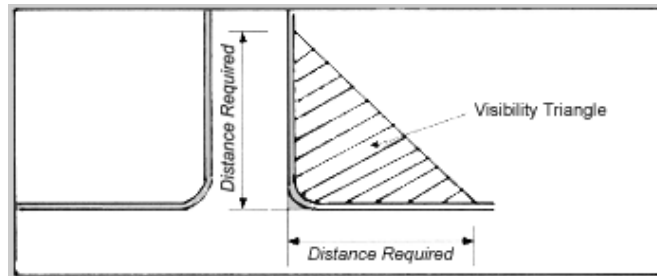
(d) *Landscaping Procedures*

When an application is made for a Zoning Permit, the application shall be accompanied by a landscape plan. Landscape plans for single-family and two-family houses may be presented as part of the site plan. Landscape plans shall be reviewed and approved by the Zoning Administrator.

1. Landscape plans for single- and two-family houses shall contain:
  - a. Location of proposed house.
  - b. Location of driveways. Each driveway shall have a visibility triangle. A visibility triangle area for all driveways to street intersections shall be

maintained, measuring twenty-five (25) feet on both the driveway and street boundaries where possible (see diagram below). If not possible because of topography or other physical characteristics, a visibility triangle as close as possible to the ideal of twenty-five (25) feet on both the driveway and street boundary shall be maintained.

**Figure 8.1**



- c. Landscaping to control erosion or runoff. Refer to Unified Development Ordinance Article 8, Section 3.
  - d. Foundation plantings in compliance with Section 4.
2. Landscape plans for all other construction shall contain the information listed in paragraphs a) through d) below and any additional information as requested by the Zoning Administrator to enable him or her to determine whether the permit application or plan should be issued or approved. Plans shall be drawn to scale and include a North arrow and necessary interpretive legends.
- a. Location of any proposed buildings; existing and proposed landscaping, including screening that is required by this Article; the location, number, and spacing of new trees in planting area to comply with this Article; the location and dimensions of planting areas, street yards, and parking areas; location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, signage, and courtyards or paved areas; permanent landscaping to control runoff and erosion; location of overhead and underground utilities; planting and installation details as necessary to ensure conformance with all required standards; provisions for watering, soil stabilization, plant protection, and maintenance access.
  - b. The location of existing trees that are to be preserved between the principal building and its property boundaries.
  - c. The location and description of any barriers to be erected to protect any vegetation from damage both during and after construction.

- d. Zoning designation of adjacent properties.
- 3. If, at the time of a request for a Certificate of Occupancy, the required landscaping is not in place (except for permanent landscaping to control runoff and erosion, which shall be required before issuance of a Certificate of Occupancy) and it can be determined by the Zoning Administrator that planting cannot be completed because:
  - a. requiring completion of the landscaping at the time of such request would jeopardize the health of plant materials, or
  - b. weather conditions prohibit the completion of planting, then the Zoning Administrator or designee shall require that the Town hold the Single-Family Dwelling Performance Guarantee until completion of the landscaping.

#### **Section 4. Open Areas Requiring Landscaping**

(a) *Intent*

The intent of this Section is to protect and promote the public health, safety and general welfare by requiring the landscaping of open areas, which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to reduce the level of carbon dioxide and return pure oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values and to otherwise facilitate the creation of a convenient, attractive and harmonious community; to relieve the blighted appearance of parking areas; to relieve the appearance of garbage facilities; and to generally preserve a healthful and pleasant environment.

(b) *Street Yards*

A street yard is defined as the area of all the property of a lot fronting on a street. The required minimum street yard shall be ten (10) feet wide measured from the road surface. All street yards shall have vegetative cover or mulch. Only low growing vegetation may be planted in the street yard, which includes low growing shrubbery. No trees shall be planted in the street yard. Innovative design in arrangement is encouraged.

(c) *Foundation plantings*

Ornamental trees or shrubs shall be required on street frontage foundations at a minimum rate of one (1) per ten (10) linear feet.

(d) *Created slopes in excess of 3:1*

When slopes in excess of 3 (horizontal): 1 (vertical) are created by any aspect of the construction process, landscaping shall be installed to control runoff and erosion. Installation shall be completed within fifteen (15) working days or thirty (30) calendar

days of the creation of said slope(s) and shall be planted and maintained in accordance with Section 4(f).

(e) *Buffer yards and Screening*

A buffer yard consists of a horizontal distance from the property line that may only be occupied by screening, utilities, pedestrian ways, and landscaping materials. A buffer yard or screening shall provide continuous visual interference and reduction in the impact of the development on adjacent property. Unless adequate buffering or screening exists in the natural environment, a combination of earthen berm, shrubbery, and/or fencing is required to reduce the impact of development on adjacent uses that are of a significantly different type or to create attractive settings between like uses.

(f) *Landscape Planting and Maintenance Specifications for All Construction*

1. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking area or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public. A visibility triangle area for all driveways to street intersections shall be maintained as specified in Section 3(d).
2. Whenever any planting areas required by this Article are adjacent to parking or vehicular circulation areas, the planting areas shall be protected from vehicular intrusion or damage.
3. All landscaping planting areas shall be stabilized from soil erosion immediately upon planting and shall be maintained for the duration of the premises.

**Section 5. Intensity Regulations for Off Street Parking**

(a) *Intent*

It is the intent of this Article to provide for adequate parking and loading facilities on public and private property in order to promote public safety and to lessen congestion in the public streets.

(b) *General Design Requirements for All Non-Single-Family Developments*

1. Parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing into a street.
2. Parking areas shall be designed so sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements. These parking areas preferably are located behind the building.

3. Parking areas shall have circulation areas so that vehicles can proceed safely without posing a danger to pedestrians, other vehicles, walls, or vegetation.
4. All parking areas shall designate parking space for handicapped persons in accordance with the North Carolina State Building Code.
5. All parking areas shall have curb and gutter along the perimeter. Curbs may be constructed of concrete, brick, stone, or timber.
6. All parking areas shall provide pedestrian access from the parking area(s) to the principal use of the property. The pedestrian access shall meet the accessibility requirements of the NC State Building Code.
7. Fire lanes may be required as determined by the Fire Chief.
8. Speed bumps may be required by the Chief of Police if deemed to be necessary to ensure public safety.

(c) *Number of Parking Spaces Required*

All developments shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development. Table 8.5 designates the minimum number of parking spaces required for residential, community facilities, and commercial property uses listed in Article 5. When determination of the number of parking spaces required by this table results in a fraction, the parking space requirement shall be rounded up to a full space. When a property use is not specifically listed in Table 8.5, the Zoning Administrator is authorized to determine the parking requirements using Table 8.5 as a guide.

(d) *Parking Space Dimensions*

Each required parking space shall contain a rectangular area at least eighteen (18) feet long and nine (9) feet wide. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-three (23) feet by nine and one half (9.5) feet.

**TABLE 8.5 - PARKING REQUIREMENTS**

Use	Parking Requirement
Residential	2 spaces per dwelling unit
Community Facilities	1 space for each 3 persons the facility is designed to accommodate
Hospital, Clinic	2 spaces per bed
Commercial	1 space for every 300 sq. ft.
Restaurant, Tavern, Snack Bar	1 space per 3 seats plus 1 space per 2 employees
Lodging	1 space per guest room

(e) *Setbacks for Parking Areas*

1. No parking area shall be located in the street yard (unless authorized by the zoning administrator). In addition, all parking areas shall be separated from the exterior wall of any structure by a landscaped area of at least four (4) feet in width.

(f) *Parking Area Surfaces*

1. All vehicle accommodation areas should be designed and surfaced to minimize run-off. For multi-family and commercial construction, ABC stone or crusher run may not be used on vehicle accommodation areas with slopes greater than five (5) percent.
2. Parking spaces in multi-family and commercial developments and in areas surfaced with bituminous paving, block, or concrete shall be appropriately demarcated with painted lines or other markings.
3. Parking areas shall be properly maintained in all respects.

(g) *Joint Use of Required Parking Spaces*

1. To reduce excessive open land use and additional run off, parking areas may contain required spaces for several different uses if the uses of the same space operate at different times.

(h) *Loading and Unloading Areas*

1. Whenever the normal operation of any development requires that goods, merchandise, equipment, or passengers be routinely delivered to or transported from that development, a sufficient off-street loading and unloading area must be provided to avoid disrupting the flow of traffic.
2. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area. The Zoning Administrator may require more or less loading and unloading area, as necessary.
3. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (a) maneuver safely and conveniently to and from a public right of way, and (b) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
4. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

**Section 6. Shared Driveway / Private Road Construction**

(a) *General Provisions*

The Town of Seven Devils is authorized by Section 160A-307 of the North Carolina General Statutes to regulate the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley. (This Article and Section apply to properties outside of platted subdivisions).

No person may open, construct, alter, or relocate any shared driveway or private road or access within the Town of Seven Devils without first obtaining a permit from the Zoning Administrator. Additionally, no driveway serving a single property may be modified to serve multiple properties without approval from the Zoning Administrator and compliance with the specifications outlined in this Ordinance regarding shared driveways / private roads. In addition to a permit from the Town, a permit will be required from the North Carolina Department of Transportation (NCDOT) if said driveway requires construction within any NCDOT right-of-way. The proposed driveway design must be consistent with this provisions specified in Article 9, Subdivisions.

(b) *Permit and Fees*



An application for a Shared Driveway / Private Road Permit shall be filed with the Zoning Administrator on the form shown in Article 9, Figure 2. Action shall be taken on the application within five (5) working days of receipt of the application. A sketch or plan depicting the configuration of the proposed shared driveway / private road shall accompany the application with sufficient detail to permit verification that the application complies with the provisions of this Article. Additionally, a Shared Driveway / Private Road Maintenance Agreement shall be drafted by an attorney specifying that the owners (present or future) of the parcels utilizing the shared driveway / private road shall perpetually share in the cost of maintenance and improvement of said ingress/egress, which shall be recorded in the Register of Deeds of the appropriate county, before the final site compliance certification form shall be issued or building permits issued.

Prior to the issuance of a shared driveway permit, all fees and related charges shall be paid. The shared driveway permit shall be valid for six (6) months from the date of issuance. The Zoning Administer may renew the permit one time.

(c) *Standards*

The following standards shall apply to all shared driveways / private roads constructed within the Town of Seven Devils and outside of platted subdivisions:

1. Emergency Vehicle Access

Driveways shall be designed in such a manner to provide safe access to the property by emergency vehicles and those vehicles that will normally be expected to require access to the property.

2. NCDOT Drawings Compliance

Driveways shall be designed and constructed to conform to the detail drawings contained in Figures 10.4, 10.5, and 10.6, in Article 10 of the Unified Development Ordinance as applicable. Shared driveways shall conform to the standards set in the NCDOT's Minimum Construction Standards for Subdivision Roads.

3. Right-of-Way

No shared driveway / private road shall be constructed within thirty (30) feet of the right-of-way line of any street intersecting the street upon which the driveway accesses.

4. Fire Hydrant

No shared driveway / private road shall be located within ten (10) feet of a fire hydrant.

5. Minimum Width

Minimum width of the shared driveway / private road (outside a platted subdivision) shall be ten (10) feet.

6. Surface

The shared driveway / private road shall be constructed of an all-weather surface such as stone, gravel, concrete, or asphalt paving over its entire length, except the first twenty-five feet from the point of intersection with a Town or State Road shall be paved with asphalt or concrete.

7. Culverts

If the shared driveway opens onto a Town of Seven Devils road with roadside drainage ditches or swales, the applicant shall install a driveway culvert of sufficient size to accommodate drainage along the roadway. Culverts shall be of adequate size to discharge stormwater, from any given area during a ten (10) year storm event, depending on the terrain and location. Minimum culvert size shall be eighteen (18) inches inside diameter and shall be located and installed as recommended by the project engineer and the Town of Seven Devils Public Works Department.

i. Composition

Pipe shall be high-density polyethylene (HDPE) double-wall smooth interior, reinforced concrete pipe, or corrugated metal pipe 14-gauge conforming to AASHTO M-365. All pipe construction shall comply with NCDOT Standard Specification for Roads and Structures (as revised and/or retitled).

ii. Minimize Erosion

All culverts shall be designed and constructed to minimize erosion.

iii. Depth

All culverts shall be installed at a depth consistent with the manufacturer's recommendations.

8. Sight Distance

The shared driveway/private road shall be located at a point where there is a minimum of one hundred twenty (120) feet of sight distance along the intersecting road in order to ensure safe entry onto the road.

9. Adjacent Lot Encroachment

If the topography or configuration of the lot requires the driveway to encroach upon an adjacent lot, the applicant shall submit concurrence of the adjacent property owner at the time the application is submitted.

(d) *Shared Driveway / Private Road Maintenance*

The applicant shall be responsible for repair of any damage to a Town street, embankment, shoulder, or pavement when the failure to maintain said shared driveway/private road causes damage to or causes the need for maintenance on a routine basis. An example of such a situation would be one in which the Public Works Department must routinely clear a Town road of debris (mud, dirt, gravel, leaves, branches, etc.) that has collected on the Town road because of insufficient maintenance of the shared driveway / private road. Such damage shall be repaired to the satisfaction of the Zoning Administrator or his or her designee within seventy-two (72) hours after the applicant is notified. If the damage is not corrected by the responsible person(s) within the allotted time after being notified of the violation by the Zoning Administrator, the Town may summarily abate such nuisance by correcting the issue and requiring the property owners who access their properties from said shared driveway/private road to pay the cost as authorized by General Statute 160A-193.

**Section 7. Utilities**

(a) *Water and Sewer*

The Water Extension Policy is set forth in the current Seven Devils Water Use Ordinance. Whenever service from a public water or sewer line is available to the property, then no use may be made of any building or structure to which such service is available until connection is made to such line.

All water lines that are installed by the developer must comply with the most current Town of Seven Devils Unified Development Ordinance, Construction Regulations, and the requirements of the State of North Carolina. In addition, the developer shall dedicate to the Town of Seven Devils the necessary ownership or easement rights of such facilities. However, such dedication shall not be deemed effective until the Town Council officially accepts the dedication/s by resolution.

(b) *Other Utilities*

1. A source of electric power and a telephone service cable must be available to every principal use adequate to accommodate the reasonable needs of such use.

All new electric power lines (including primary and secondary distribution lines and service laterals), telephone and cable television lines necessary to provide service to a lot or development shall be placed underground in a manner

acceptable to the regulations and standards that govern the utility. Underground wires, cables, conduits, and other related components of a service shall be located so as to enter the building at the closest possible point after coming out of the ground.

2. Propane gas storage tanks shall be placed underground or buffered with landscaping or screening, so they are not fully exposed.

(c) *Refuse Collection*

1. Multi-family and commercial

The owners of multi-family and commercial development shall provide adequate waste receptacles in accordance with this Article to store the wastes on said premises.

Every site upon which one or more dumpsters are to be placed shall be located and constructed to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public right-of-way. Those developments hereafter established that are required to provide a refuse container shall locate the container on the property it serves. The site shall be paved with concrete, asphalt or other bituminous paving and shall be located abutting a driveway of sufficient width to allow access by the available solid waste collection equipment. The Town of Seven Devils shall approve sites and means of access. All dumpsters shall be screened or buffered so that they would be invisible at dumpster level to:

- a. Persons located within any dwelling unit on residential property other than that where the dumpster is located.
- b. Occupants, customers, or other invitees located within any building on non-residential property other than that where the dumpster is located.
- c. Persons traveling in any public street, sidewalk, or bikeway within the Town of Seven Devils.

2. Single Family Residential (including long and short-term rentals)

Property owners shall provide adequate waste receptacles in accordance with The Town of Seven Devils Nuisance Ordinance, Article VI.

**Section 8. Lighting Requirements**

(a) *Purpose and Intent*

It is the intent of this Section to define practical and effective measures by which the obtrusive aspects of excessive and/or careless outdoor light usage can be minimized,

while preserving safety, security and the nighttime use and enjoyment of property. These measures will reasonably curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light, sky glow, and glare resulting from over-lighting and poorly shielded or inappropriately directed lighting fixtures.

(b) *Definitions of Particular Significance to this Section*

**Development Project:** Any residential, commercial, industrial, or mixed-use subdivision plan or development plan which is submitted to the Town for approval.

**Diffuse:** To spread or scatter widely, or thinly.

**Direct Illumination:** Illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs, or reflected from other surfaces such as the ground or building surfaces.

**Fully Shielded Light Fixture:** A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the complete lighting fixture, less the support assembly, is projected below the horizontal as determined by a photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

**Glare:** The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes have adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes have become adapted.

**Installed:** The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

**Light Pollution:** Any adverse effect of manmade light.

**Lumen:** Lumen is a unit for measuring the amount of light produced by a lamp; watt is a unit for measuring the amount of electrical energy used by a lamp. The number of lumens per lamp is indicated on the manufacturers packaging of a lamp.

**Outdoor Light Fixture:** An outdoor illuminating device, outdoor lighting or reflective surface, lamp, or similar device, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to lights used for:

- Parking lot lighting;
- Buildings and structures;
- Recreational areas;
- Landscape lighting;

- Billboards and other signs (advertising or other);
- Product display area lighting;
- Illuminating building overhangs and open canopies.

**Outdoor Recreation Facility:** An area designed for active recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, golf courses, tennis courts, and swimming pools.

**Person:** Any individual, tenant, lessee, owner, or any commercial entity including but not limited to firm, business, partnership, joint venture, corporation, or limited liability company.

**Sign: Internally Illuminated:** A sign illuminated by light sources enclosed entirely within the sign cabinet and not directly visible from outside the sign.

**Sky Glow:** The brightening of the night sky resulting from the scattering of artificial visible radiation by the constituents of the atmosphere.

**Temporary Lighting:** Lighting which does not conform to the provisions of this ordinance and which will not be used for more than one consecutive thirty-day period within a calendar year, with one consecutive thirty-day extension. Temporary lighting is intended for uses, which by their nature are of a limited duration; for example, holiday lighting decorations, civic events, or construction projects.

**Use, Abandonment of:** The relinquishment of a property, or the cessation of a use or activity by the owner or tenant for a continuous period of twelve months, excluding temporary or short term interruptions for the purpose of remodeling, maintaining, or rearranging a facility. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions that constitute the principal use of the property.

(c) *Conformance with Applicable Codes*

All outdoor illuminating devices shall be installed and maintained in conformance with the provisions of this Ordinance and all pertinent codes. All power and control lines necessary to energize outside lighting shall be placed underground in a manner acceptable to the National Electric Code. This shall include local utility companies, governmental agencies, and private persons.

(d) *Applicability*

1. New Lighting

All nonexempt outdoor lighting fixtures above 2000 lumens per manufacturers specifications must be fully shielded if installed after the adoption of this Ordinance. All outdoor lighting which remains lighted the majority of the time (four days per week and six hours after dusk) must be fully shielded.

Examples of lamp types of 2000 lumens and less are:

- 100 Watt Standard Incandescent
- 15 Watt Cool White Fluorescent
- 15 Watt Compact Fluorescent
- 18 Watt Low Pressure Sodium

2. Resumption of Use after Abandonment

If a property or use with non-conforming lighting is abandoned (see definitions), then all outdoor lighting shall be reviewed and brought into compliance with this Ordinance before any use is resumed.

3. Roadways

Lighting for public roads and public parking lots must be low-pressure sodium lamps, not to exceed 55 watts or high pressure sodium lamps, not to exceed 100 watts. These are exempt from shielding. Blue Ridge Electric Membership Corporation (BREMCO) has provided high-pressure sodium lamps for lighting along existing roads. Newer streets created by developers should be consistent with this pattern; the lights described above provide 8000 lumens per lamp, the standard for street lighting. Lighting along Highway 105 is exempt from this ordinance.

4. Canopy Lighting

Lighting for service station canopies must be recessed and not exceed 430 lumens per sq. ft.

5. Laser and Search Lights

Except as provided for in Section 8(e)(5), laser and searchlights are prohibited.

(e) *Exemptions*

1. Emergency Lighting

Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this Ordinance as long as the emergency exists.

2. Swimming Pool and Fountain Lighting

Underwater lighting used for the illumination of swimming pools and fountains is exempt from the lamp type and shielding standards, though it must conform to all other provisions of this Article.

3. Towers

Legally required safety lighting for towers shall be exempt from this ordinance.

4. Internally Illuminated Signs

Internally illuminated signs are exempt from this ordinance; other sign lighting must comply.

5. Exemptions for Temporary Lighting

Any person may request of the Town Council a temporary exemption from the provisions of this Ordinance.

6. Exemption for Ski Slope Operations

Safety lighting for ski slope operations (including snow tubing) shall be exempt from the provisions of this Ordinance.

**Section 9. Fences**

(a) *Intent*

It is the intent of this Section to provide general standards for fences that are built or installed in the Town of Seven Devils and its planning jurisdiction.

(b) *Applicability*

1. Fences in the Town of Seven Devils are permitted in all Zones as an Accessory Use.
2. All fences must be kept in good repair.
3. No fence may be built or installed within the Town of Seven Devils except in compliance with the design standards contained herein.
4. No fence may be built or installed in the street yard or on public easements.
5. Fences installed by the Town of Seven Devils or a utility company to ensure public health and safety are exempt from the provisions of this ordinance.

(c) *Material, Color and Height Requirements*

1. Fences shall be built or faced with natural or manufactured wood, stone, brick, vinyl fence, or material with black wrought iron appearance.
2. No fence shall be built or installed higher than five (5) feet above the original ground profile.
3. Chain link fencing is prohibited.

(d) *Procedures*



1. All fences built or installed within the Town limits of Seven Devils require a fence permit. The Zoning Administrator shall issue fence permits.
2. If a fence permit is denied, the decision may be appealed to the Seven Devils Board of Adjustment in accordance with the provisions of Article 17.

## **Section 10. Tree Protection/Preservation**

### **(a) Intent**

It is the intent of this Section to preserve the natural beauty of the Town, to encourage better care of trees and vegetation within the Town, on both private and public properties, to promote cooperation between the public and private sectors to effectively manage urban forests, and to support and participate in the Tree City USA program.

### **(b) Administration**

To carry out the provisions of this Section, the Zoning Administrator shall have the responsibility and control over all trees and shrubbery planted or growing in or upon Town property. The Town Council may establish a Tree Board, made up of citizen volunteers; the volunteers shall have the following duties:

1. Assist the Town Manager with the creation, updating, monitoring, and management of the Town's tree regulations.
2. Work with the Town Manager to prepare a tree maintenance program.
3. Work with the Town Manager on all issues relating to the management and care of the Town's forests.

The Tree Board shall consist of a minimum of five members, appointed by the Town Council annually, at the first meeting of each fiscal year. The Tree Board shall annually select a Chair and a Vice Chair; the Zoning Administrator shall serve as the secretary to the Tree Board. The Tree Board shall meet on a regular schedule, to be determined at the beginning of each fiscal year.

### **(c) Definitions of particular significance to Tree Protection:**

**Diameter at Breast-Height (DBH):** A tree trunk diameter measured in inches at a height of four and one half (4 1/2) feet above the ground. If a tree splits into multiple trunks below four and one half (4 1/2) feet, then each trunk is measured as a separate tree. A tree that splits into multiple trunks above four and one half (4 1/2) feet is measured as a single tree at four and one half (4 1/2) feet. Diameter can be determined by dividing the circumference of the tree trunk at four and one half feet above the ground by pi or 3.1416.

**Historic Tree:** A tree with a Diameter at Breast Height (DBH) of twenty-four (24) inches or greater. Every effort should be made to retain healthy historic trees.

**Protected tree:** A live tree measuring in excess of six (6) inches in diameter at four and one-half feet (4 1/2) feet above ground.

**Removal of Trees:** Any intentional or negligent act that shall cause a tree to decline and die, including but not limited to:

- (1) Pruning
- (2) Cutting
- (3) Damage inflicted upon the root system of a tree by application of a toxic substance, operation of machinery, change of natural grade by excavation or filling about the root system or around the trunk of a tree, or injury by fire that result in or permit pest infestation.

**Significant Tree:** A tree with a DBH of six (6) inches or greater.

**Tree Removal/Pruning Permit:** A permit for tree removal and/or pruning issued under the provisions of this Ordinance.

(d) *Tree Protection Requirements*

1. Jurisdiction

The regulations set forth herein shall apply to all real property within the Town's planning jurisdiction, subject to the following exceptions: utility companies, electric suppliers, and governmental agencies in the course of constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmissions, or rights-of-way.

2. Tree Removal Prohibited

No person, firm, organization, society, association, corporation, or any agent or representative thereof shall directly or indirectly destroy or remove any trees in excess of six (6) inches DBH within any zoning district without permission under the provisions of this Ordinance.

3. Application and Scope

The process for applying the Tree Protection Section of this Ordinance shall be as follows:

All persons desiring to prune, crop, scale, or shape a protected tree(s) shall apply for a Tree Removal/Pruning Permit through the Zoning Administrator. Tree limbs of 3" or less in diameter may be pruned without a permit.

The Zoning Administrator or his/her designee may issue and approve a Tree Removal/Pruning Permit.

Lots that contain a majority of trees less than six (6) inches DBH shall not be clear-cut. No more than fifty percent (50%) of the natural vegetation, equally balanced on the lot, can be cut regardless of the size of the vegetation. The Zoning Administrator shall base approval on the criteria listed in this Article.

Trees shall not be topped. However, limbs may be removed for improving views as long as the health of the tree is not damaged. Detrimental trimming is prohibited. Property owners are encouraged to use an ISA Certified Arborist to prune and remove trees and utilize the crown reduction pruning technique.

Public Property Trees: In determining whether a permit shall be issued for the cutting of trees on public property, the Zoning Administrator shall consider the following:

- a. The condition of the tree with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services.
- b. The necessity to remove trees in order to construct proposed improvements to allow economic development of property adjacent to public property.
- c. The topography of land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters, and coordination with the Town's drainage patterns.
- d. The effects of tree removal regarding property values in the area.

(e) *General Standards for Removal and Retention*

It is the desire of the Town of Seven Devils to preserve all existing trees to the greatest extent possible. Permits for removal of protected trees may be approved and issued where one (1) or more of the following conditions are found to exist:

1. Said trees are within ten (10) feet of an area designated for the construction of an approved primary or accessory structure on a lot, including designated walkways, driveways, and parking areas; or
2. Said trees are within five (5) feet of an approved septic tank or septic drain field; or
3. Said trees pose a hazard to the property owner, adjacent property, utility lines or public health and safety; or
4. Selective cutting of said trees, observing proper trunk spacing in accordance with best management practices, promotes the growth and development of other trees on the lot; or
5. Said trees are diseased or damaged, or

6. Removal of said tree(s) is the only reasonable means by which building, zoning, subdivisions, health, public safety, or other Town requirements can be met.

(f) *General Considerations*

1. Emergency Conditions

In the event that any tree shall be determined to be an imminent hazard or danger to the public health, safety, or general welfare by the Zoning Administrator or his/her designee, that tree can be removed regardless of the size of the tree.

2. Violations Defined

- a. Lacking a valid Tree Removal/Pruning Permit, any intentional or negligent act resulting in the death of a protected tree, including but not limited to those defined in Section 10(b) of this Article.
- b. Lacking a valid Tree Removal/Pruning Permit, the pruning of any protected tree, except as allowed under the provisions of Section 10(f) of this Article.
- c. All waste from tree removal and/or tree pruning activities that accumulates on public property shall be removed at the end of each day of tree removal or pruning. All waste from tree removal and/or tree pruning activities that accumulates on private property shall be removed within three (3) working days after the day of completion if the work has been contracted out. If the homeowner does the removal/pruning, they must remove the debris or put the debris in a place accessible by the Town and the Town will remove no more than one (1) truckload according to the current debris pickup schedule published by the Town. The homeowner must notify the town within 3 days. Failure to comply with these stipulations shall constitute a violation.

If violations are noted during the course of a project or at final inspection, the Zoning Administrator may take appropriate actions including, but not limited to:

- a. Requiring replacement of illegally removed trees with trees no smaller than six (6') feet high and of the same type (evergreen or deciduous) as the trees removed.
- b. Replacement of protected trees that are damaged, dying, or dead with trees no smaller than six (6') feet high and of the same type (evergreen or deciduous) as the trees damaged.
- c. Remedial actions to protect trees during construction.

(g) *Penalties Defined*

Pursuant to North Carolina General Statutes 160A-175(b), a violation of any provision of Section 10, Tree Protection, shall subject the offender to a civil penalty in the amount established by the Town of Seven Devils most current Annual Operating Budget Ordinance, per tree to be recovered by the Town. Violators shall be issued a written citation, which must be paid within ten (10) days after receipt of the written citation. If the violator does not pay the penalty within ten (10) days after receipt of the written citation, the Town may recover such penalty in a civil action in the nature of a debt. In addition, trees removed without approval are subject to a requirement that they shall be replaced with two (2) six foot (6') tall, two inch (2") in caliper trees for each tree illegally cut. Such replacement trees shall include but not be limited to the following list:

<b>BOTANICAL NAME</b>	<b>COMMON NAME</b>
Acer Rubrum	Red Maple
Acer Saccharum	Sugar Maple
Betula nigra	River Birch
Betula papyrifera	White Paper Birch
Sorbus aucuparia	Mountain Ash
Cornus Kousa – varieties	Kousa Dogwoods
Picea abies	Norway Spruce
Tsuga Canadensis	Canadia Hemlock
Picea pungens	Blue Spruce
Oxydendrum	Sourwood, native

(h) *Enforcement*

In the case of a Tree Removal/Pruning Permit issued for a new construction site, the Zoning Administrator, prior to the issuing of a Site Improvement Completion Verification, shall ensure the inspection of the site to determine if all 'not-to-be-removed,' 'protected trees' are still standing and healthy. If such is not the case, the Site Improvement Completion Verification will not be issued until appropriate enforcement of the Ordinance has taken place.

## **Article 9. SUBDIVISION– Minor and Major**

### **Section 1. General Provisions**

#### **(a) Purpose**

The purpose of this Article is to establish procedures and standards for the development and subdivision of land within the planning jurisdiction of the Town of Seven Devils. It is further designed to provide for the following:

1. Effectively managed growth and development of the Town.
2. Coordination of streets, highways, and other public facilities.
3. Dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision.
4. Rights-of-way or easements for street and utility purposes.
5. Distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare.
6. Facilitation of adequate provision for water, sewage, parks, and playgrounds.
7. Facilitation of the subdivision of larger tracts into smaller parcels of land.

The Town of Seven Devils recognizes two subdivision types – minor and major. See Section 4(b) of this Article for definitions.

After the Preliminary Plat is approved and prior to commencing construction, all plans shall have been approved and all permits obtained from the Town of Seven Devils and any other entities as required. Additionally, the developer /owner shall meet with the Zoning Administrator, and /or the Public Works Director and Town Engineer for guidance and location of present infrastructure, and conditions of connections to Town infrastructure. The developer / owner shall sign an acknowledgement that he/she is responsible for repairing any damage to Town owned infrastructure, including but not limited to roads and water systems, caused by the construction.

### **Section 2. Prerequisites, Approvals, and Compliance**

#### **(a) Prerequisite to Final Plat Recordation**

After the effective date of this Ordinance, each individual subdivision plat within the Town's planning jurisdiction, except as shown in Section 9 of this Article, shall be

reviewed by the Town of Seven Devils Planning Board, and approved by the Town of Seven Devils Town Council.

(b) *Approval of Public Services*

No construction permits shall be issued, nor shall Town facilities or services be extended to, or connected with, any subdivision unless and until the Town Council has approved the Preliminary Plat. Until a Final Plat has been approved, the Town shall not maintain nor accept for ownership and maintenance, any street, street dedication, water line, or other infrastructure. See Section 3(c) below.

(c) *Compliance with Unified Development Ordinance*

Proposed subdivisions must comply in all respects with the requirements of the Articles of the Town of Seven Devils Unified Development Ordinance, and any other officially adopted plans and regulations that apply to the area to be subdivided.

**Section 3. Legal Provisions**

(a) *Procedure for Plat Recording*

Recording of the final plat shall be in accordance with all application sections of this Article.

(b) *Statement by Owner*

The owner of land shown on a subdivision plat submitted for recording, or his/her authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the planning jurisdiction of the Town.

(c) *Dedications*

Pursuant to North Carolina General Statute 160D-8-06, plat approval shall not be deemed to constitute or affect the Town's acceptance of any street or other land, public utility line, or other public facility shown on the plat. However, the Town Council may, by resolution, accept any dedication of lands or facilities for streets, parks, public utility lines, or other public purposes. Absent a formal resolution by the Town Council, no acceptance of a dedication is recognized. At no time can a dedication be accepted simply by statement or signature of the Town Manager or Zoning Administrator on a plat or otherwise.

(d) *Penalties for Violation*

Any person who subdivides his/her land in violation of this Ordinance or who transfers or sells land before the plat has been properly approved under the terms of this Ordinance and recorded in the office of the Avery or Watauga County Register of Deeds, shall be guilty of a misdemeanor. Violators of this Ordinance shall be subject, upon conviction, to fine and /or imprisonment as provided by North Carolina General Statute 14-4.

#### **Section 4. Subdivision - Definitions**

(a) *Word Interpretation*

For the purpose of this Article, certain words shall be interpreted as follows:

- Words in the present tense shall include the future tense.
- Words used in the singular number shall include the plural, and words used in the plural number shall include the singular, unless the natural construction of the wording indicates otherwise.
- The word "person" shall include a firm, association, corporation, trust, and company as well as an individual.
- The words "used for" shall include the words "designed for."
- The word "structure" shall include the word "building."
- The word "lot" shall include the words, "plot," "parcel," or "tract."
- The word "shall" is always mandatory and not merely discretionary.
- The word "will" is always mandatory and not merely discretionary.
- The word "Town" shall mean the Town Council, Town of Seven Devils, North Carolina, or their designee.
- The word "street" includes the words "roads" and "highway."
- The word(s) "day(s)" shall mean normal working days for the Town of Seven Devils.
- The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- Terms not herein defined shall have the meanings customarily assigned to them.

(b) *Definitions of particular significance to this Article:*

**Alley:** A strip of land owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**Building Setback Line:** A line parallel to the front, side, or rear property line in front of which no structure shall be erected.



**Comprehensive Land Use Plan:** A plan, or any portion thereof, adopted by the Seven Devils Planning Board and Town Council that establishes goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Seven Devils community.

**Corner Lot:** A lot that abuts the right-of-way of two (2) streets at their intersection.

**Cul-De-Sac:** A short subdivision street having but one (1) end open to traffic and the other end being permanently terminated and a vehicular turn around provided.

**Dedication:** An intentional donation of land, by the owner, for public use that is accepted by the Town of Seven Devils Town Council.

**Driveway:** A vehicular way, other than a street, alley or easement that provides vehicular access from a street to or through off-street parking and/or loading areas for three (3) or fewer residences.

**Double Frontage Lot:** A continuous lot that is accessible from both streets upon which it fronts.

**Easement:** A publicly or privately dedicated and recorded right-of-way, usually fifteen to twenty (15 to 20) feet in width, that provides only a secondary means of access to abutting property and is not intended for general traffic circulation. The purpose and permitted use is recorded, whether for utility installation or general use.

**Fee:** A charge for service provided by the Town of Seven Devils as periodically set by the Town Council.

**Infrastructure:** The capital improvements required to support the subdivision including, but not limited to: roads, drainage improvements, water, and sewer lines, electric and telephone.

**Local Road:** A road that serves primarily to provide access to adjacent land for travel over relatively short distances.

**Lot:** A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership and/or for development.

**Interior Lot:** A lot with only one (1) frontage on a street.

**Lot of Record:** A lot that is part of a subdivision, whose plat has been recorded in the Avery or Watauga County Register of Deeds Office, or a lot described by metes and bounds, the description of which has been so recorded.

**Lot, Single Tier:** A lot, which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

**Minor Collector:** A road that provides a connection from local streets to higher-level state roads.

**Minor Subdivision:** Any subdivision requiring no variances and consisting of not more than three (3) lots, nor construction or expansion of any public infrastructure (roads, sewer, waterlines, etc.). One (1) phase of a phased development cannot be considered a minor subdivision unless the entire development is not more than three (3) lots. Additionally, no request for a minor subdivision shall be eligible for “minor subdivision” classification if any adjoining properties have one or more of the same owners, whether individually owned or owned as a business entity.

**Major Subdivision:** Any subdivision consisting of four (4) or more lots or any subdivision with three (3) or fewer lots requiring variances or expansion of public infrastructure at taxpayer expense.

**Official Maps or Plans:** Any map or plan officially adopted by the Town Council as a guide to the development of the Town of Seven Devils.

**Open Space:** An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

**Plat:** A map or plan of a parcel of land that is going to be or has been subdivided.

**Perennial Stream:** A well-defined channel that contains water year-round during a year of normal rainfall with the bottom of the stream located below the water table for most of the year.

**Recreation Area or Park:** An area of land and/or water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate recreation activities.

**Reservation:** An obligation, not involving any transfer of property right, to keep property free from development for a stated period of time.

**Reversed Frontage Lot:** A lot on which the frontage is at right angles or approximately right angles, interior angle less than one hundred thirty-five (135) degrees, to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot.

**Right-of-Way:** A strip of land designated by the owner or other authority over which other persons may legally pass, and on which may be constructed a road or utilities.

**Road, State Standard:** A dedicated and accepted public right-of-way for vehicular traffic on which is constructed a road which meets the specifications of NCDOT.

**Sub-divider:** Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision:** A tract or parcel of land divided into two (2) or more parts and including all division of land involving the dedication of a new street or a change in existing streets. However, the following are not included within this definition and are not subject to any regulations enacted pursuant to this ordinance:

The combination or recombination of portions previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards to the Town of Seven Devils as shown in its subdivision regulations.

The division of land into parcels is greater than ten (10) acres where no street right-of-way dedication is involved.

The public acquisition, by purchase, of strips of land for the widening or opening of streets.

**Sewage Disposal Systems:**

*Individual System:* Any septic system, or other facility, serving one (1) source with a design capacity of three thousand (3000) gallons per day or less, discharging to other than surface waters, approved by the appropriate health district.

*Community System:* Any package plant or other sewage treatment facility serving two (2) or more sources not connected to individual or public systems and having a design capacity of greater than three thousand (3000) gallons per day, discharging to other than surface waters, approved by the N.C. Department of Environment and Natural Resources (NCDENR) or N.C. Department of Environmental Quality (DEQ).

**Street:** A thoroughfare primarily for the movement of motor vehicles.

**Water Supply Systems:**

*Individual System:* Any well, spring, stream, or other source used to supply one (1) connection, approved by the appropriate health district.

*Community System:* Any water system serving two (2) or more connections, but not owned or operated by any governmental body or water district, approved by the appropriate health district.

**Public System:** Any water system owned and operated by the Town of Seven Devils, Avery or Watauga County, or combined water district.

**Section 5. Minor Subdivisions - Procedure for Submission, Review, and Approval of Subdivision Plats**

(a) *Application Procedures*

The procedure set forth here for approval of minor subdivisions is intended to simplify the processing of routine, small subdivisions with due regard to protection of public interest. The minor subdivision approval process can be a streamlined process compared to the submission and approval process required for 'major' subdivisions.

(b) *Definition*

For the purpose of these regulations, a minor subdivision is defined as any subdivision requiring no variances, consisting of not more than three (3) lots, nor construction or expansion of any public infrastructure (roads, sewer, waterlines, etc.) at taxpayer expense. One (1) phase of a phased development cannot be considered a minor subdivision unless the entire development is not more than three (3) lots. Additionally, no request for a minor subdivision shall be eligible for "minor subdivision" classification if any adjoining properties have one or more of the same owners, whether individually owned or owned as a business entity.

The minor subdivision review procedure affords a simplified process for the review and approval of qualifying a subdivision. Such subdivisions should have only limited impact on community facilities and services. If for any reason the Zoning Administrator should determine that a subdivision, which meets the basic criteria for the minor subdivision review process, has features that could potentially represent the need for a more thorough review, he or she shall state in writing the reasons for his or her determination. Approval shall be denied under the minor subdivision review process, and the sub-divider referred to the major subdivision review process.

(c) *Plat Approval*

In lieu of the procedures set forth in this Article for 'major' subdivisions, the sub-divider may receive Preliminary and Final Plat approval for a minor subdivision through the following procedure:

- 1) The Zoning Administrator of the Town of Seven Devils shall review the Preliminary Plat of each minor subdivision and determine if it fits the definition of a minor subdivision and the requirements of the UDO. The Zoning Administrator shall then recommend either approval or disapproval of the proposed minor subdivision to the Planning Board.
- 2) Within thirty (30) days of submission of the Preliminary Plat, the Planning Board shall either approve or deny the proposed minor subdivision. The sub-divider may appeal the decision of the Planning Board to the Board of Adjustment in accordance with Article 17, which must be no less than fifteen (15) days after the appeal is submitted.
- 3) The Final Plat shall be subject to the same approval process as the Preliminary Plat.

- 4) The approval of a Final Plat shall not be deemed to constitute or effect the acceptance by the Town of any dedication shown on the plat.

(d) *Submission and Zoning Administrator Review*

Prior to the commencement of any land disturbance or building activity, a Preliminary Minor Subdivision Plat shall be submitted for review by the Zoning Administrator.

The Zoning Administrator shall review the Preliminary Plat and confer with the sub-divider about changes required in order that the subdivision complies with the provisions of this Ordinance and Article and about other desirable changes.

After review for compliance by the Zoning Administrator, the sub-divider shall submit eight (8) copies of the Preliminary Plat, with all recommended changes included, for individual distribution to the Planning Board members no less than fifteen (15) days prior to the regular meeting of the Planning Board.

(e) *Planning Board Review*

The Planning Board shall consider the Preliminary Plat during its next regularly scheduled meeting. The Planning Board shall take one (1) of the following actions:

1. Approval of the Preliminary Plat as submitted;
2. Approval of the Preliminary Plat with conditions; or
3. Denial of the Preliminary Plat as submitted.

(f) *Actions Subsequent to the Planning Board Decision*

If the Preliminary Plat is approved as submitted, it shall be recorded as the Final Plat with the Avery or Watauga County Register of Deeds within thirty (30) days.

If the Preliminary Plat is denied or approved conditionally, the Planning Board shall specify the reasons in writing for such action.

If the Preliminary Plat is approved conditionally, the sub-divider shall submit a revised plat. The Zoning Administrator shall review the revised plat for compliance with the imposed conditions. If the revised plat is found to comply with the imposed conditions, it shall be recorded as the Final Plat with the Avery or Watauga County Register of Deeds within thirty (30) days.

If the Planning Board denies the Preliminary Plat, the applicant may resubmit the Preliminary Plat to the Zoning Administrator, accompanied by a Re-Submittal of Preliminary Plat Fee.

The sub-divider may appeal the decision of the Planning Board in accordance with Article 17 to the Board of Adjustment.

**Section 6. Major Subdivisions - Procedure for Submission, Review, and Approval of Subdivision Plats**

(a) *Overview*

This section outlines the general procedure for submission, review, and approval of Preliminary Plats, construction plans, and Final Plats. Detailed requirements are listed in this Article in Section 7 (Preliminary Plats) and Section 9 (Final Plats).

(b) *Submission, Review and Approval Procedure for Preliminary Subdivision Plat*

1. Submission and Zoning Administrator Review

Prior to the commencement of any land disturbance or building activity, a Preliminary Subdivision Plat meeting the requirements of Section 7 of this Article shall be submitted in triplicate for review by the Zoning Administrator.

The submission shall also include:

- a. Evidence of preliminary approval for water supply and/or sewage disposal provided by authorities acceptable to the Town.
- b. Preliminary Plat Review Fee.

The Zoning Administrator shall review the Preliminary Plat and confer with the sub-divider about changes required in order that the subdivision complies with the provisions of this Ordinance and about other desirable changes.

After review for compliance by the Zoning Administrator, the sub-divider shall submit eight (8) copies of the Preliminary Plat, with all recommended changes included, for individual distribution to Planning Board members no less than fifteen (15) days prior to the regular meeting of the Planning Board.

2. Planning Board Review

The Planning Board shall consider the Preliminary Plat during its next regularly scheduled meeting. The Planning Board may require an Environmental Impact Statement.

The Planning Board shall recommend one (1) of the following actions to the Town Council regarding the Preliminary Plat:

- a. Approval of the Preliminary Plat as submitted,
- b. Approval of the Preliminary Plat with conditions, or
- c. Denial of the Preliminary Plat as submitted.

If the Preliminary Plat is recommended for approval conditionally, the sub-divider shall submit a revised plat to the Zoning Administrator, who shall review the revised plat for compliance with the imposed conditions. If the revised plat is found to comply with the imposed conditions, the plat shall be submitted for approval to the Town Council.

If the Planning Board recommends denial, the applicant may resubmit the Preliminary Plat to the Planning Board with changes, accompanied by a Re-Submittal of Preliminary Plat Fee.

### 3. Public Hearing and Town Council Action

The Town Council shall consider the Preliminary Plat during a public hearing to be held at the next regularly scheduled meeting that falls no more than thirty (30) days after the Planning Board makes its recommendation on the Preliminary Plat.

The Town is responsible for notification of the public hearing on the Preliminary Plat. The hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments as well as ask questions. A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing, a summary of its findings, and the evidence supporting those findings.

The Town Council shall consider the recommendation of the Planning Board and any input received at the public hearing. At that time, the Town Council may take one (1) of the following actions on the Preliminary Plat:

- a. Approve the Preliminary Plat as submitted,
- b. Approve the Preliminary Plat with conditions, or
- c. Deny the Preliminary Plat.

### 4. Actions Subsequent to Town Council Decision

Within five (5) days after the Town Council's action on the Preliminary Plat, the Zoning Administrator shall notify the applicant by registered or certified mail indicating the action taken and shall cause a copy of the decision to be filed in Town Hall.

If the Preliminary Plat is approved, the Town Clerk shall note approval on at least three (3) copies of the plat. One (1) copy shall be retained by the Town Clerk for public examination, one (1) copy shall be returned to the sub-divider, and the Zoning Administrator shall retain one (1) copy.

If the Preliminary Plat is denied or approved conditionally, the Town Council shall specify the reasons for such action in writing. The Town Clerk shall retain one (1) copy of such reasons and one (1) copy shall be transmitted to the sub-divider.

If the Preliminary Plat is approved conditionally, the Zoning Administrator shall review the revised plat for compliance with the imposed conditions. If the revised plat is found to comply with the imposed conditions, the Town Clerk shall note approval on at least three (3) copies of the plat. One (1) copy shall be retained by the Town Clerk for public examination, one (1) copy shall be returned to the sub-divider, and the Zoning Administrator shall retain one (1) copy.

5. Submission, Review, and Issuance of Permits by the Zoning Administrator

After the Town Council has approved the Preliminary Subdivision Plat (or the Zoning Administrator has verified compliance with Council-imposed conditions), the applicant shall be required to submit (if applicable):

- a. Construction plans for all infrastructure shown on the approved Preliminary Plat
- b. Construction sequence/timetable for completion of each phase of the site grading works
- c. Installation Arrangement for required improvements

The submission shall be accompanied by the following fees and guarantees:

- a. Subdivision Fees
- b. Water Connection Fees
- c. Performance Guarantee

Approval of the Preliminary Plat shall be valid for 18 months unless the Town Council grants a written extension on or before the 1-year anniversary of said approval. The Town Council may limit the period for which the extension is granted.

6. Construction Plan Requirements

Construction plans shall include all roads, drainage systems, water lines, sewer lines (if applicable), erosion control plans, and any other improvements required to create a subdivision totally capable of functioning without any further infrastructure improvements.

On a phased project, each phase shall be self-supporting.



7. Review by Zoning Administrator

Construction plans shall be presented in a form sufficient to clearly describe construction details. The Zoning Administrator shall review and approve construction plans. When they are found to be in compliance with the provisions of this Article, the Zoning Administrator shall issue a construction permit.

(c) *Submission, Review and Approval of the Final Plat:*

After the sub-divider has installed all improvements represented on the Preliminary Plat and received a Certificate of Completion from the Town, the sub-divider may submit a Final Plat meeting the requirements of Section 9 of this Article.

1. Submission for Zoning Administrator Review

Three (3) copies of the Final Plat shall be submitted for review by the Zoning Administrator at least thirty (30) calendar days prior to the next regularly scheduled meeting of the Planning Board.

The Final Plat shall include the following (if applicable):

- a. Certificate of Ownership and Dedication
- b. Certificate of Approval by the Town of Seven Devils Planning Board
- c. Certificate of Approval of Water Supply and Sewage Disposal Systems
- d. Certification of Survey and Accuracy
- e. Certificates of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements
- f. Certificate of Approval for Recording or Re-recording Subdivisions that do not Come Under the Existing Subdivision Regulations
- g. Certificate of Completion (including Certification of Installation and receipt of Defects and Maintenance Guarantee)
- h. Deed restrictions and/or restrictive covenants.

After review for compliance by the Zoning Administrator, the sub-divider shall submit one (1) original and three (3) copies of the Final Plat with all recommended changes included.

2. Planning Board Review and Decision

Copies of the Final Plat shall be distributed to Planning Board members no less than fifteen (15) days prior to the next regular meeting of the Planning Board.

At its next meeting following the Zoning Administrator's acceptance of a completed Final Plat, the Planning Board shall review the Final plat and take one of the following actions:

- a. Approval of the Final Plat as submitted;
- b. Denial of the Final Plat as submitted.

If the Final Plat is denied, the Planning Board shall specify the reasons for such action in writing. The Town Clerk shall retain one (1) copy of such reasons and one (1) copy shall be transmitted to the sub-divider. The sub-divider may make the recommended changes and submit a revised Final Plat at the next regularly scheduled Planning Board meeting.

In phased developments, Final Plats for subsequent phases of development shall be submitted within twenty-four (24) months of the last approved Final Plat.

Once approved, the chairman of the Planning Board shall sign the Final Plat.

3. Recording the Final Plat and Issuing Building Permits

No Final Plat of any subdivision located within the Town's planning jurisdiction shall be recorded by the Avery or Watauga County Register of Deeds until the Town of Seven Devils Planning Board has given its approval (pursuant to North Carolina General Statutes 160D-8-3).

No building permits shall be issued until the Final Plat has been approved and recorded.

(d) *Fees*

The Town of Seven Devils shall assess and collect the following fees:

- 1. **Preliminary Plat Review Fee:** Due upon submittal of Preliminary Plat. See current Budget Ordinance for amount.
- 2. **Re-Submittal of Preliminary Plat Fee:** Due upon re-submittal of Preliminary Plat. See current Budget Ordinance for amount.
- 3. **Subdivision Fees:** Due upon submittal of construction plans. To be determined at the time of Preliminary Plat approval.
- 4. **Water Connection Fees:** Due for all units in the subdivision prior to issuance of the Construction Permit. See current Budget Ordinance for amount.

5. **Other:** The Town may also set additional review and inspection fees.

In addition to the above fees, the developer shall be responsible for all related construction costs incurred by the Town.

**Section 7. Submission of Preliminary Plat**

(a) *Submission procedure*

A Preliminary Plat shall be submitted, reviewed, and approved as described in Section 7 of this Article.

The Preliminary Plat shall meet the following requirements for form and content. Plats not presented in the required form or not illustrating or containing the following information shall be returned to the sub-divider or his/her authorized agent to be completed and resubmitted, accompanied by appropriate fees.

(b) *Scale*

The Preliminary Plat shall be at a scale of one hundred (100) feet to one (1) inch or larger and shall be on a sheet eighteen (18) by twenty-four (24) inches. The scale must be denoted both graphically and numerically.

However, if the size and shape of the property is such that a sheet of that size will not accommodate the entire tract, a sheet twenty-four (24) by thirty-six (36) inches may be used.

Multiple sheets with appropriate match lines may be used for large projects.

(c) *Plat Essentials*

The following shall be included on the Preliminary Plat:

1. Title, date, name, and location of subdivision.
2. North arrow.
3. Name(s) of the owner(s), mortgagee(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the professional engineer(s) and registered surveyor(s).
4. Zoning classification(s) of the tract to be subdivided and adjoining properties.
5. Statement of intended use of lots (single or multi-family). If the subdivision is to be a Cluster Development, that fact should be indicated.
6. Sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area.

7. The boundaries of the tract, or portion thereof, to be subdivided, distinctly and accurately represented, with all bearings and distances shown.
8. Accurate location and descriptions of all monuments, markers, and control points.
9. Name(s) of the township(s), county(s), and state in which the subdivision is located.
10. Corporate limits, township boundaries, and county lines immediately adjoining the proposed subdivision.
11. Existing property lines and names of adjoining property owners and any adjoining subdivisions of record (or proposed and under review).
12. Locations and dimensions of all easements and rights-of-way.
13. Site calculations, including:
  - Acreage in total tract to be subdivided
  - Acreage for each lot
  - Acreage in parks and other non-related use
  - Total number of parcels created
  - Linear feet in streets
  - Slope
14. Sufficient information to clarify the applicability of steep-slope restrictions to individual lots.
15. Existing buildings or other structures, water courses, railroads, bridges, culverts, water and sewer lines, storm drains, electricity transmission lines, street lighting, and all rights-of-way and easements on the land to be subdivided.
16. Water courses, culverts, water and sewer lines, storm drains, and electricity transmission lines, as appropriate, on the adjoining property.
17. Existing or proposed property lines, including lot numbers.
18. Proposed minimum building setback lines.
19. Any other information considered by either the sub-divider or the Town to be pertinent to the review of the preliminary plat, such as a topographic map showing vertical contours every five (5) feet.

(d) *Legal Restrictions*

The following information shall be included on the Preliminary Plat to show that the proposed subdivision is not subject to any legal restrictions:

1. A copy of any proposed deed restrictions or similar covenants when the Planning Board deems them necessary. Deed restrictions shall be mandatory when private recreation areas are established and in Cluster Developments.
2. The name and location of any property, within the proposed subdivision or within any contiguous property, that is listed on or is eligible for listing on the U.S. Department of Interiors' National Register of Historic Places, and any property that has been designated by local ordinance as a Historic Property, pursuant to North Carolina General Statutes Chapter 160D-9-40 through 160D-9-50.

(e) *Infrastructure*

1. Streets

The following street information shall be included on the Preliminary Plat:

- a. Proposed streets (public or private)
- b. Existing and platted streets on adjoining properties and in the proposed subdivision
- c. Rights-of-way
- d. Pavement widths
- e. Approximate grades
- f. Design engineering data for all corners and curves
- g. Drainage facilities
- h. Typical street cross sections

All streets must be constructed to DOT standards as defined in Minimum Construction Standards for Subdivision Roads (as revised and/or retitled), with the following exceptions:

- a. The Town Council may permit a reduced street width.
- b. The minimum pavement surface shall be 2 inches (2") of RS 95B asphalt and the base course shall be a minimum of 8" of aggregate base course number (ABC), or three inches (3") of Crush and Run compacted followed by three additional inches of compacted of Crush and Run.

If any street is proposed to intersect with an NCDOT-maintained road, the Preliminary Plat shall be accompanied by an application for approval as required by the NCDOT Policy on Street and Driveway Access to North Carolina Highways (as revised and/or retitled). See Figure 9.2 for example of the application.

2. Utilities

All utilities shall be placed underground according to good engineering practices. The following utilities information shall be included on the Preliminary Plat:

- a. Plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, and electrical service that illustrate connections to existing systems.
- b. Water line size.
- c. Location of fire hydrants and manholes.

Evidence of preliminary approval for water supply and/or sewage disposal provided by authorities acceptable to the Town must accompany the Preliminary Plat.

(f) *Open Space and Natural Areas*

The following open space and natural area information shall be included on the Preliminary Plat:

1. Wooded areas, marshes, swamps, rock outcrops, ponds, lakes, streams, streambeds, floodway, or flood plain or any other natural features affecting the site.
2. Location of ecologically significant area as defined by the NC Department of Natural and Cultural Resources, Parks and Recreation Division.
3. Proposed location and size of parks or other recreational or open spaces, if any, and their future ownership (e.g., dedication to governmental body for public use, use by duly constituted homeowners' or community association, or land remaining in the sub-divider's ownership).
4. Location, width, and purpose of all proposed pedestrian, bicycle or riding trails and natural buffers.

(g) *Environmental Impact Statement*

Pursuant to Chapter 113A of the North Carolina General Statutes, if the Planning Board deems it necessary as part of their deliberations, either due to the nature of the land to be subdivided or peculiarities in the proposed layout, the Planning Board may require an Environmental Impact Statement to be submitted to the Town Council with the preliminary plat.

(h) *Performance Guarantee*

Prior to approval of a Construction Permit, a Performance Guarantee for completion of construction shall be posted with the Town of Seven Devils. Such Guarantee shall be in the form of one of the following: a Surety Bond made by a surety company licensed to do business in North Carolina; Irrevocable Letter of Credit issued by a bank or financial institution having a local branch in Watauga or Avery County, North Carolina or Certified Bank check held in Escrow by the Town of Seven Devils.

Performance Guarantees shall run until the construction has been accepted by the Town. If, after advising the developer that he/she is in default of said obligations, corrective steps have not been completed in the time period stated by the Zoning Administrator, the Town will consider the developer in default and make demand for completion by the bonding company.

**Figure 9.1 Requirements for Public Hearing in Relation to Subdivision Plat Approval**

Notice should include:

- Party requesting the public hearing.
- Date, time, and place where public hearing is to be located.
- Subject of the Hearing (Including location of property and type of subdivision proposed).
- Contact Information for the Town of Seven Devils:

Town of Seven Devils

157 Seven Devils Road

Seven Devils, NC 28604

Phone: (828) 963-5343

To comply with North Carolina State Law, notices must be published in a local newspaper of general subscription to actual paid subscribers, such as the Watauga Democrat. To meet the requirements, ads may be published in fine print in the legal ads section.

Notices must be published for two (2) consecutive weeks, starting at least ten (10) calendar days but not more than twenty-five (25) calendar days before the scheduled public meeting.

## Sample Notice:

### Public Hearing

The Town of Seven Devils will hold a Public Hearing at 5:30 pm on Monday, June 20, 2011 at Town Hall. The Public is invited to discuss the request by J & D Development to rezone a twenty (20) -acre tract on Windy Meadows from Low-Density Residential (LDR) to Medium-Density Residential (MDR).

For more information contact Town of Seven Devils, 157 Seven Devils Road, Seven Devils, NC 28694, Ph: (828) 963-5343.

**Figure 9.2 NCDOT Street and Driveway Permit Application**

<b>LOCATION OF PROPERTY:</b> County _____ Access to Route No. _____ Exact Distance _____ From the Intersection of Route No. _____ and Route No. _____ Toward _____		<b>N.C. DEPARTMENT OF TRANSPORTATION</b> <b>STREET AND DRIVEWAY ACCESS</b> <b>PERMIT APPLICATION</b>					
<input type="checkbox"/> Miles    N   S   E   W <input type="checkbox"/> Feet <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>							
PROPERTY WILL BE USED FOR: <input type="checkbox"/> Special Commercial <input type="checkbox"/> Regular Commercial <input type="checkbox"/> Residential /Subdivision <input type="checkbox"/> Other PROPERTY <input type="checkbox"/> is <input type="checkbox"/> is not within ____ City Zoning Area. PROPERTY IS LOCATED IN: <input type="checkbox"/> Rural <input type="checkbox"/> Urban Development Classification							
<b>AGREEMENT</b> I, the undersigned property owner, request access and permission to construct driveway(s) or street(s) on public right-of-way at the above location. I agree to construct and maintain driveway(s) or street entrance(s) in absolute conformance with the current "Policy on Street and Driveway Access to North Carolina Highways" as adopted by the North Carolina Department of Transportation. I agree that no signs or objects will be placed on or over the public right-of-way. I agree that the driveway(s) or street(s) will be constructed as shown on the sketch on (the reverse side) (the attached plans). I agree that that driveway(s) or street(s) as used in this agreement include any approach tapers, storage lanes or speed change lanes as deemed necessary. I agree that if any future improvements to the roadway become necessary, the portion of driveway(s) or street(s) located on public right-of-way will be considered the property of the North Carolina Department of Transportation, and I will not be entitled to reimbursement or have any claim for present expenditures for driveway or street construction. I agree that this permit becomes void if construction of driveway(s) or street(s) is not completed within the time specified by the "Policy on Street and Driveway Access to North Carolina Highways". I agree to pay an installation fee for pipe installed by the Division of Highways or pay a \$50 inspection fee for installation by others. Make checks payable to NCDOT. The inspection fee will be reimbursed if application is denied. I agree to construct and maintain the driveway(s) or street(s) in a safe manner so as not to interfere with or endanger the public travel. I agree to provide during construction proper signs, signal lights, flaggers and other warning devices for the protection of traffic in conformance with the current "Manual on Uniform Traffic Control Devices for Streets and Highways" and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained for the Division Engineer. I agree to indemnify and save harmless the North Carolina Department of Transportation from all damages and claims for damage that may arise by reason of this construction. I agree that the North Carolina Department of Transportation will assume no responsibility for any damages that may be caused to such facilities, within the highway right-of-way limits, in carrying out its construction. I agree to provide a Performance Bond in the amount specified by the Division of Highways for any construction proposed on the State Highway system. <b>I AGREE TO NOTIFY THE DISTRICT ENGINEER WHEN THE PROPOSED WORK BEGINS AND WHEN IT IS COMPLETED.</b>							
Entrance Width(s)	Pipe Size	Pipe Length	Pipe installation Costs	Inspection Satisfactory (Yes/No)	AMOUNT RECEIVED	INSTALLATION BY: <input type="checkbox"/> NCDOT <input type="checkbox"/> OTHERS	Dollars \$
1.			\$				
2.			\$		SIGNATURE	(TITLE)	DATE
3.			\$		INSPECTION BY NCDOT		
					SIGNATURE	(TITLE)	DATE
PROPERTY OWNER				WITNESS			
NAME _____				NAME _____			
SIGNATURE _____				SIGNATURE _____			
ADDRESS _____				ADDRESS _____			



Figure 9.2 NCDOT Street and Driveway Permit Application

APPROVALS			
APPROVAL BY: Local Governmental Authority (when required)			
_____	_____	_____	_____
SIGNATURE	TITLE	DATE	
APPLICATION RECEIVED BY DISTRICT ENGINEER		APPLICATION APPROVED BY DISTRICT ENGINEER	
_____	_____	_____	_____
SIGNATURE	DATE	SIGNATURE	DATE
COMMENTS:			
SHOW:		PROPOSED PLANS	
1. LOCATION OF DRIVEWAYS		DRAW OR SKETCH BELOW, OR ATTACH	
2. DETAILS OF WORK, INCLUDING PIPES		CONSTRUCTION PLANS FOR STREETS	
3. EXISTING BUILDING, WALL, ETC. OR DRIVEWAYS			
4. PROPOSED BUILDING, WALL, ETC.		INDICATE	
5. HIGHWAY FEATURES		NORTH	

**Section 8. Phased Developments**

(a) *General Procedure*

If a developer proposes that a subdivision, including Planned Unit Developments (PUDs), will be constructed in phases, the following procedure shall apply:

1. The developer shall submit to the Planning Board for approval, a master plan showing the entire proposed subdivision with: phases of development, density, type and location of utilities, and development timetable.
2. Each phase of development shall be preceded by submission and approval of a Preliminary Plat as outlined in Section 6 of this Article. The master plan may be submitted prior to or simultaneously with the Preliminary Plat of the first phase of development. Every phase of development submitted for approval shall be self-supporting including all infrastructure improvements necessary to completely support the subdivision. No final plat shall be approved unless all necessary improvements to support the subdivision have been installed as outlined in Section 10(b) of this Article.
3. Approval of the master plan need not be renewed unless density increases are proposed.

**Section 9. Submission of The Final Plat**

(a) *Submission, review, and approval procedure*

A Final Plat shall be submitted, reviewed, and approved as described in Section 5 of this Article.

Final Plats for subsequent phases of development shall be submitted within twenty-four (24) months of the last approved Final Plat.

Three (3) copies of the Final Plat shall be submitted for review by the Zoning Administrator at least thirty (30) calendar days prior to the next regularly scheduled meeting of the Planning Board.

After review for compliance by the Zoning Administrator, the sub-divider shall submit one (1) original and three (3) copies of the Final Plat with all recommended changes included.

(b) *Final Plat Requirements*

A surveyor licensed and registered to practice in the State of North Carolina shall prepare the Final Plat. The Final Plat shall substantially conform to the Preliminary Plat as it was approved by the Town Council, as well as the provisions of plats, subdivisions, and mapping requirements as set forth in North Carolina General Statute 47-30.

One (1) copy of the Final Plat shall be drawn on reproducible linen or Mylar. Three (3) copies shall be black or blue line paper prints.

(c) *Required Contents*

The Final Plat shall meet the following requirements for form and content. Plats not presented in the required form or not illustrating or containing the following information shall be returned to the sub-divider or his/her authorized agent to be completed and resubmitted.

1. Scale

All Final Plats shall be on sheets with overall measurements of eighteen (18) inches by twenty-four (24) inches and shall be on a scale no smaller than one (1) inch equals one hundred (100) feet. If the size of land areas or another suitable scale is required to assure legibility, plats may be placed on two (2) or more sheets with appropriate match lines. The scale must be denoted both graphically and numerically.

2. Plat Essentials

The following shall be included on the Final Plat:

- a. Title, date, name, and location of subdivision
- b. North arrow.
- c. Name(s) of the owner(s) and registered surveyor(s) responsible for the Final Plat, and the registration number(s) and seal(s) of the surveyor(s).

- d. Exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings.
- e. Accurate location and descriptions of all monuments, markers, and control points.
- f. Name(s) of the township(s), county(s), and state in which the subdivision is located.
- g. Corporate limits, township boundaries, and county lines if they intersect subdivision boundaries.
- h. Locations and dimensions of all easements and rights-of-way.
- i. Lot lines and lot numbers showing bearings and distances.
- j. Minimum setback lines. (Show typical lot setback required of all lots).
- k. Sufficient engineering data to readily determine and reproduce on the ground the location, bearing and length of every street line, lot line, every straight or curved boundary line, block line, right-of-way line, easement line, setback line, and building line. All dimensions, bearings, deflection angles, radii, central circles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets should be included.
- l. All certificates as required by Section 9(e) of this Article.
- m. Any other information considered by either the sub-divider or the Planning Board to be pertinent to the review of the Final Plat.

### 3. Legal Restrictions

The following information shall be included on the Final Plat to show that the proposed subdivision is not subject to any legal restrictions:

The name and location of any property, within the proposed subdivision or within any contiguous property, that is listed on or is eligible for listing on the U.S. Department of Interiors' National Register of Historic Places, and any property that has been designated by local ordinance as a Historic Property, pursuant to North Carolina General Statutes Chapter 160D-9-40 through 9-50.

### 4. Infrastructure

#### i. Streets

The following street information shall be included on the Final Plat:

- Names of all streets within the proposed subdivision.
- Right-of-way lines and easements of all streets and roads.
- Access right(s)-of-way to state roads or town streets. Refer to Section 11(e)4.

ii. Utilities

The following utilities information shall be included on the Final Plat:

- As-built plans for utility layouts (sewers (if applicable), water distribution lines, natural gas, telephone, and electric service) illustrating connections to existing systems or plans for individual water supply systems and/or sewage disposal systems.
- Utility easements.
- Note on the Final Plat stating that a plan for utilities is available at Town Hall.

iii. Open Space and Natural Areas

The following open space and natural area information shall be included on the Final Plat:

- The relationship of the proposed subdivision to the floodway and flood plain as delineated by the Avery or Watauga County floodway boundaries and flood insurance maps.
- Location of ecologically significant areas as defined by the NC Department of Cultural and Natural Resources, Parks and Recreation Division.
- Location, width, and purpose of all proposed pedestrian, bicycle or riding trails and natural buffers.

(d) *Improvements Installation and Guarantees*

1. Certificate of Completion

No Final Plat shall be approved until the sub-divider has installed, in the area to be subdivided, all improvements represented on the Preliminary and Final Plats and received a Certificate of Completion from the Town.

2. Defects and Maintenance Guarantee

Prior to Final Plat approval, the Town Council shall require an irrevocable Letter of Credit. Said letter shall guarantee curb gutters, street pavement, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for a period of one (1) year.

The developer shall submit either an engineer's certified estimate of the costs associated with installing all improvements or a copy of the executed contract for the installation of all improvements. The engineer shall be licensed in the state of NC and be approved by the Town.

The Letter of Credit shall be in the amount of 25% of the estimate of cost and shall be drawn on a bank having an office in Avery or Watauga County.

For the purpose of this Section, the term "defects" refers to any condition in publicly dedicated facilities or improvements that requires the Town to make any repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this Ordinance.

(e) *Certifications Required*

The following signed certificate(s) shall appear on all copies of the Final Plat, as applicable, that the sub-divider submits to the Planning Board.

1. Certificate of Ownership and Dedication

I hereby certify that I am/we are the owner(s) of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Seven Devils and I hereby adopt this plan of subdivision with my free consent, established minimum setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all storm culverts and water lines to the Town of Seven Devils.

\_\_\_\_\_

Signature of Owner(s)

\_\_\_\_\_

Date

2. Certificate of Approval by the Town of Seven Devils Planning Board

I, \_\_\_\_\_, Chair or Vice-chair of the Planning Board of the Town of Seven Devils, hereby certify that the Planning Board fully approved the Final Plat of the Subdivision entitled \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

\_\_\_\_\_

3. Certificate of Approval of Sewage Disposal (if applicable) and Water Supply Systems

(Not required for subdivisions that are connected, or will be connected, to existing publicly owned and operated water supply and sewage disposal systems)

I hereby certify that the water supply and sewage disposal systems installed or proposed for installation in \_\_\_\_\_ meet necessary public health requirements and are hereby approved.

\_\_\_\_\_

State Representative

\_\_\_\_\_

Date

4. Certification of Survey and Accuracy

I, \_\_\_\_\_ certify that this map was drawn by me/under my supervision, the deed description was recorded in Book \_\_\_, Page \_\_\_, or other: \_\_\_\_\_; that the error of closure as calculated by latitude and departures is 1: \_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_, Page \_\_\_; and that this map was prepared in accordance with General Statutes 47-30 as amended. Witness my hand and seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Surveyor/Engineer:

\_\_\_\_\_

License or Registration #

5. Certificates of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements

I hereby certify that all street, utilities, and other required improvements have been installed in an acceptable manner and according to the Town of Seven Devils specifications in the \_\_\_\_\_ Subdivision.

\_\_\_\_\_

Zoning Administrator

\_\_\_\_\_

Date

6. Certificate of Approval for Recording or Re-recording Subdivisions that do not come under the Existing Subdivision Regulations

For plats of the division of land, within the jurisdiction of this Ordinance, that do not constitute a subdivision as defined by this Ordinance, and in order to facilitate recordation thereof by the Avery or Watauga County Register of Deeds, the following certificate can be used:

This plat represents a resurvey of property as shown on plat recorded Plat Book \_\_\_\_, Page \_\_\_\_, and/or does not require approval of the Planning Board or the Town Council of the Town of Seven Devils for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Zoning Administrator

\_\_\_\_\_  
Date

7. Certificate of Completion

Upon receipt of all documents and completion of the installation of all improvements required by this Ordinance and the conditions of approval of the subdivision, in a manner consistent with the requirements of the Town of Seven Devils, a Certificate of Completion shall be issued by the Zoning Administrator subject to the following requirements being met.

- a. Receipt of Defects and Maintenance Guarantee as required by Section 9(d)2 of this Article.
- b. Receipt of a Certification of Installation of all required improvements from a professional engineer licensed in the State of North Carolina. This certificate shall be in the following format:

I hereby certify, based upon my inspection of the improvements, that all required streets, drainage systems, utilities, and other improvements for the \_\_\_\_\_  
\_\_\_\_\_ Subdivision have been installed in compliance with the approved plans and requirements of the Town of Seven Devils.

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
Date

(f) *Deed book and page number*

Once the Final Plat has been recorded at the appropriate courthouse, the sub-divider shall provide reference to the deed book and page number.



**Section 10. Review Procedure**

(a) *Planning Board Review*

Final Plats shall be reviewed according to the following procedure:

The Planning Board shall approve or deny the final plat within sixty (60) days of its first consideration.

If the Planning Board fails to approve or deny the final plat within sixty (60) days after the first consideration, such failure shall be deemed approval.

1. Approval of Final Plat

During its review of the Final Plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the Final Plat. If substantial errors are found the Final Plat shall not be approved until such errors have been corrected.

Upon Planning Board approval of the Final Plat, one (1) reproducible tracing and three (3) prints shall be filed with the Zoning Administrator and the Planning Board shall retain one (1) print. Approval shall be indicated on each copy of the plat as indicated in Section 9(e)2.

The sub-divider shall file the approved Final Plat with the Avery or Watauga County Register of Deeds within sixty (60) days after Town Council approval; otherwise, such approval shall be null and void. The approval shall be indicated on the Final Plat by the following:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for the Town of Seven Devils, North Carolina and that this plat has been approved by the Planning Board for recording in the office of the Avery or Watauga County Register of Deeds.

\_\_\_\_\_

Town Clerk

\_\_\_\_\_

Date

2. Denial of Final Plat

If the Planning Board denies the Final Plat, the Planning Board shall state in writing its reasons for such action, specifying the provisions of this Ordinance with which the plat does not comply. One (1) copy of this statement shall be transmitted to the sub-divider within fifteen (15) days of denial. The Planning Board shall retain one (1) copy as a part of its proceedings. One (1) copy shall be sent to the Town Clerk. If the Final Plat is denied, the sub-divider may make such changes as will bring the plat into compliance with the provisions of this

Ordinance and resubmit the plat for reconsideration at the next regularly scheduled meeting of the Planning Board.

(b) *Dedications*

The approval of the Final Plat shall not be deemed to constitute or affect the acceptance by the Town of the dedication of any street or other ground, public utility lien, or other public facility shown on the plat. However, the Town may by resolution of the Town Council accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes when the lands for facilities are located within its subdivision regulation jurisdiction.

(c) *Re-Subdivision Procedures*

For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

- i) No lot or tract, of land shall be created or sold that is smaller than the size shown on the approved plan.
- ii) Drainage, easements, or rights-of-way shall not be changed.
- iii) Street alignment and block sizes shall not be changed.
- iv) The property line between the back of the lots shall not be changed.
- v) The rear portion of lots shall not be subdivided from the front part.
- vi) The character of the area shall be maintained.

(d) *Plat Shall Be Required on Any Subdivision of Land*

Pursuant to North Carolina General Statute 160D-8-4, the Town Council shall require of the sub-divider that a plat be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place.

**Section 11. General Requirements and Design Standards**

(a) *General Requirements*

The sub-divider shall observe the following general requirements and principles of land subdivisions.

(b) *Conformity to Existing Plans*

All proposed subdivisions shall conform to any adopted plans for the Town of Seven Devils and to any applicable regulations of any existing Zoning Ordinances. Whenever a tract to be subdivided embraces any part of any officially adopted plan, such part of such public

right-of-way shall be platted by the sub-divider in the location and at the width indicated by said plan and provisions of this Ordinance.

(c) *Suitability of Land*

Due to the results of engineering and/or other studies prepared by licensed professionals, the Zoning Administrator may determine that certain parcels of land pose an ascertainable danger to life or property by reason of its unsuitability for the proposed use and shall not be platted for that purpose. The land may be platted for the afore mentioned purpose when the sub-divider has taken the necessary measures to correct said conditions and to eliminate said dangers.

Generally, property having a natural cross slope of 50% or more is considered unfeasible for subdivision development. The Town Council may approve a subdivision of property with an average slope greater than 50% if the developer submits adequate cause by special design features. A cluster development may be considered if the common areas are protected to the satisfaction of the Town.

The entire proposed subdivision parcel shall be considered when determining natural cross slope. See Page 98 for method of determining cross slope.

(d) *Name of Subdivision*

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the Town.

(e) *Streets*

1. Street Names and Signs

Proposed street names shall not duplicate or sound similar to the name of any existing street within the Town of Seven Devils. Prior to approval of any street names, the name shall be approved by either the Avery or Watauga County E911 system. Where proposed streets are extensions of existing streets, the existing street name shall be used, except where a new name can be reasonably used to avoid further street name duplication. Duplication shall include the change of the suffix such as street, road drive, place, court, etc. All streets shall be marked with a name sign whose design meets the requirements of the Manual on Uniform Traffic Control Devices (as revised and/or retitled) published by the Federal Highway Administration.

2. Coordination and Continuation of Streets

The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area. Existing principle streets shall be extended whenever possible. Existing or proposed streets shall be extended at the same or greater width, but in no case less than the required minimum width,

provided that no extension wider than eighty (80) feet shall be required. Where, in the opinion of the Town Council, it is desirable to meet the purpose of the Ordinance to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property.

3. Access to Un-subdivided Property

The proposed street system shall be designed to provide for the dedication of access to, and not impose undue hardships upon, un-subdivided property adjoining the subdivision. Temporary turnarounds shall be provided but reverse strips, adjoining street right-of-way, for the purpose of preventing access to adjacent property shall not be permitted.

4. Access Right-of-Way

Access right-of-way shall be a minimum of forty-five (45) feet. If the street is designed as a through street, the right-of-way shall be fifty (50) feet. Any variance from this requirement shall be based on written proof that a forty-five (45) foot right-of-way cannot feasibly be constructed and leave a safe and sufficient width to accommodate two- (2) way traffic and provide for utility easements if necessary. In all cases where less than a forty-five (45) foot right-of-way is used for access to the subdivision, this fact shall be contained in the disclosure statement and shown on the Final Plat as specified in Sections 10 and 13 of this Article.

5. Through Traffic

Minor residential streets shall be laid out as to discourage through traffic. When a subdivision abuts an existing Town road with less than forty-five (45) feet of right-of-way, additional right-of-way shall be dedicated.

(f) *Natural Assets*

In any subdivision due consideration will be given to preserving natural features such as bogs, trees, ponds, streams, rivers, rock out-cropping, lakes, and any historical sites which are of value not only to the subdivision, but to the Town as a whole. Special consideration will be given to preserving ecologically significant areas as defined in Section 7(f) of this Article.

(g) *Placement of Monuments*

Unless otherwise specified by this Ordinance, the Standard Practice for Land Surveying, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of North Carolina General Statutes Chapter 89, shall apply when conducting surveys for subdivisions. These standards shall be used to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties as well as other standards and procedures governing

the practice of land surveying for subdivisions. The Suburban Land Survey (Class B) criteria shall apply to all subdivisions within the Town of Seven Devils planning jurisdiction.

(h) *Large Tracts or Parcels*

Where land is subdivided into larger parcels than ordinary building lots, such parcels should be arranged as to allow for the opening of future streets and logical further subdivision.

(i) *Lots Intended for Commercial and Industrial Uses Only*

Commercial and industrial lots may be arranged in convenient units of width and depth that is appropriate to the development contemplated, provided that the minimum requirements for lots, blocks and zoning are met.

(j) *Easements*

1. Utilities

An easement not less than twenty (20) feet wide, extending ten (10) feet on each side of the common rear lot line or in other locations where necessary, shall be provided to accommodate for the following:

- Existing or future service poles
- Underground electric and communication lines
- Public utilities
- Conduits
- Drainage facilities, and
- Water and sewer lines (not septic)

No building, or other permanent construction, shall be erected in any easement required under this Ordinance. Where the property to be subdivided is traversed by a perennial stream, there shall be provided a stormwater easement and natural vegetation buffer extending fifty (50) feet from the top of the bank.

2. Alleys

A reservation or easement for an alley to the rear of a business lot is allowed provided that the Town Council has approved a comprehensive plan for the entire block in which the property developer establishes the need for such a reservation or easement.

(k) *Erosion Control (See Article 13 of the UDO for complete requirements)*

All development within the Town of Seven Devils shall comply with the provisions of the North Carolina Erosion Control Law. Prior to any activity that disturbs one (1) or more acres of land, a copy of the Sedimentation and Erosion Control Permit shall be provided to the Zoning Administrator. The Sedimentation and Erosion Control Permit shall be obtained from the proper Avery or Watauga County authorities.

(l) *Stormwater Drainage*

The sub-divider shall provide a drainage system that will provide protection from flooding upstream, downstream, and on the development site. This system shall provide that:

- i) The post-development peak rate of discharge permitted from the site will not exceed the pre-development peak rate of discharge during a twenty-five (25) year / twenty-four (24) hour storm event.
- ii) All residential structures are flood free.
- iii) No surface water shall be directed into a sanitary sewer.
- iv) Off-site easements for stormwater management facilities will be required when either of the following conditions exists:
  - a) Discharge flows into a man-made facility for which the Town does not have either a drainage easement or right-of-way.
  - b) Discharge flows into a natural system such that the rate or character of the flow at the property line has been changed. The easement will be required to a point at which the natural conditions are duplicated.

1. Drainage Design Requirements

i. Drainage Map

The project designer shall include in the subdivision construction plans a master drainage map showing all existing and proposed features. The map shall be prepared at a scale no smaller than one (1) inch equals one hundred (100) feet. The following features are to be included in the drainage map:

- Drainage bounds, including all offsite areas draining to the proposed subdivision.
- Sufficient topographical information with elevations to verify location of all ridges, streams, drainage ways, etc.
- Notes pertaining to existing standing water, areas of heavy seepage, or springs.

- All drainage features (ditches, roadways, ponds, etc.) that exist within a minimum of two hundred (200) feet from the proposed development.
- Subdivision layout with horizontal and vertical contours.
- Proposed drainage features including: inlets, swales, pipes, ponds, and flow arrows.
- Delineation of drainage subareas.
- Identification of detention ponds with identification of ingress/egress thereto.
- General types of soils.
- Description of current ground cover and land use.
- All storm sewer pipes and sizes.
- Clearly shown limits of clearing.
- Identification of all trees to be preserved and method of tree protection.

ii. Stormwater Calculations

Stormwater calculations shall be submitted and shall include the following items:

- a) Storm-sewer tabulations including, but not limited to the following:
  - Locations and types of structures.
  - Types and lengths of lines.
  - Drainage sub-area tributary to each structure.
  - Runoff coefficient per sub-area.
  - Time of concentration to structure.
  - Hydraulic gradient for the ten (10) year storm event.
  - Estimated receiving water elevation.
  - Pipe diameters.
  - Outlet and other pipe velocities.
- b) Drainage plans including, but not limited to, the following:
  - Cross-section of the detentions facilities.
  - Typical swale or ditch sections.

- Drainage rights-of-way or easements.

- c) Routing calculations for the detention facilities.

2. Lot Grading and Building Pad Elevation

The Lot Grading Plan shall:

- a) Ensure stormwater is discharged from each lot to an approved collection system.
- b) Ensure stormwater is not directed toward the house.
- c) Show the elevation of the finished floor and all property corners.

3. Storm Events

All drainage collection facilities shall be designed for a ten (10) year storm event. Detention facilities shall be designed for a twenty-five (25) year storm event.

4. Off-Site Drainage Areas

Off-site areas that drain to or across a site proposed for development must be accommodated in the stormwater management plans for the development. The stormwater management system for the development must be capable of conveying existing offsite flows through or around the development.

5. Hydraulic Design Criteria

The following criteria must be followed for hydraulic design:

- a) Hydraulic Gradient line shall be no higher than one (1) foot below the gutter line.
- b) Inlets shall be located such that they do not spread over one half (1/2) the width of the travel lane.
- c) Minimum pipe size shall be eighteen (18) inches.
- d) Pipe grade shall be set such that minimum velocity shall be at least two and one half (2.5) feet per second and maximum velocity shall be ten (10) feet per second.



**Figure 9.3-**  
**Method of Determining Cross Slope**

The chief source of information for determining slope is a contour map. The contour map supplies the necessary data for using the following formula to determine the average slope of a parcel of land:

$$S = 0.0023 \times I \times L / A$$

Where **0.0023** is a conversion factor, of square feet to acres, **I** is the contour interval (the distance between adjacent contour lines on the map) in feet, **L** is the total length of the contour lines within the subject parcel, and **A** is the area in acres of the subject parcel.

**Step 1:** Determine **I**, the contour interval, by examining the interval, using the key on the contour map. In this example let's use an interval of five (5) feet. To achieve accuracy within one 1%, the contour interval must be ten (10) feet or less.

**Step 2:** Determine **L**, the total length of the contour lines within the subject area, by tracing each line with a planimeter or similar device, and converting the result to feet. In this example, let's use **L** is one thousand (1,000) feet.

**Step 3:** Determine **A**, area, in acres from the development plans or permit application. In this example let's use, **A** is five (5) acres.

**Step 4:** Determine **S** by using the equation:

**EXAMPLE**

For an example, we will use the following:

Step 1: Contour interval (**I**) is five (5) feet.

Step 2: The total length (**L**) of the contour lines is 1,000 feet.

Step 3: The area (**A**) is five (5) acres.

$$S = 0.0023 \times I \times (L/A) = ?$$

$$S = 0.0023 \times 5 \times (1,000/5) = 2.3 \% \text{ average slope}$$

## **Section 12. Streets**

### **(a) Design Standards**

The design standards for subdivision streets shall meet the minimum construction standards for subdivision roads as required by the NCDOT. The developer shall submit proposed road specifications for the approval of the local DOT office prior to submitting a Preliminary Plat.

#### *Streets*

Streets, rights-of-way, and roadways shall be graded in accordance with the standards and specifications of the NCDOT's Minimum Construction Standards for Subdivision Roads (as revised and/or retitled). Maximum grade of any street shall not exceed 15%.

All roadways shall be improved with a base course to the required width of the NCDOT. All construction and materials shall meet the standards and specifications of the NCDOT. Roadway paving shall be required and shall be consistent with standards as shown in the NCDOT's Minimum Construction Standards for Subdivision Roads.

All roadways shall be improved with a minimum of eight (8) inches of ABC base and two (2) inches of RS 95B asphalt. All material shall meet NCDOT Standard Specifications for Roads and Structures.

All curbs and gutters installed shall be consistent with NCDOT Standard Drawings and NCDOT Standard Specification for Roads and Structures.

All culvert pipe and pipe under drains shall be installed to the standards and specifications of the NCDOT.

### *Cuts and Fills*

Cuts and fills shall have a minimum slope of two (2) feet horizontal to one (1) foot vertical. Where terrain will not permit, a greater slope may be used if the design engineer submits a certification (with appropriate calculations) that the material will support a greater slope. All cuts and fills will have erosion control measures installed consistent with NC Erosion and Sedimentation Control Regulations as published by the North Carolina Department of Environmental and Natural Resources (NCDENR) or DEQ.

### *Benching*

Where the terrain cross grade is 20% or greater, and the fill is higher than ten (10) feet, the fill side shall be benched a minimum width of six (6) feet at the base, with the fill material being well compacted. Neither brush nor stumps shall be placed in the roadbed or the fill.

### *Culverts and Drainage*

Culverts shall be of adequate size to discharge stormwater, from any given area during a ten (10) year storm event, depending on the terrain and location. Minimum culvert size shall be eighteen (18) inches inside diameter and shall be located and installed as recommended by the project engineer or as recommended by the Town of Seven Devils Public Works Department.

Pipe shall be constructed of reinforced concrete, corrugated steel, aluminum, or high-density polyethylene (HDPE) pipe meeting NCDOT specifications. All pipe construction shall be in compliance with NCDOT Standard Specification for Roads and Structures.

All culverts shall have a minimum cover of twelve (12) inches of well-compacted earth. The first six (6) inches of earth surrounding the culvert shall be free of stones larger than two (2) square inches.

### *Bridges*

Bridges shall be constructed to meet NCDOT specifications. The design engineer shall provide confirmation that bridges meet such specifications.

### *Cul-de-sacs*

Turn around right-of-way width shall be seventy (70) feet in diameter for bulb cul-de-sacs. However, if the terrain prevents construction of a bulb cul-de-sac, T and Y types of turnarounds may be constructed. Right-of-way shall be subject to review by the Zoning Administrator.

### *Property Lines*

Property lines may be located along and with the centerline of the proposed road, twenty-five (25) feet from the centerline on each side for roads that are to have a fifty (50) foot right-of-way. If the developer elects to place the property line(s) along the center of the road, he/she shall indicate on all plats and incorporate in all deed conveyances a twenty-five (25) foot road right-of-way measured from the centerline of the road to each side of the road.

Roads that are to have a forty-five (45) foot right-of-way may also have the property line located along and with the centerline of the road, twenty-two and one-half (22.5) feet from the centerline of the road(s), thereby providing a forty-five (45) foot right-of-way.

Property line markers made from iron rod, granite, or concrete monument, shall be placed on the side property lines at a point measured twenty-five (25) feet from the center of the road, where a fifty (50) foot right-of-way is provided and twenty-two and one-half (22.5) feet where a forty-five (45) foot right-of-way is provided.

### *Inspection and Testing*

The contractor shall employ, at his expense, an independent testing agency to assure quality of site preparation, fill placement, footing bottoms, and compaction. All such special inspections shall be coordinated by the contractor so as to avoid delays.

In addition to laboratory testing, all areas shall be proof rolled in the presence of the Town of Seven Devils' engineer or his representative, and any areas that have visible "pumping" action or excessive deflection shall be corrected. Proof rolling shall be performed on both cut and fill areas at final grade and on original ground just prior to filling. The contractor shall provide a fully loaded tandem axle dump truck for proof rolling.

All costs associated with proof rolling shall be at the expense of the contractor.

## **Section 13. Water and Sewer (if sewer is applicable)**

### *(a) Proposed Water and Sewer Systems*

All new subdivisions shall connect to the Town of Seven Devils water system. The Preliminary Plat must be accompanied by satisfactory evidence as to the proposed method and system of sanitary sewage collection and disposal. A letter from the Town of Seven Devils Public Works Director shall also accompany the Preliminary Plat verifying that the Town's system has adequate capacity to accommodate the proposed subdivision. If there is not adequate capacity, the Preliminary Plat shall be accompanied by an agreement providing that additional capacity will be provided prior to the recording of the Final Plat.

Where the proposed system does not contemplate the use of facilities owned and operated by any of the above, the developer shall note on the Preliminary and Final Plat that each lot shall have an individual sewage disposal facility to be approved by the Appalachian

District Health Department (Watauga County) or Toe River Health District (Avery County). The developer shall note further which lot(s) have or have not received prior approval for septic tank use by the Appalachian District Health Department or Toe River Health District.

(b) *Water System*

After the approval of the Preliminary Plat, the developer may submit plans, for review, requesting extension of the Town's water system.

The plans shall be prepared meeting the requirements as contained in Subchapter 18C, Water Supplies, of the North Carolina Administrative Code. The plans will include details as to pavement restoration for any roads disturbed by the water line extensions. All water lines are to be six (6) inch ductile iron pip (DIP) to meet specification Class 50 ANSI A21.51.

After review and approval by the Town Council, an application will be executed for submission by the developer for a permit from the North Carolina Department of Environment and Natural Resources (DENR) or DEQ for extension of the Town's water system.

No construction shall take place until all permits have been obtained.

A public utility contractor licensed in the State of North Carolina shall perform all construction. Prior to construction, there will be a pre-construction conference that includes the design engineer, the contractor, and the Town of Seven Devils Public Works Director. At the pre-construction conference, the contractor shall submit an affidavit from the manufacturer that all pipe, fittings, linings, and other components meet the applicable provisions of AWA Standards. No trenches will be backfilled until the Town has inspected the lines that were installed. All trench backfill shall be placed in eight (8) inch lifts and compacted to 95% of standard proctor. Each lift will be tested for appropriate density by a qualified testing laboratory and test results submitted to the Town of Seven Devils Public Works Director prior to acceptance of the system.

All testing required by DENR or DEQ shall be completed and results submitted to the Town of Seven Devils Public Works Director prior to connection to the Town's system. The design engineer shall also submit a certification that the system was installed in substantial compliance with the approved plans before the connection to the Town's system is permitted.

(c) *Sanitary Sewage*

If the proposed project is to connect to an existing sewage treatment plant, a letter from DENR or DEQ shall accompany the Preliminary Plat verifying that the plant has adequate capacity and the plant will accept flow from the project.

If the proposed project is to connect to a proposed sewage treatment plant, a letter from DENR or DEQ shall accompany the Preliminary Plat stating that they have approved the proposed plant.

After approval of the Preliminary Plat, the developer may submit Construction Plans for the sewage collection system. Said plans shall include details of pavement restoration.

No construction shall take place until all permits have been issued by DENR or DEQ and a copy of said permits submitted to the Zoning Administrator.

A utility contractor licensed in the State of North Carolina shall perform all construction. Prior to construction there will be a pre-construction conference that includes the design engineer, the contractor, and the Town of Seven Devils Public Works Director. All trench backfill shall be placed in eight (8) inch lifts and compacted to 95% of standard proctor. Each lift shall be tested for appropriate density by a qualified testing laboratory and test results submitted to the Zoning Administrator before a Certificate of Completion is issued.

(d) *Fire Protection*

Every subdivision shall provide fire protection to all units. At a minimum, there shall be a fire hydrant located within five hundred (500) feet of every portion of every building on each lot.

The Fire Chief for the Town of Seven Devils shall approve the location of every hydrant meeting the above criteria. Generally, the fire hydrants shall be located within the right-of-way and six (6) feet from the edge of pavement or behind the curb line.

## **Article 10. CONSTRUCTION**

### **Section 1. Purpose**

The purpose of this Article is to establish procedures, standards, and guidelines for construction activity within the Town of Seven Devils in order to promote the health, safety, and welfare of its citizens as well as to promote the peace and dignity of the area. It is further designed to ensure that all construction activity is conducted in a manner that will result in successful completion of the project while minimizing negative impacts upon the residents and property owners within the Town.

### **Section 2. General Provisions**

#### **(a) Provisions**

The provisions of this Article shall apply to all construction activity that takes place within the planning jurisdiction of the Town of Seven Devils.

Construction activity within the Town of Seven Devils shall be limited to the hours between seven (7) o'clock AM and eight (8) o'clock PM, Monday through Saturday. There shall be no construction activity on Sundays or Federal Holidays (see Nuisance Ordinance).

Because of the topography and width of some roads in the Town of Seven Devils, the transportation of equipment or construction materials may block roads within the Town of Seven Devils. Therefore, the Department of Public Safety shall be consulted in advance of each delivery.

#### **(b) Prerequisites for Commencement of Construction**

##### **1. Permits and Fees**

Prior to commencing construction, all plans shall have been approved and all permits obtained from the Town of Seven Devils. The Town of Seven Devils shall be given a copy of any permits that are issued by agencies other than the Town. Upon demonstration of good cause, the Zoning Administrator may authorize site construction to commence on portions of a project before all permits have been obtained.

All applicable permits, including but not limited to a Zoning Permit, shall be obtained prior to the issuance of a building permit. A Zoning Permit shall expire six (6) months after the date of issuance if work authorized by the permit has not commenced. If, after the start of construction, the work is discontinued for a

period of six (6) months, the permit shall expire. No work authorized by any permit that has expired shall be performed until a new permit has been applied for and issued.

Upon issuance of a Zoning Permit, the permit shall remain valid if construction has been initiated as required above and is completed in accordance with the following schedule:

- Exterior construction shall be completed within 24 months after construction begins.
- All buildings and structures shall be completed within 30 months.

For the purposes of this Article, construction completion shall mean that the building or structure has received a final inspection and Certificate of Occupancy from the appropriate authority.

Prior to the issuance of a building permit, all fees and related charges shall be paid. A Single-Family Performance Guarantee Deposit shall be collected from the contractor/homeowner that shall guarantee completion of work related to the project, including but not limited to: grading, drainage, erosion control measures, driveway construction, site plan/improvement completion and landscaping, retaining walls, and any and all other requirements as specified in the Town's Ordinances. It also ensures the repair of damage that may have occurred to roads or water pipes during the process of construction. The deposit shall be in the amount set forth in the Town of Seven Devils Annual Operating Budget Ordinance. The deposit will not be returned until all work is completed. If the work is not completed within 30 months, the Town may make demand on said deposit for the purpose of completing the incomplete work.

To comply with both the state building codes and this Unified Development Ordinance, building permits shall be obtained for a single-family residence by either a contractor who possesses a valid building contractor's license from the State of North Carolina or an individual who owns the lot upon which a single-family residence is to be constructed. If the lot owner obtains the building permit, he or she must act in the capacity of general contractor and must occupy the house for a minimum of one (1) year. See Figure 10.1 for an example of a building permit. The Town reserves the right to accept and require use of a building permit application used by any other entity with which the Town contracts for building inspections.

## 2. Pre-Construction Conference

Prior to commencement of construction, there shall be a pre-construction conference. The Zoning Administrator shall determine whether the conference



shall be held at Town Hall or the construction site. The developer, contractor, Zoning Administrator, Town Engineer, and project engineer, if applicable, shall be present at the conference. The purpose of this conference shall be to:

- Review the site plans to ensure clear understanding of the activities to take place,
- Establish a construction schedule,
- Review sedimentation and erosion control measures,
- Identify trees to be removed and the protective measures to be taken with the remaining trees, and
- Any other construction requirements.

### 3. On-Site Prerequisites

Prior to commencement of new construction or renovation of an existing structure, the developer shall provide a portable toilet that can be used by construction personnel. For a renovation project, this requirement may be waived if proof can be shown that existing operational indoor facilities are available.

Tree preservation shall be consistent with Article 8, Section 10 of the Town of Seven Devils Unified Development Ordinance.

## (c) *Requirements during Construction*

### *Posting of Permits and Plans*

All permits shall be posted on a board that is readily visible and accessible from the road. The permits shall be protected from the elements by a transparent cover.

### *Town Access*

Employees of The Town of Seven Devils and other authorized inspecting entities with whom the Town may contract shall have access to the site at all times. Town inspections and/or inspections by other entities do not relieve the property owner, engineer, architect, or contractor of the obligation to ensure quality construction.

### *Land Disturbing Activities*

Prior to commencing any land disturbing activities, all erosion control devices shall be installed and a graveled access for construction shall be constructed and used by all construction personnel.

Prior to making any open cut of Town roads, the contractor shall have all underground utilities located. The contractor shall also install advance-warning signs consistent with the NCDOT's Manual of Uniform Traffic Control Devices (as revised and/or retitled) and coordinate activities with the Town of Seven Devils Public Safety and Public Works

Departments. One (1) lane of through traffic shall be maintained at all times and the contractor shall have a flagger present until the roadway is open to two (2) way traffic once more. The opening shall be performed by neatly saw-cutting the existing pavement and then excavating to the required depth. The cut shall be performed consistent with the guidelines shown in NCDOT Standard Drawing 654.01. See Figure 10.2 for the drawing.

Any utility installed under a Town street shall be placed within a carrier pipe. After placement of the carrier pipe, the area around the pipe shall be backfilled to a depth of six (6) inches above the crown of the pipe. This backfill shall be compacted to 95% of modified Proctor. The remainder of the trench shall be backfilled and compacted in eight (8) inch lifts to 95% modified Proctor. The top eight (8) inches shall be asphalt binder course Type H or HB and the surface shall be two (2) inches of asphalt, Type I-1 or I-2.

An engineer licensed in the State of North Carolina shall design any retaining walls as required by Watauga County Planning and Inspections and/or the State of NC building code. All areas that are to be graded or have the vegetation removed and that are not covered with a building or gravel must be permanently seeded and mulched prior to receiving a Site Completion Verification and Certificate of Occupancy, unless the builder or owner has made other satisfactory arrangements for landscaping with the Zoning Administrator.

#### *Site Appearance*

- No construction material shall be stored within any public right-of-way unless approved by the Zoning Administrator.
- No construction vehicles or vehicles belonging to construction workers shall be parked on the pavement of any public road unless arranged in advance with the Public Safety Department.
- Only materials and equipment that are to be used to build a portion of the project shall be stored on the construction site. If the construction site is inactive for a period of thirty (30) days or more, all materials shall be neatly stacked and secured from movement by wind, and all equipment shall be removed from the site. Ground areas that are disturbed more than ten (10) feet outside the footprint of the structure shall be temporarily seeded and mulched, graveled, or adequately mulched.

#### *Debris Containment and Clean Up*

Unless the Zoning Administrator approves an alternate method, the developer must provide a debris container with a minimum capacity of eight (8) cubic yards. The debris container will be covered with an appropriate cover at the end of each workday to prevent the debris from being blown or scattered. The debris container must be emptied within two (2) working days after the container is full. A container is considered full when the

debris is level with the topside rail. (Refer to the Nuisance Ordinance for civil penalties that can result from the enforcement of this section of this Ordinance.)

#### *Vehicles and Road Damage*

- No vehicle equipped with tracks shall be permitted to travel on Town streets without the approval of the Town.
- If, in the opinion of the Zoning Administrator or the Public Safety Department, the material tracked on to the road creates a hazard, the developer shall immediately remove the material and take steps to continuously clean the road.
- Vehicles are not allowed to damage roads. Any damage by a developer to a Town street, embankment, shoulder, or pavement during construction shall be repaired to the satisfaction of the Zoning Administrator or his or her designee within seventy-two (72) hours after the developer is notified in writing to make the repairs. If said damage creates a public safety hazard, the Town shall require immediate correction.

#### *E-911 Address Requirement*

Before a Site Improvement Completion Verification and Certificate of Occupancy can be issued, all new construction requiring an E911 address shall have the address posted on the property in a manner conforming to the Town's requirements and the requirements of Watauga County.

Figure 10.1—Sample-Watauga County Building Permit

Tax Parcel No. _____  Owner _____ Mailing Address _____ Job Site Directions _____	<b>BUILDING PERMIT APPLICATION</b> Watauga County Planning & Inspections 331 Queen Street, Suite A, Boone, NC 28607 (828) 265-8043 (828) 265-8080 (fax)	Date _____ Telephone _____
---	--	-------------------------------

Subdivision Name _____	Lot# _____	Acreage _____	Zoning District _____
------------------------	------------	---------------	-----------------------

Is proposed structure near a river/stream? \_\_\_\_\_ If yes, distance from \_\_\_\_\_ Name of river/stream? \_\_\_\_\_

Does driveway cross river/stream? \_\_\_\_\_ Proposed grading (area disturbed) \_\_\_\_\_ Length of Driveway \_\_\_\_\_

Is proposed structure located adjacent to the Blue Ridge Parkway or Park Service land? \_\_\_\_\_

---

General Contractor _____	License No. _____	Telephone _____
Address _____		Cell Phone _____
Contact Person _____	Phone _____	

Electrical Contractor \_\_\_\_\_

Plumbing Contractor \_\_\_\_\_

Heating & Air Contractor \_\_\_\_\_

Gas Contractor \_\_\_\_\_

Grading Contractor \_\_\_\_\_ Telephone \_\_\_\_\_

---

Power Company: ☐ Blue Ridge Electric ☐ New River Light & Power ☐ Mountain Electric

Sewer System: ☐ Septic Permit # \_\_\_\_\_ ☐ Community ☐ Public ☐ Existing (Setbacks Verified)

Water System: ☐ Private Well Permit # \_\_\_\_\_ ☐ Community ☐ Public ☐ Spring ☐ Existing (Setbacks Verified)

---

Permit Type: ☐ Single Family ☐ Duplex ☐ Townhouse ☐ Storage ☐ Garage ☐ Commercial ☐ Other \_\_\_\_\_

Type of Work: ☐ New ☐ Addition ☐ Remodel ☐ Repair ☐ Demolition ☐ Change of Use ☐ Other \_\_\_\_\_

Type of Construction: ☐ Frame ☐ Modular ☐ Log ☐ Timber Frame ☐ Other \_\_\_\_\_

Type of Foundation: \_\_\_\_\_ Type of Siding: \_\_\_\_\_ Type of Heat: \_\_\_\_\_

No. Stories: \_\_\_\_\_ Height of Proposed Structure From Top of Foundation: \_\_\_\_\_

---

No. of Bedrooms: _____	No. of Full Baths: _____	No. of Half Baths: _____
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Heated Sq.Ft. _____	Unheated Sq.Ft. _____	Sketch structure and distances from common property lines. Property lines/corners must be clearly marked in field.
---------------------	-----------------------	--

3rd Floor _____	_____	
2nd Floor _____	_____	
1st Floor _____	_____	
Bsmt. _____	_____	
Garage _____	_____	
Total _____	_____	

Total Estimated Cost: \$ \_\_\_\_\_

☐ Mail Permit ☐ Pickup Permit

The undersigned agrees to conform to all applicable laws of the County of Watauga and the State of North Carolina; and further states all statements made hereon are true.

APPLICANT ☐ Owner ☐ Contractor

OFFICE USE ONLY

<b>FEES:</b> Heated _____ Unheated _____ Postage _____	Recovery Fd _____ Zoning/WS _____ Floodplain _____
<b>TOTAL \$</b> _____ <b>Date Paid</b> _____ <b>WS/Zoning Permit #</b> _____	

If Subdivision lot: I certify that all structures, measured from the eaves, comply with setback requirements found in Section 72.017 of the Ordinance to Govern Subdivisions & Multi-Unit Structures or other applicable ordinances.

Figure 10.2—NCDOT Standard Drawing 654.01-Driveway Repairs

STATE OF NORTH CAROLINA DEPT. OF TRANSPORTATION DIVISION OF HIGHWAYS RALEIGH, N.C.	ENGLISH STANDARD DRAWING FOR PAVEMENT REPAIRS FOR SUPERPAVE MIX TYPES	SHEET 2 OF 2 <b>654.01</b>
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(a) *General Provisions*

The provisions of this Article shall apply to any construction or renovation of single-family homes within the planning jurisdiction of the Town of Seven Devils. The requirements are in addition to those in Section 2 of this Article.

(b) *Requirements*

The following may be required in connection with the construction or renovations of a single-family home:

- Zoning Permit
- Tree Removal Permit
- Grading Plan
- Sedimentation and Erosion Control Measures
- Driveway Permit
- Building Permit
- Plumbing Permit
- Electrical Permit
- Heating/Cooling Permit
- Septic Permit
- Landscape Plan
- Water Tap & Meter Fee

(c) *Site Improvement Completion Verification*

The Town of Seven Devils shall not recommend a Certificate of Occupancy until a Site Improvement Completion Verification has been issued by the Town. Only the Zoning Administrator shall authorize the issuance of said Certificate. Refer to Figure 10.7

**Section 4. Commercial and Multi-Family Construction**

(a) *General Provisions*

The provisions of this Article shall apply to any construction or renovation of commercial or multi-family projects within the planning jurisdiction of the Town of Seven Devils. These requirements are in addition to those in Section 2 of this Article.

(b) *Requirements*

The following may be required in connection with the construction or renovations of commercial or multi-family projects:

- Zoning Permit
- Tree Removal Permit
- Grading Plan
- Sedimentation and Erosion Control Measures
- Driveway Permit
- Building Permit
- Plumbing Permit
- Electrical Permit
- Septic Permit
- Water Tap Fee
- Water System Construction Plans
- Sewer System Construction Permits
- Landscape Plan

(c) *Infrastructure*

A Utility Contractor licensed in the State of North Carolina shall perform any construction of a sewer or water line.

Any water line construction that is to become a part of the Town of Seven Devils' water system and any sewer line construction within public rights-of-way shall be designed by a Registered Professional Engineer and be inspected by the Zoning Administrator or designee.

(d) *Inspection*

The contractor shall notify the Zoning Administrator as to his/her construction schedule and give two (2) working days notice prior to the time that portions of the water line are ready for inspection. No sewer or water lines, valves, hydrants, fittings, etc., shall be backfilled prior to an inspection by the Zoning Administrator or designee.

The Town of Seven Devils' Public Works Department shall test backfill of all pipe trenches for proper compaction. The contractor shall notify the Town of the source of all backfill material so samples may be obtained for testing. All backfill shall be placed in a maximum of eight (8) inch lifts. Tests shall be performed at the spring line of the pipe, one (1) foot above the pipe and at two (2) foot intervals to the top of the trench. Testing shall be



performed for each three hundred (300) lineal feet of pipe and between each of the structures.

Prior to placement of asphalt paving, there will be a walk-through inspection of the base material by the Zoning Administrator or designee. The Town may require a compaction test on the sub-grade and stone base as well as a gradation test on the stone and asphalt mix. Asphalt may be tested for density upon completion of compaction to ensure the density requirements of the NCDOT specifications are met.

The contractor shall submit certifications from all suppliers that all material meets specifications. Certifications shall be for pipe structures, valves, fittings, and asphalt. Certifications shall be required prior to issuance of the Certificate of Completion.

Inspection by the Zoning Administrator or designee does not relieve the project engineer of the responsibility of monitoring construction and submitting a certificate of completion of construction in compliance with approved plans and specifications prior to issuance of a Certificate of Site Improvement Compliance by the Zoning Administrator.

## **Section 5. Driveway Construction**

### **(a) General Provisions**

The Town of Seven Devils is authorized by Section 160A-307 of the North Carolina General Statutes to regulate the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley.

No person may open, construct, alter, or relocate any driveway or access to any lot within the Town of Seven Devils without first obtaining a permit from the Zoning Administrator. In addition to a permit from the Town, a permit will be required from the North Carolina Department of Transportation (NCDOT) if said driveway requires construction within any NCDOT right-of-way. The proposed driveway design must be consistent with this Article together with the proposed pattern of internal circulation.

### **(b) Permit and Fees**

An application for a Driveway Permit shall be filed with the Zoning Administrator on the form shown in Figure 10.3a. Action shall be taken on the application within five (5) working days of receipt of the application. A sketch or plan depicting the configuration of the proposed driveway shall accompany the application with sufficient detail to permit verification that the application complies with the provisions of this Article.

Prior to the issuance of a driveway permit, all fees and related charges shall be paid. The driveway permit shall be valid for six (6) months from the date of issuance. The Zoning Administer may renew the permit one time.

(c) *Standards*

The following standards shall apply to all driveway construction within the Town of Seven Devils:

*Emergency Vehicle Access*

Driveways shall be designed in such a manner to provide safe access to the property by emergency vehicles and those vehicles that will normally be expected to require access to the property.

*NCDOT Drawings Compliance*

Driveways shall be designed and constructed to conform to the detail drawings contained in Figures 10.4, 10.5, and 10.6 as applicable.

*Right-of-Way*

No driveway shall be constructed within thirty (30) feet of the right-of-way line of any street intersecting the street upon which the driveway accesses.

*Fire Hydrant*

No driveway shall be located within ten (10) feet of a fire hydrant.

*Minimum Width*

Minimum width of the driveway shall be ten (10) feet.

*Surface*

The driveway shall be constructed of an all-weather surface such as stone, gravel, concrete, brick or asphalt paving, except that the last twenty-five (25) feet of the driveway to the point of intersection with a Town road shall be either concrete, brick or asphalt paving, or as noted in the site plan as approved by the Town Engineer.

*Culverts*

If the driveway opens onto a Town of Seven Devils road with roadside drainage ditches or swales, the applicant shall install a driveway culvert of sufficient size to accommodate drainage along the roadway. Culverts shall be of adequate size to discharge stormwater, from any given area during a ten (10) year storm event, depending on the terrain and location. Minimum culvert size shall be eighteen (18) inches inside diameter and shall be located and installed as recommended by the project engineer or as recommended by the Town of Seven Devils Public Works Department.

i. Composition

Pipe shall be high-density polyethylene (HDPE) double-wall smooth interior, reinforced concrete pipe, or corrugated metal pipe 14-gauge conforming to AASHTO M-365. All pipe construction shall be in compliance with NCDOT Standard Specification for Roads and Structures (as revised and/or retitled).

ii. Minimize Erosion

All culverts shall be designed and constructed to minimize erosion.

iii. Depth

All culverts shall be installed at a depth consistent with the manufacturer's recommendations.

*Sight Distance*

The driveway shall be located at a point where there is a minimum of one hundred twenty (120) feet of sight distance along the intersecting road in order to ensure safe entry onto the road.

(d) *Adjacent Lot Encroachment*

If the topography or configuration of the lot requires the driveway to encroach upon an adjacent lot, the applicant shall submit concurrence of the adjacent property owner at the time the application is submitted.

(e) *Damage to Town Property*

The applicant shall be responsible for repair of any damage to a Town street, embankment, shoulder, or pavement during construction. Such damage shall be repaired to the satisfaction of the Zoning Administrator or his or her designee with seventy-two (72) hours after the applicant is notified in writing. If said damage creates a public safety hazard, the Town shall require immediate correction.

Figure 10.3a—Driveway Permit

Town of Seven Devils	Driveway Permit
157 Seven Devils Road Seven Devils, NC 28604	Phone: (828) 963-5343
	Permit Number: _____
	Date Issued: _____
Name: _____	Phone Number: _____
Address: _____	
Driveway Location:	
Street: _____ Distance: _____ feet _____ (direction)	
From: _____ (nearest intersecting street)	
<b>Agreement</b>	
<ul style="list-style-type: none"><li>• I, the undersigned property owner, request access and permission to construct driveway on public right of way at the above location.</li><li>• I agree to construct and maintain driveway in absolute conformance with Town of Seven Devils Ordinances.</li><li>• I agree that no signs or objects will be placed on or over the public right of way.</li><li>• I agree that the driveway will be constructed as shown on the sketch on (reverse side)(attached plans).</li><li>• I agree that if any future improvements to the roadway become necessary, the portion of driveway located on public right-of-way will be considered the property of the Town of Seven Devils and I will not be entitled to reimbursement or have any claim for present expenditures for driveway construction.</li><li>• I agree to provide during construction traffic control devices in conformance with the current NCDOT "Manual on Traffic Control Devices for Streets and Highways" (as revised and/or retitled).</li><li>• I agree to indemnify and save harmless the Town of Seven Devils from all damages and claims for damage that may arise by reason of this construction.</li><li>• I agree to post with the Town of Seven Devils a single family building deposit in the amount as described in the Budget Ordinance.</li><li>• I agree to notify the Town of Seven Devils a minimum of 48 hours prior to commencing construction.</li></ul>	
_____ Signature of Property Owner	_____ Date
_____ Approved	_____ Date

**Figure 10.3B—Driveway Permit**

**Proposed Plans**

Draw or sketch below, or attach construction plans for the proposed driveway.

Show:

1. Location of driveway.
2. Detail of work including driveway width, radii, pipes, and grades.
3. Highway features (roadway width, edge of pavement, drainage facilities).
4. Existing and proposed structures (buildings, walls, etc.)
5. Location of nearest intersection street, fire hydrant, property line.

Figure 10.4—Driveway Grades

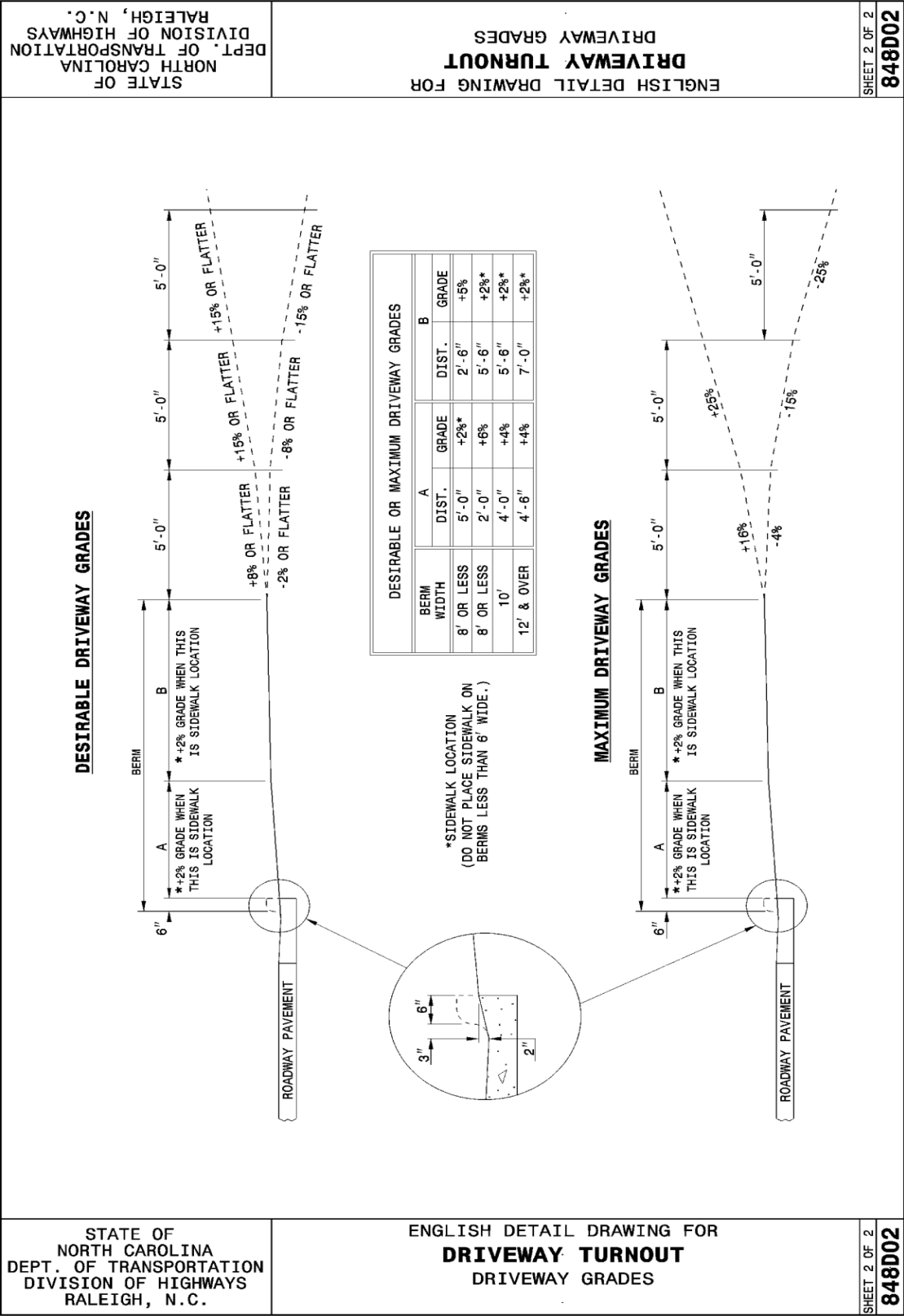


Figure 10.5—NCDOT Driveway Turnout—Radius Type

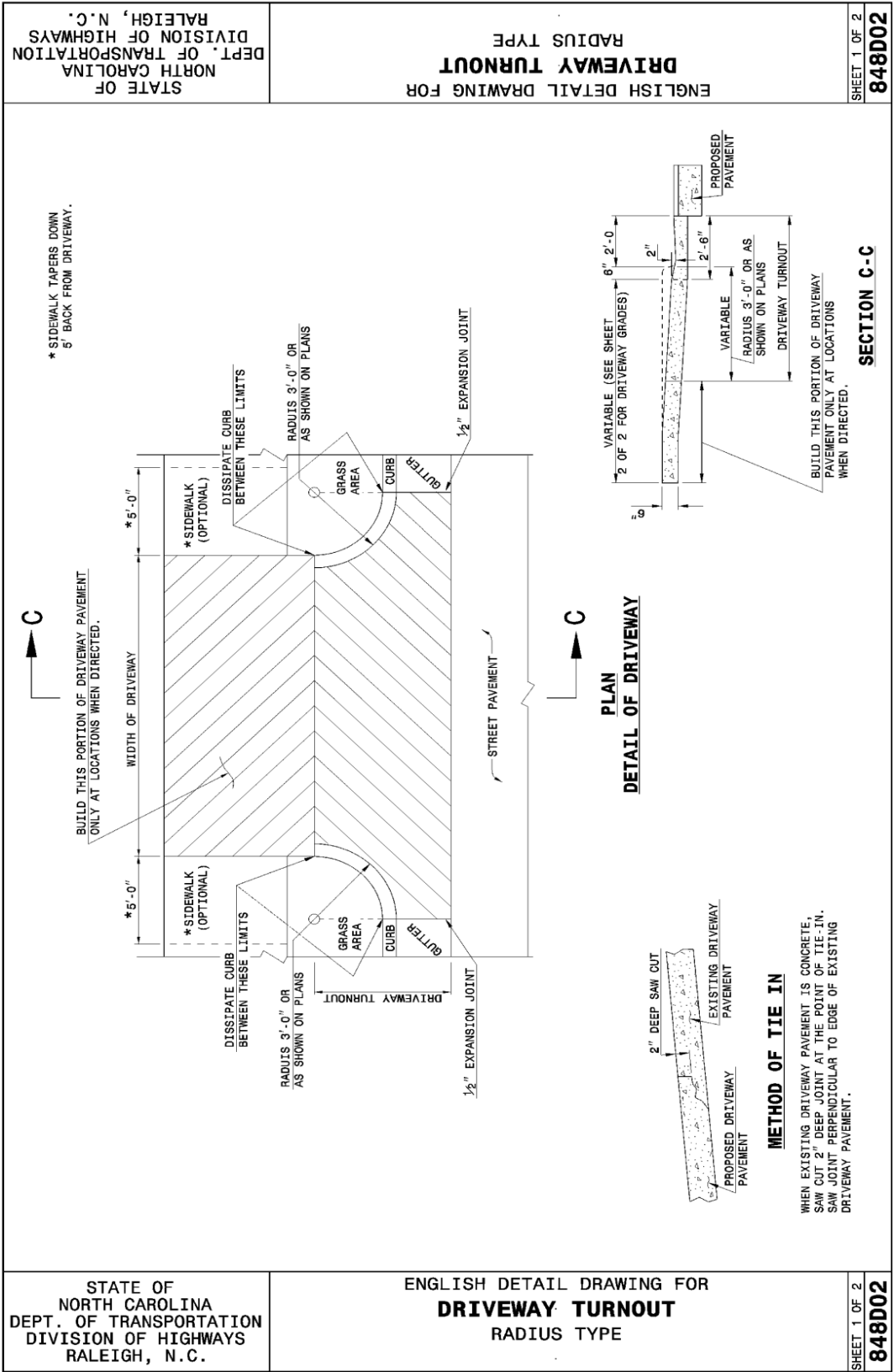
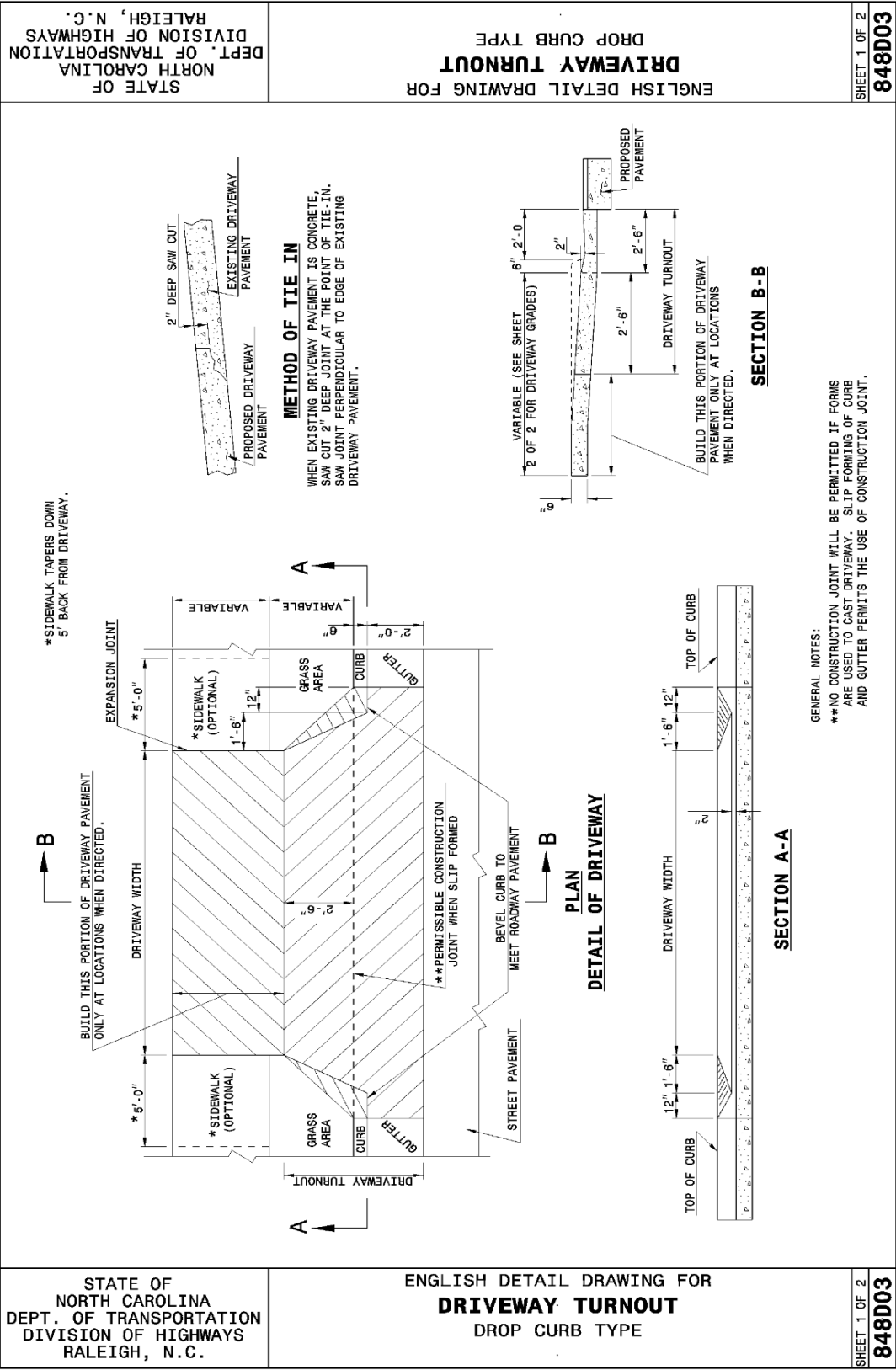


Figure 10.6—Driveway Turnout—Drop Curb Type





## **Section 6. Definitions (Specific to This Article)**

**Certificate of Completion:** A document issued by the Zoning Administrator that certifies subdivision construction has been completed in compliance with the approved plans and specifications.

**Certificate of Occupancy:** A document issued by the Watauga County Planning and Inspections Department certifying compliance with all applicable state and local laws, including all terms of approved permits, and authorizing occupancy of a building or structure.

**Construction Vehicles:** Equipment used for construction activities such as front-end loaders, backhoes, bulldozers, trucks, etc.

**Developer:** An individual, company, or corporation proposing to undertake improvements or construction activity within the Town of Seven Devils.

**Landscape Plan:** A document depicting the layout of trees and shrubs that is prepared consistent with Article 8, Section 3 of the Unified Development Ordinance.

**Single-Family Dwelling Performance Guarantee:** Monetary deposit (amount established by the Town Council and recorded in the Town's Annual Budget Ordinance) required before receiving a letter from the Town to obtain building permit or beginning construction. The purpose of the deposit is to guarantee completion of construction, compliance with the Town's ordinances, and as a deposit for any damages done to Town owned properties such as road damage, water infrastructure, or completing erosion control measures. Additionally, the deposit can be held when site completion cannot be achieved because of seasonal constraints.

**Site Improvement Completion Verification:** A document issued by the Zoning Administrator that certifies site improvement construction has been completed in compliance with all applicable Town ordinances. Obtaining a Site Improvement Completion Verification is a prerequisite to obtaining a Certificate of Occupancy. See Figure 10.7.

**Figure 10.7—Site Improvement Completion Verification**

**Town of Seven Devils  
Site Improvement Completion Verification**

Owner: \_\_\_\_\_

Contractor: \_\_\_\_\_

Location of Property: \_\_\_\_\_

\_\_\_\_\_ has met all of the requirements imposed by the Town of Seven Devils to request a Final Inspection and/or Certificate of Occupancy from Watauga County.

Signature \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_ Zoning Permit Number \_\_\_\_\_

Town Seal:



Form – Site Improvement Completion Form (10/9/09)

## **Section 7. Enforcement**

### **(a) *Violations***

Upon determination that any provision of this Ordinance is being violated, the Zoning Administrator shall deliver written notice to the owner by either personal delivery or registered mail return receipt requested by US Postal Service First Class mail. A copy of the notice shall be delivered to the developer in the same manner. The notice shall specify the corrective action(s) required and the time limits for compliance. If the corrective action has not been taken in a manner acceptable to the Town, a Stop Work Order shall be issued directing that all work cease until deficiencies are corrected.

If the developer continues work after a Stop Work Order has been issued, a penalty will be assessed to the property owner in the amount established by the Town of Seven Devils most current Annual Operating Budget Ordinance per day until the Stop Work Order is lifted. No Certificate of Occupancy shall be issued until all assessed penalties are paid to the satisfaction of the Town. Any act constituting a violation of this Ordinance or a failure to comply with any of its requirements shall also subject the offender to a civil penalty of two-hundred and fifty dollars (\$250), plus the court costs and attorney fees incurred by the Town. The Town, in a civil action in the nature of a debt, may recover the penalty if the offender fails to pay the penalty within ten (10) working days of receiving final written notice of a violation.

This Ordinance may also be enforced by any appropriate, equitable action or proceedings instituted by the Town of Seven Devils that would prevent, restrain, correct, or abate a violation of this Ordinance.

After the offender is in receipt of the final written notice of such violation, each day that any violation continues shall constitute a separate offense for each separate violation for purposes of the penalties and remedies specified in this section.

### **(b) *Appeal of a Decision of the Zoning Administrator***

The person aggrieved by any decision of the Zoning Administrator made in the administration of the provisions of this Article may make an appeal to the Board of Adjustment.

## **Article 11. Sign Regulations**

### **Section 1. Purpose**

It is the purpose of this Article to permit signs of a commercial nature in districts that have appropriate uses and to regulate the size and placement of signs intended to be seen from a public right-of-way in the interest of public safety and general welfare. All signs within the jurisdictional area shall be covered by these regulations and shall be erected, constructed, or maintained in accordance with the provisions of this Article.

### **Section 2. Definitions of particular significance to this Article:**

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Aggregate Signage:** The total surface area of all signs located on a particular tract, not counting incidental signs. For double-sided signs, the area of one (1) side only will count towards calculating the total area.

**Awning Signs:** A sign that is painted, stitched, sewn, or stained onto the exterior of an awning.

**Freestanding Sign:** A pole or monument sign constructed of solid, weatherproof, and non-flexible material that is sufficiently anchored to withstand weather conditions present in the Town of Seven Devils.

**Incidental Sign:** A sign that only provides information for the convenience and necessity of the public such as "entrance," "exit," and the like.

**Monument Sign:** Any sign, other than a pole sign, which is attached directly to the ground by means of one or more upright pillars, braces, or posts and not attached to any other structure.

**Nonconforming Signs:** A sign which was lawfully constructed and erected, but which fails to comply with one or more of the provisions of this Article by virtue of amendment to this Article.

**Obsolete Sign:** A sign identifying a business establishment no longer in existence, products no longer being sold, services no longer being rendered, or events which have already occurred; or a sign advertising a business, product, or service, still in existence but which is no longer in operation or available at the location where the sign is located; A sign that has become dilapidated.

**Off-Site Sign:** Any sign, regardless of size or shape, which directs attention to a business, commodity, attraction, profession, service or event conducted, sold offered, manufactured, existing, or provided at a location other than the premises where the sign is located or to which it is affixed.

**Permitted Sign:** Signs authorized for use in Town adhering to the guidelines contained within this Article.

**Principle Use Sign:** The primary sign on a piece of property that identifies the business or use on the given piece of property.

**Unified Business Establishment:** A business establishment consisting of two (2) or more businesses in one building or in connecting buildings.

*Note:* NC State Regulations: North Carolina Administrative Code, 19A Section 2E.0415 states it is unlawful to place advertising signs in the road right-of-way. NC General Statutes 136-18, Section 9 discusses the powers to regulate activities in the road right-of-way. NC GS 136-134 addresses “illegal advertising” in the road right-of-way. All signs placed on state road rights-of-way must comply with the NC State Regulations and the Town of Seven Devils Unified Development Ordinance, whichever is most restrictive.

### **Section 3. Permitting and Construction**

All permitted signs must show a permit that indicates a fee has been paid; permits are issued by the Zoning Administrator or his/her designee; all permitted signs must be at least ten (10) feet from the roadway on Town streets and must be off the state road rights-of-way on state roads, in compliance with NC State Regulations. Permits shall be applied for and received before erecting, placing, rebuilding, reconstruction, or moving a sign except those signs exempt from the sign regulations. Every application shall be accompanied by plans drawn to scale and including:

- a. Dimensions of the sign.
- b. Dimensions of the sign supporting members.
- c. Maximum and minimum height of the sign.
- d. Proposed location of the sign in relation to the building and/or physical surroundings.

### **Section 4. Prohibited Signs**

The following signs are prohibited in the Town of Seven Devils:

(a) *Traffic Safety*

Any sign that:

1. Obstructs the sight distance along a public right-of-way or at intersections or is placed within ten (10) feet of the roadway.
2. Would tend by its location, color, or nature to be confused with or obstruct the view of traffic signs or signals or would tend to be confused with a flashing light of an emergency vehicle.

3. Uses admonitions such as “stop”, “go”, “slow”, “danger” and the like which might be confused with traffic directional signals.

Pavement markings of any kind other than for traffic control are prohibited.

(b) *Illumination*

1. Flashing or intermittent illumination is prohibited on any advertising sign or structure.
2. Illumination devices such as, but not limited to, flood or spotlights shall be so placed and so shielded as to prevent the rays of illumination from being cast on neighboring buildings or vehicles approaching from either direction.

(c) *Other Prohibited Signs*

The following signs are also prohibited:

1. Sign devices consisting of balloons, blimps, or similar types of lighter than air objects.
2. Animated, rotating, or moving signs.
3. Signs which contain obscene words or words and pictures which offend the public.
4. Commercial identification or advertising signs on public utility poles, telephone poles, trees, parking meter poles, fences, benches, and refuse containers.
5. Billboards.
6. Banners and other non-rigid signs attached to or hung from buildings in the LDR, MDR, and HDR Zoning Districts.
7. Off-site signs except as described in Section 6, Temporary Signs.
8. Any other sign that does not comply with the regulations of this ordinance.

**Section 5. Permitted Signs**

(a) *Principle Use Signs*

The following regulations apply to principal use signs:

1. Each principal use sign shall require a permit.
2. Principal use signs may be illuminated.
3. Freestanding signs shall be limited to one (1) per lot and may not be located in any required side yard, or within ten (10) feet of a side property line.

4. Freestanding signs shall not exceed twenty (20) feet in height, nor have a horizontal length of more than ten (10) feet, and do not exceed thirty-two (32) square feet in area per display surface.
5. Principal use signs must be placed in a landscaped area that is at least three (3) feet in width and at least the length of the greatest dimension of the sign. Curbing, railroad ties, bricks, fencing, and/or other suitable vehicular barrier shall enclose the landscape area.
6. All principal use signs, support structures and required landscaping areas shall be at least one (1) foot from any right- of-way or easement.
7. The area of a sign shall be measured according to the following rules as applicable:
  - (a) In the case of freestanding signs, the supporting structure or bracing of a sign shall not be counted as a part of the sign area unless such structure or bracing is made part of the sign's message. Where a sign has two (2) display faces back to back, the area of only one face shall be considered as the sign area. When a sign has more than one display face, all areas that can be viewed simultaneously shall be considered the sign area.
  - (b) In the case of a sign, other than freestanding, whose message is fabricated together with the background which borders or frames that message, the sign area shall be the total area of the entire background.
8. No freestanding sign shall be placed less than forty (40) feet from another freestanding sign.

(b) *Real Estate Signs*

Signs advertising the sale, rental or lease of the premises on which the sign is located (including For Sale By Owner signs), provided such signs do not exceed one (1) sign per street frontage, and do not exceed four (4) square feet in area per display surface for a residential premise. Permits for real estate signs must be obtained before display of the signs.

1. Subdivision signs- Subdivision signs advertising the sale of lots or buildings within new subdivisions on which they are located are permitted provided they meet the following conditions:
  - (a) Are non-illuminated or indirectly illuminated.
  - (b) Do not exceed thirty-two (32) square feet in the general business zoning district and nine (9) square feet in all other districts.
2. Not more than one (1) such sign may be erected at each major entrance to the subdivision.

3. All requirements applicable to principal structures with respect to yard, setback, and height requirements are met.

For properties in excess of one (1) acre, signs shall not exceed nine (9) square feet of aggregate signage, except in the general business-zoning district, signs shall not exceed thirty-two (32) square feet. Signs are to be located a minimum of ten (10) feet off the roadway.

(c) *Incidental Signs*

Signs that only provide information for the convenience and necessity of the public such as “entrance”, “exit”, and the like are permitted in addition to a principal use sign. Incidental signs can only be used in conjunction with a principal use sign, shall not exceed three (3) square feet in area per display surface, and may be internally illuminated only.

(d) *Off-Site Subdivision Signs*

Signs providing directions to a subdivision that is located off the property shall not exceed three (3) square feet.

(e) *Awning Signs*

Awning signs shall not exceed sixteen (16) square feet in area. No additional signage shall be attached to the awning or its support structure.

(f) *Signs Permitted in the Residential Districts (LDR, MDR & SC)*

1. Real Estate Signs
2. On-Site Subdivision Signs
3. Any sign not requiring a permit.

(g) *Signs Permitted in the High Density Residential District (HDR)*

1. Principal Use Signs:
  - a. Monument only: one-half (1/2) the height and size requirement for General Business.
2. Incidental Signs
3. Real Estate Signs
4. Off-Site Subdivision Signs
5. Awning Signs
6. Any sign not requiring a permit



(h) *Signs Permitted in the General Business District (GB) and the Recreational Business District (RB)*

1. Principal Use Signs
2. Incidental Signs
3. Real Estate Signs
4. Off-Site Subdivision Signs
5. Awning Signs
6. Any sign not requiring a permit.
7. In addition to the signs listed above, the following sign regulations for unified business establishments shall also apply:

- a) Directory Signs - A unified business shall be permitted a directory sign which announces the name of the commercial center and/or establishments within. Directory signs may be attached or freestanding and shall conform to the area requirements as follows:

The permitted area of an attached directory sign shall not exceed the greater of twenty (20) square feet or one-half (1/2) square foot per linear foot of total frontage of the building to a maximum of forty-eight (48) square feet. Freestanding directory signs shall not exceed forty-eight (48) square feet in area and ten (10) in height.

- b) Signs for individual tenants within unified business establishments-

Businesses within unified business establishments are permitted attached or awning signs. These signs shall not exceed forty (40) square feet. Each side of the business establishment may contain one sign each.

**Section 6. Temporary Signs**

(a) *Conformity*

Temporary signs, such as at grand openings, open houses, or special events, may be permitted for not more than seventy-two (72) consecutive hours. The signs must conform to all regulations of this Ordinance.

(b) *Mobile Signs*

Signs mounted on a mobile framework, trailer, or other movable apparatus other than vehicles used for transporting are prohibited on a permanent basis. Such mobile signs are allowed on a temporary basis at grand openings, open houses, or special events for a total

of thirty (30) days in a calendar year and not to exceed ten (10) calendar days in any one period.

#### **Section 7. Signs Not Requiring a Permit**

The following types of signs are allowed in any district without a permit and must be placed a minimum of ten (10) feet off the roadway:

1. Occupant and house number as per 911 guidelines.
2. Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal devices, or warnings.
3. City directory and welcome signs approved by the Zoning Administrator. Such signs may have affixed to them names and/or emblems of civic groups and a place of worship.
4. Publicly-owned memorial tablets or signs.
5. Construction signs- During the construction, repair, or alteration of a structure, temporary signs which denote builder, or other participants in the project, or which denote the name of the structure and its occupants-to-be may be placed within the required yard setbacks as ground, wall, or roof signs. The total area of such signs shall not exceed thirty-two (32) square feet.
6. No trespassing signs or warning signs
7. Election signs no more than three (3) square feet in surface area. They may be displayed no earlier than thirty (30) days before an election; they must be removed seven (7) days after the same election.
8. Street names and traffic control signs erected by state, county, or municipal authority.

#### **Section 8. Sign Maintenance**

Whenever a sign becomes structurally unsafe or endangers building or public safety, the Zoning Administrator shall order the sign be made safe or removed. A period of ten (10) calendar days following receipt of the order by the person, firm, or corporation owning or using the sign shall be allowed for compliance.

##### **(a) Proper Working Order**

Signs that are broken, vandalized, torn, rotten, faded or otherwise become unsightly or fall into a state of disrepair shall be improved, removed, or replaced within ten (10) calendar days following notification of the violation.

##### **(b) Abandoned Signs**

Signs meeting the definition of obsolete or dilapidated shall be classified as abandoned and must be removed within thirty (30) calendar days of notification by the Zoning Administrator.

***Section 9. Pre-Existing Nonconforming Signs***

Nonconforming signs erected before the establishment of this Ordinance shall be allowed to remain unless damaged to the extent that repairs to the sign shall be equal to 100% of the original sign cost or the sign is rendered unsafe.

1. Signs requiring repair exceeding 100% of the original cost or which have been rendered unsafe may only be repaired or replaced in conformity with this Article.
2. Routine maintenance required to keep the sign in a safe condition shall be allowed.
3. Pre-existing nonconforming signs classified as abandoned shall not be allowed to remain.

***Section 10. Enforcement***

The provisions of this Article of the Unified Development Ordinance shall be enforceable through the issuance of a citation by the Zoning Administrator and immediate removal of said signs by the Zoning Administrator or his/her designee until a valid permit is obtained and fine is paid.

Citations are in the form of a civil penalty and are separate offenses for each sign violation at a specific property. Each day the violation occurs constitutes a new violation. After the first warning of a violation by telephone and/or letter, additional violations will result in a fine of not less than \$100 per day per sign that the offence occurs.

**Article 12. MANUFACTURED (MOBILE HOME – HUD CERTIFIED) HOME COMMUNITY STANDARDS**

***Section 1. General***

Manufactured Home Communities shall only be developed within the General Business Zoning Districts. All manufactured homes in the Town of Seven Devils shall be located in a permitted Manufactured Home Community.

Prior to the construction of a manufactured home community the developer/owner shall make application and receive approval from the Town of Seven Devils Zoning Administrator.

***Section 2. Zoning Permit***

***(a) Information or Conditions***

The Developer/owner shall submit an application for a zoning permit, accompanied by a preliminary site plan to the Zoning Administrator for review by the Planning Board.

**The following information or conditions shall be included on the preliminary site plan submitted to the Zoning Administrator:**

1. The Park name and names, addresses & phone numbers of owner or owners, the professional land surveyor, date, scale, and North arrow.
2. Boundaries of the tract shown with bearings and distances.
3. Site plan showing:
  - a. Street names approved by the Town of Seven Devils Public Safety Committee
  - b. Traffic circulation
  - c. Off-street parking pads
  - d. Open space or recreation areas.
  - e. Buffers location, width, and type of screening option.
  - f. Street Yards
  - g. Wooded areas, marshes, streams, and any natural features
  - h. Easements
  - i. Manufactured home spaces and setbacks

- j. All structures to be located on the park site
- k. Total acreage of the park and number of spaces

**In addition to the information stated above the following should be included on the preliminary site plan:**

- a. If a street intersects with a State Highway, the developer/owner shall provide an approved driveway permit required by the North Carolina Department of Transportation
- b. Linear feet of each street
- c. Engineered Stormwater Drainage Plan
- d. The existing and proposed utility system for:
  - i. Surface water drainage
  - ii. Streetlights
  - iii. Water supply and approval of connections
  - iv. Sewage disposal facilities.

**Section 3. General Requirements**

1. All homes may be classified as “doublewide” or “singlewide” when relocated into the manufactured home community.
2. All units within a manufactured home community must be constructed to HUD standards and contain the appropriate seals to verify this fact.
3. Each manufactured home shall be set up and installed in accordance with the State of North Carolina regulation for installation of manufactured homes adopted and published by the North Carolina Department of Insurance.
4. Only one (1) manufactured home shall be parked on any manufactured home space at one time.
5. The tongue and undercarriage chassis of each manufactured home shall be removed subsequent to final placement.
6. Each manufactured home’s foundation shall be fully enclosed with vinyl or masonry materials and landscaped in accordance with Article 8.
7. A manufactured home community shall have one (1) sign designating the community.
8. The manufactured home community may have a manufactured home as a designated office.

9. The manufactured home community owner/operator shall provide an addressing system consistent with E 911 standards.
10. The owner shall install and maintain mailboxes in good condition for postal delivery service for each resident.

**Section 4. Manufactured Home Requirements**

1. One (1) Accessory Use is permitted per space:
  - a. Shall not exceed 120 square feet in size
  - b. Shall be compatible to the principal dwelling in terms of exterior building material and color
2. Carports of prefabricated material and without any foundation or footings may be installed for temporary use by the manufactured home occupant.
3. Separation of Manufactured Homes
  - a. The manufactured home, including decks and porches, and any accessory structures shall be located not less than twenty (20) feet from the park boundary line.
  - b. Each manufactured home, including decks and porches, shall be located not less than twenty (20) feet from any other manufactured homes.
  - c. Accessory structures, as described in Table 6.1, shall be located not less than ten (10) feet from a manufactured home or principle building unless authorized by the Town of Seven Devils Fire Department.
4. There shall be front and rear steps, approved by the building inspector, for each manufactured home. If a resident elects to have a deck, the home will be required to have steps until the deck is completed.

**Section 5. Manufactured Home Space Requirements**

1. Each manufactured home space shall have a permanent site number sign that is clearly visible from the street and located on each power panel box serving the home.
2. Each manufactured home space shall have proper drainage to prevent accumulation of water.
3. Each manufactured home space shall have a solid ground surface where the home will be placed.
4. Each manufactured home shall be located at least twenty (20) feet from any other building within the rental community excluding accessory buildings to individual manufactured

homes. Each home shall be at least twenty (20) feet from any property line or right-of-way. Each home shall be set back at least ten (10) feet from any street within the community. No structure or fence may be placed in the open area between the rear of the units.

5. There shall be an open area of not less than 15% of the total property area within the rental community provided by the owner and designated for recreational purposes.
6. There shall be space for off-street parking of two (2) passenger cars at each home. Said spaces shall be located a minimum of four (4) feet from any unit.

#### **Section 6. Streets**

1. Streets within the manufactured home community shall be a minimum width of eighteen (18) feet and have a minimum easement width of twenty-five (25) feet.
2. Traffic control signs (i.e., stop, yield and speed signs) shall be placed throughout the community, where necessary, as specified by the Town of Seven Devils Department of Public Safety.
3. Each street shall have an identifying, permanent sign installed with a designated name, approved by the Town of Seven Devils Department of Public Safety.
4. Streets and parking areas shall be maintained by the operator/manager of the community.
5. Street lighting shall be maintained throughout the community.

#### **Section 7. Solid Waste Containers**

Bulk solid waste storage containers shall be provided on site. There shall be a minimum of one (1) ten (10) cubic yard container for every twenty (20) residential units. These containers shall be distributed around the community as per the recommendation of the Zoning Administrator and screened in accordance with Town ordinances (Note: See Article 8, Section 4 of this Ordinance). The operator or manager of the community shall see that a private solid waste disposal service is provided to the residents of the community on a weekly basis.

#### **Section 8. Grounds and Buildings**

1. All recreational areas provided by the owner for the manufactured home community shall be maintained in a safe and sanitary manner by the operator/manager.
2. In order to control erosion, all land areas shall be protected by landscape material and vegetative ground cover.
3. The manufactured home community shall provide buffer yards and screening in accordance with Article 8, Section 4.

## **Article 13. GRADING, DRAINAGE, AND STORMWATER MANAGEMENT**

### ***Section 1. Purpose and Objectives***

To preserve the Town of Seven Devils' unique visual character and to address safety and environmental issues as well as aesthetic considerations relating to the cutting, grading, and filling of land. This article sets forth standards for the development and implementation of designs for the establishment of stormwater management plans to minimize the potential for flooding, soil erosion, and other undesirable impacts upon adjacent properties and other properties downstream from the project being proposed.

To establish procedures designed to promote the protection of the Town's hillsides, vegetation and streams during the grading and filling of land and to prevent unnecessary negative impacts resulting from the grading and filling process. To promote sound environmental design which adapts development to the parcel rather than altering the parcel to fulfill the purpose of this Article:

1. To protect life and property from all potentially hazardous conditions particular to hillsides such as rock falls, stormwater runoff and mass movements.
2. To preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, such as streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations and trees.
3. To encourage innovative design and planning in order that the development adapts to the natural terrain and is harmonious with the character of the area.
4. To minimize grading and cut and fill operations in order to retain the natural character of the hillside.
5. To minimize erosion problems incurred by the development on and off the lot.
6. To preserve perennial, intermittent, and ephemeral streams, ponds and associated riparian vegetation.
7. To require the retention of trees and other vegetation which stabilizes steep hillsides, retains moisture, prevents erosion, and enhances the natural scenic beauty.
8. To minimize flooding and stormwater runoff related property damage, nuisance, and hazards.
9. To prevent stream bank and channel degradation by accelerated erosion caused by increased velocity of stormwater runoff.
10. To reduce water quality degradation caused by erosion, sedimentation, and non-point source pollution.



## **Section 2. Permits Required**

No person shall undertake any land disturbing activity within the Town of Seven Devils and its jurisdictions without obtaining a grading permit from the Town of Seven Devils Zoning Administrator except that no permit shall be required for land disturbing activities undertaken by the fire department in the course of fighting fires.

### **(a) Fees**

Fees for permits may be established or amended by the Town Council as reflected in the Annual Operating Budget Ordinance.

### **(b) Valid Period**

All grading permits shall be valid for one year from the date the permit is issued provided that the conditions of its approval have not changed. Any land disturbing activity that is not completed within one year of the date the permit was issued for that land-disturbing activity shall be required to reapply for an additional grading permit

### **(c) Procedure**

1. It shall be the responsibility of the property owner, developer, or his agent to apply for any grading permit as required by this ordinance on a form furnished by the Zoning Administrator. No grading permit shall be issued for land disturbing activity until a Zoning, Septic System, Tree Removal, Erosion Control, Driveway, and Building Permits have been issued.
2. Three (3) copies of the grading, drainage and erosion control plans shall be submitted to the Zoning Administrator with a completed application form and required fee. A valid permit from the governmental agency governing on-site septic systems shall be furnished to the Town of Seven Devils Zoning Administrator prior to issuing a building permit or any other permit that would allow a ground disturbing activity to begin. The location of the septic tank, drain field and repair area shall be staked, flagged, and shown on the grading plan. Prior to accepting the application, the Zoning Administrator shall verify that all the required elements of the plan are present. If the required components are not present the application will not be accepted until all components are present.
3. The Zoning Administrator shall review the plans for compliance with the requirements of this ordinance. If the plans are not in conformance with the provisions of this article the applicant shall be advised in writing of the items that require correction. If after the second submission the plans are still not in conformance an additional review fee will be required. When the plans are found to be in compliance with the provisions of this article and other requirements of

the Ordinance are met, a grading permit shall be issued. The applicant may appeal the decision of the Zoning Administrator to the Seven Devils Board of Adjustment as provided in Article 17.

4. Any project that requires an erosion control plan by the County or State of North Carolina must obtain an approved erosion control plan and submit a copy to the Zoning Administrator prior to receiving a grading permit. Projects located within Watauga or Avery County may obtain the permit through the Watauga Planning and Inspections Department.
5. Amendment of grading plan. Application for amendment of a grading plan in written and graphic form may be made at any time by filing such documents with the Zoning Administrator. It shall be unlawful for the permit holder to deviate from the grading plan as approved until any amendment is approved by the Zoning Administrator. In cases of any proposed amendment to a grading plan for any project, any approved Sedimentation and Erosion Control plan must be also amended and approved by the proper agency.
6. Stop Orders. Whenever grading activity is being undertaken in a manner that is in violation of this ordinance, the Town of Seven Devils Zoning Administrator may order the work that is in violation to be immediately stopped. The stop order shall be in writing and directed to the person responsible for the violations, and shall state the specific work to be stopped, the specific reasons for stoppage, and the conditions under which the work may be resumed. Appeals from a stop work order shall be made as prescribed in Article 17 of this ordinance. Pending the ruling on the appeal, no further work may take place.

### **Section 3. Grading Plan**

A grading plan that is not well adapted to the existing topography may result in costly grading, building foundations, and utility installation. The developed property will often present a forced appearance that relates poorly to existing topography, natural features, and to adjacent properties. Therefore, the grading plan is an integral part of the lot development process and in many instances should be the determining factor for layout.

#### **(a) *Grading Plan Required***

No person shall undertake any land disturbing activity within the Town of Seven Devils or its jurisdiction, without first obtaining a grading permit by submitting a grading plan to the Town of Seven Devils Zoning Administrator for review and approval. Grading plan review and approval is necessary before the issuance of a grading permit. Applicant shall submit three (3) copies of the plan at a scale not smaller than 1 inch = 100 feet clearly showing all required information at a scale of 1 inch = 20 feet or larger.

Plans submitted for issuance of grading permits shall include detailed plans, specifications, and supporting calculations for the construction of stormwater

management system. The placement of drainage facilities shall be in accordance with Section 4(a)2, drainage, and stormwater management design standards.

Grading plans shall contain sufficient information as specified in, but not limited to the topographic survey and grading plan format, to allow the Zoning Administrator to determine if the requirements and intent of this ordinance as applied to the proposed development have been met.

#### *Topographic Survey*

This plan includes detailed information of parcel features prior to development. In addition to showing physical features such as existing buildings, overhead and/or underground utilities, roadways, walks, water, or drainage features the plan also shows the location of existing vegetation, particularly significant trees and historic trees and limits of vegetation if the lot is partially wooded. Survey information can be provided through submittal of the topographical survey, which would typically be required to execute the grading and utilities plans (minimum 5' contours).

It is important to acquire the following survey data for proper execution of the Grading/Drainage/Erosion Control Plan:

- a. Boundary information (metes and bounds, legal description of the site if available). Also show existing and proposed street rights-of-way.
- b. Location of existing curbing, walks, grass, utility or planting strips, edge of pavement, roadway medians, if any, and their respective grades, widths, and alignments.
- c. Location size and depths of all underground utilities including gas, electric, water, sanitary sewer, storm drainage features, television cable. Also, location and approximate height above existing grade of overhead utility lines and poles.
- d. Location and description of all recorded public or private utility easements, building setbacks, and drainage easements encumbering the parcel.
- e. Location of all natural features such as rock outcroppings, watersheds, streams, ponds, etc. on the lot or within 100 feet of the graded area. This information conveys the impact of the proposed development on the parcel.
- f. Show existing structures such as buildings, retaining walls, fences, building foundations, underground storage tanks, etc. Also, show or indicate the existence of any wells or septic fields within 100 feet of the graded area. Reference the setbacks of other buildings on adjacent properties and adjacent property lines.

### *Grading Plan Format*

The grading plan shall show the existing and proposed shape of earth and surfaced areas. The method of portrayal should be well thought out and systematized. The following information shall be included in all grading plans submitted to the Town of Seven Devils for approval:

- a. Show grades at corners of buildings, step landings, and first-floor elevations.
- b. Show finished grades at the edges of surfaced areas and at such interior points as necessary to show the shaping of the area. Use a combination of proposed contours and spot evaluations to convey this information.
- c. Show proposed roadway elevations by proposed contours and spot elevations where necessary. Depend on profiles, cross sections, and spot elevations to establish the grading of paved areas such as roadways.
- d. Show top-of-curb grades at all connecting walks, curb returns, and all catch-basin locations.
- e. Show spot elevations along swale lines, using arrows to show direction of flow. Show slope gradients.
- f. Show top and invert elevation of all storm- and sanitary-sewer manholes and other appurtenances.
- g. Lawn and earth grades can be shown by proposed contours and by spot elevations where necessary.
- h. Existing contours are usually shown by broken lines; proposed finished contours by solid lines over surfaced lawn and earth areas.
- i. Show the proposed location of stockpiled topsoil for future use in landscaped areas. This should be located outside the root zones of significant vegetation to be preserved to avoid root compaction.
- j. Reference the storage locations of construction materials outside the root zones of significant vegetation to be preserved to avoid root compaction.
- k. Show the location of existing significant vegetation such as specimen trees or the canopy limits of wooded areas intended for preservation
- l. Show measures being used to protect historic trees and significant trees being preserved.
- m. Note the elevations of any flood plains located on a parcel, or directly affecting a parcel (i.e., drainage, sediment, and erosion control considerations and/or watershed protection).

(b) *Grading Standards*

*Land Disturbing Activity*

Any land disturbing activity whose design requires the grading of slopes, shall meet the following specific standards.

- a. All naturally vegetated and structurally graded slopes and fills that are not retained by walls shall be limited to a 2 (horizontal): 1 (vertical) grade.
- b. Any graded or fill slope which exceeds a maximum 2 (horizontal): 1 (vertical) grade or retaining wall in excess of four (4) feet high shall be designed by an engineer registered in the State of North Carolina. In addition to the plans the engineer shall submit backup calculations supporting his design. The Zoning Administrator may require slope cuts that involve rock formations be certified by a registered geologist.

Upon completion of construction, all retaining structures exceeding four (4) feet in height and any slope that exceeds 2 (horizontal): 1 (vertical) shall be certified by a licensed professional engineer, to have been built in accordance with the approved plan. Such certification shall be submitted to both the Zoning Administrator and building inspector, if different.

- c. Any graded or fill slope which exceeds a 3 (horizontal): 1 (vertical) grade shall be terraced at twenty (20) feet vertical intervals. Slopes graded between 2 (horizontal): 1 (vertical) and 3 (horizontal): 1 (vertical) shall have a minimum bench width of five (5) feet. Slopes steeper than 2 (horizontal): 1 (vertical) shall have a minimum bench width of five (5) feet, and may be required to have wider benches upon staff review of grading plan.
- d. Any graded slope with a vertical height of six (6) feet or more and which exceeds a 2 (horizontal): 1 (vertical) grade shall be grade staked before grading process begins. The Town of Seven Devils Zoning Administrator shall be notified immediately after slope has been staked and prior to grading.
- e. Maximum slopes proposed within any buffer area on site shall be established at a 3 (horizontal): 1 (vertical) gradient, tying into existing grades along the perimeter or property line of the site.
- f. Field stakes, sufficient to delineate property boundary, shall be in place at the time the grading plan is submitted for review.
- g. Generally, the parcel shall be graded to direct any stormwater runoff away from or around any structures. If it is necessary to grade a driveway toward a structure, a swale shall be constructed at the entrance to direct stormwater away for the building.

- h. There shall be no land disturbance within 50 feet from the top of the bank of a water course, drainage way, channel or stream unless a waiver to the 50-ft. buffer is granted by the North Carolina Division of Water Quality (NCDWQ) and the North Carolina Department of Environment and Natural Resources (NCDENR) or DEQ. A copy of the waiver must be provided to the Town.

*Construction Sequence*

- a. A Construction sequence outlining the timetable for completion for each phase of site grading work shall be submitted in conjunction with the grading plan to the Zoning Administrator for review and approval.
- b. Where practical, construction of all slopes and retaining structures shall be completed and approved by inspection and certification prior to initiating any approved building construction. Practicality shall be determined on a case specific basis by the Zoning Administrator.

**Section 4. Drainage and Stormwater Management.**

*(a) Drainage and Stormwater Management Required.*

1. Objectives

In order to reduce drainage related damage and hazards, adequate drainage systems or stormwater management installations are required to collect and transmit stormwater flows into either existing Town drainage facilities or a natural drainage system.

The specific objectives of this requirement include but are not limited to:

- a. The prevention and abatement of flooding and runoff related property damage, nuisances, and hazards;
- b. The prevention of stream bank and channel degradation by accelerated erosion caused by increased velocity of runoff; and
- c. The reduction of water quality degradation caused by erosion, sedimentation, and non-point source pollution.

2. Design

Site plans submitted for issuance of Zoning Permits shall include detailed plans, and supporting calculations for the construction of stormwater management installations. The design of drainage facilities shall be in accordance with Section 4(b), Drainage and Stormwater Management Design Standards. (Reference to private drives)

3. Construction

Stormwater management facilities shall be constructed in accordance with approved plans and maintained in proper working condition. Inspections which may be performed by the Town of Seven Devils during construction will not relieve the developer of his responsibility to install drainage facilities in accordance with the approved plan. Revisions which affect the intent of the design or the capacity of the system shall require prior written approval of the Town.

(b) *Drainage and Stormwater Management Design Standards*

These Standards are established for the purpose of promoting sound development practices which respect, preserve and enhance the Town's watercourses and are not intended to prohibit the use of innovative and alternative techniques which can be demonstrated to have the potential for successfully achieving the objectives stated in Section 4(a)1.

1. General

To the extent practicable, all development shall conform to the natural contours of the land and pre-existing man-made and natural drainage ways shall remain undisturbed.

To the extent practicable, all stormwater management installations shall be designed, constructed, and maintained to:

- a. Avoid increases in the rate of surface runoff and velocity by including measures, which promote the infiltration of stormwater
- b. Maximize the time of concentration of stormwater runoff; and
- c. Promote the filtration and precipitation of pollutants from stormwater runoff in order to protect the water quality of the receiving stream.

2. Design Storm

- a. The minimum design capacity for all storm drainage facilities shall be the 10-year discharge. The design capacity for cross-drainage facilities in public streets shall be the 25-year discharge
- b. The design of drainage facilities in flood hazard areas shall be consistent with best management practices (BMPs).
- c. The computation of stormwater runoff shall follow established engineering practice. Acceptable methods of computation include, but are not limited to, those outlined in the NC DENR or DEQ Erosion and Sediment Control Planning and Design manual, Soil Conservation Service National

Engineering Field Manual, the Rational Method, and published U.S. Geological Survey techniques for estimating stream flow. Runoff coefficients shall be based on full development of the watershed to the extent of the current zoning.

3. Storm Drainage Facilities

Storm drainage facilities shall be designed, constructed, and maintained to create no unreasonable burden on adjacent properties:

- a. Offsite areas that drain to or across a site proposed for development must be accommodated in the stormwater plans for the development. The stormwater management system must be capable of conveying the existing offsite flows through or around the development. If the offsite flows are carried in the site system, any detention ponds shall be sized to accommodate this flow.
- b. Storm drainage facilities shall be designed to limit discharge from the site to the rate of runoff that existed in the predevelopment condition. The post development discharge from a site will be limited to 0.87 cubic feet per second per acre. Each site shall provide storage for stormwater detention equivalent to 5300 cubic feet for each acre of impervious area.
- c. Storm drainage facilities shall not result in increased downstream channel degradation by accelerated erosion from increased velocity of runoff. Acceptable management measures are outlined in the State of North Carolina Erosion and Sediment Control Planning and Design Manual.

4. Stormwater Diversion

Stormwater shall not be diverted from one natural drainage basin into another.

Stormwater shall not be channeled or directed into sanitary sewers, or over septic drain fields or designated repair areas.

5. Pipe Culverts

- a. All pipe to be installed along or across any public roadway or that is to be maintained by the Town of Seven Devils shall be reinforced concrete, galvanized corrugated steel, aluminum, or high density polyethylene (HDPE). All materials and construction shall be consistent with North Carolina Department of Transportation Standard Specifications for Roads and Structures
- b. Minimum pipe diameter shall be fifteen (15) inches for open-ended culverts and 18 inches for closed systems and driveway culverts.



- c. Depth of cover shall be appropriate for the pipe material and thickness and the anticipated loading. Minimum depth of cover shall be twelve (12) inches.
  - d. No downsizing of culverts is allowed within pipe systems.
  - e. Storm drainage piping shall be placed in a straight alignment at uniform grade. No changes in alignment shall be allowed except at catch basins, manholes, or other junctions with clean-out access provided.
  - f. Storm drainage structures, including inlet grates and frames, shall conform to N.C. Department of Transportation Standard Specifications for Roads and Structures.
6. Hydraulic Design
- a. Hydraulic grade line for open-ended culverts shall be below the roadway shoulder or finished site grade elevation.
  - b. Hydraulic grade line for closed pipe systems shall be no higher than one (1) foot below the gutter line.
  - c. The hydraulic design of culverts and pipe systems shall take into account the effect of tailwater and shall allow for all energy losses within the system.
7. End Treatments
- a. Headwalls, flared end sections, or other adequate slope protection shall be provided at culvert ends. If headwalls are used, they shall be located a minimum of eight (8) feet from the edge of the adjacent roadway.
  - b. Storm drain outlets shall be protected against erosion by providing energy dissipaters and/or adequate channel lining. The maximum velocity within any open channel shall be three and one half (3.5) feet per second unless erosion control measures are installed. The design engineer shall submit calculations supporting the erosion control measures proposed.
8. Open Channels and Ditches
- a. Design capacities for open channels and ditches shall be determined by the methods acceptable to and found in the NCDENR or DEQ Sedimentation and Erosion Control Manual. The value of the roughness coefficient shall be appropriate for the material encountered and the condition of the channel.
  - b. The maximum velocity within any open channel shall be three and one half (3.5) feet per second unless erosion control measures are installed. The

design engineer shall submit calculations supporting the erosion control measures proposed.

9. Curb and Gutter

N. C. Department of Transportation Standard (846.01) concrete curb and gutter is required for the direction and control of stormwater in all parking lots. Alternate effective control measures which are consistent with the objectives of Section 4(b)1 will be considered for approval on a case by case basis.

10. Setback

No building construction shall be allowed within ten (10) feet horizontally of the centerline of drainage culverts less than 48 inches in diameter, or within ten (10) feet plus one-half the culvert diameter of the centerline of drainage culverts 48 inches or more in diameter. This restriction shall not apply to building roof or foundation drains or incidental yard drains, which originate closer than ten (10) feet to the building and convey stormwater immediately away from the building. The separation for any pipe installed at a depth greater than ten (10) feet shall be determined by the design engineer, but in no case less than ten (10) feet. The design engineer shall demonstrate that the setback is adequate to permit removal or replacement of the pipe can be completed if it becomes necessary.

11. Connections

Culverts or pipe systems that convey stormwater to or from existing enclosed drainage facilities shall be connected to the existing facility with an enclosed junction. Connections to existing facilities in public rights-of-way shall require the execution of an encroachment agreement with the Town of Seven Devils for Town streets or with the N. C. Department of Transportation for state-maintained roads.

12. Detention Facilities

Detention facilities shall be designed to minimize the effort required to maintain the facility. The detention facilities shall be maintained by the property owner in a manner to ensure that they continue to function as designed.

## **Article 14. SPECIAL USE PERMITS**

### **Section 1. Intent**

It is the intent of this Article to permit certain uses and developments that require special review, and to provide the standards by which the applications for permits for such uses and developments shall be evaluated.

### **Section 2. Requirement of Special Use Permit**

Those uses listed in Table 5.1 as permitted special uses in a zoning district may be established in that zoning district only after approval of a Special Use Permit.

### **Section 3. Procedure for Approval of Special Use Permits**

#### **(a) *Application Submittal Requirements***

Applications for a Special Use Permit shall be filed with the Zoning Administrator. See Figure 14.1 for application form, guidelines, and fees. No refund of the fee or any part thereof shall be made once the application is filed unless the applicant withdraws the application by written notice before letters of notice are sent to adjoining property owners or publication of the public hearing, whichever is sooner. The portion of the fee that may be refunded will be reduced by 10% per day starting from the date of the preliminary conference.

This Unified Development Ordinance shall prescribe the form on which applications are made, as well as any other materials that may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

The Zoning Administrator shall accept no application unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

The applicant shall arrange a meeting with the Zoning Administrator to submit the Special Use Permit application.. The Zoning Administrator shall also send the Board of Adjustment an agenda for the meeting. At the meeting, the applicant shall submit a sketch development plan and a brief description of the proposed development strategy. The applicant shall also submit proposed design specifications for proposed buildings. The meeting is designed to inform the Town of the applicant's intentions, to inform the applicant of the Town's regulations and policies concerning development alternatives, to request additional information, and to provide the applicant with informal, non-binding feedback on the acceptability of the plan. The greater the level of common understanding between the applicant and the Town that can be achieved at the meeting stage, the smoother the remaining steps of the review and approval process will be. At the meeting, a date for a public hearing shall be determined.

If the applicant proposes any substantial change to the application subsequent to acceptance of the application, an amended application shall be submitted and treated as an original application, with all fees and requirements applicable.

(b) *Notice of Hearing*

Notice of hearings conducted pursuant to Article 14 (quasi-judicial proceedings) shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to any other persons entitled to receive notice as provided by the Unified Development Ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(c) *Final Development Plan*

At least 14 days prior to the hearing, the applicant shall submit three (3) copies of the final development plan to the Zoning Administrator. The development plan shall contain a map or maps drawn to scales, with the date of preparation, and shall contain, where applicable, the following information:

1. Existing site conditions, including contours, watercourses, flood hazard areas, and any unique natural or man-made features.
2. Boundary lines of the proposed development and proposed lot lines.
3. Proposed use and location of all existing and proposed structures.
4. Location and size of all areas to be conveyed, dedicated, or reserved as open spaces, parks, recreational areas, and public uses.
5. The existing and proposed street system, including location and number of off-street parking spaces, service areas, loading areas, and points of access to public rights-of-way. Notations of proposed ownership of the street system (public or private). Documentation from the Seven Devils Fire Department of the adequacy of the development's facilities for emergency medical and fire services.
6. Approximate location of proposed utility systems, including documentation supporting the proposed water and wastewater systems from the appropriate local or state agencies. Documentation of an approved Sedimentation and Erosion Control Plan, where required.
7. Location of existing and proposed easements and rights-of-way.

8. The proposed treatment of the perimeter of the development including materials and techniques such as buffers, fences, and walls.
9. Information on adjacent land areas, including land use, zoning, classifications, public facilities, and any unique natural features.
10. A legal description of the total site proposed for development, including a statement of present and proposed ownership.
11. The zoning district or districts in which the proposed project is located.
12. A development schedule indicating approximate beginning and completion dates including any proposed phases.
13. Proposed total number and type of residential dwelling units, parcel size, and gross residential densities.
14. Plan for maintenance of common areas, recreation areas, open spaces, streets, and utilities.
15. Any additional information requested by the Board of Adjustment at the preliminary conference in order to evaluate the impact of the proposed development.

(d) *Public Hearing*

After completion and acceptance of the application and proper public hearing notice, the Board of Adjustment will hold a public hearing on the application at its next regularly scheduled meeting.

The hearing shall be open to the public and all persons of standing shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. All persons who intend to present evidence at the public hearing must be sworn in and may be cross-examined. The Board may place reasonable and equitable time limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the application may be heard without undue delay.

In all Board of Adjustment cases, the burden of proof is placed upon the applicant.

A record of the proceedings of the hearing shall be made and shall include evidence presented at the hearing, a summary of its findings, and the evidence supporting those findings.

(e) *Recommendations on the Application*

When presented to the Board of Adjustment at the public hearing, the application for a Special Use Permit shall be accompanied by a written report setting forth the Zoning

Administrator's findings concerning the application's compliance with requirements of this Ordinance.

(f) *Action on the Application*

After completion of the public hearing, the Board of Adjustment shall take action on the application within thirty-five (35) calendar days. The findings by the Board of Adjustment shall be based on reliable evidence presented at the public hearing. Action taken on the application shall be one of the following:

1. Approval
2. Approval with conditions
3. Denial

The Board of Adjustment shall issue the Special Use Permit unless it concludes, based upon information submitted at the public hearing, that one (1) or more of the following is true:

1. The application is incomplete.
2. The proposed use will be located, designed, and/or operated in a way that will endanger the public health, safety, or general welfare.
3. The proposed use will seriously interfere with existing uses on adjacent properties, with the character of the area, or with the purpose of the zone in which it is proposed.
4. The proposed use will impose an undue burden on any public improvements, facilities, utilities, or services available to the area.
5. The proposed use will substantially injure the value of adjoining or abutting property.
6. The proposed use will not be in general conformity with the Vision Statement, Comprehensive Land Use Plan or other plan officially adopted by the Town Council.

A minimum of four (4) voting members shall be required to take any action. The concurring vote of four-fifths (4/5) of the membership of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. All regular rules and regulations for voting apply to members of the Board of Adjustment in enforcement of this Ordinance. See Article 2, Section 3(g), Voting.

#### **Section 4. Notice of Decision and Issuance of Special Use Permit**

The Zoning Administrator shall notify the applicant of the action taken on the application by registered or certified mail and shall cause a copy of the decision to be filed in Town Hall.

If an application for a Special Use Permit is denied, then the applicant cannot reapply for a Special Use Permit unless it is substantially different from the application for which the permit was denied.

#### **Section 5. Appeal of Decision**

An aggrieved party may appeal a decision made by the Board of Adjustment concerning an application for a Special Use Permit to the Watauga or Avery County Superior Court after receiving such notice as required in Section 4.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1-2. A petition for review shall be filed with the clerk of superior court no later than 30 days after the decision is effective or after written copy thereof is given in accordance with Article 2, Section 3(g). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

#### **Section 6. Issuance of Permits for Development**

For developments requiring a Special Use Permit, an approved Special Use Permit must be obtained prior to the issuance of any other applicable permits.

#### **Section 7. Amendments and Expiration**

1. If a Special Use is abandoned or discontinued for one (1) year, Special Use Permit becomes void without further action by the Town and the Use may not be re-established without approval of a new Permit.
2. The granting of a Special Use Permit does not exempt the applicant from compliance with other relevant provisions of related ordinances. Failure to observe those provisions, or approval conditions of the Special Use Permit, are a violation of this ordinance and subject to the enforcement stipulated in Article 18.
3. Amendments to Special Use Permits are processed in the same way that applications for the initial Special Use Permit are processed.
4. Uses that were permitted outright before adoption of this ordinance but require a Special Use Permit under this ordinance may not be modified without approval of a Special Use Permit.

***Section 8.***      **Conditions Shall Run With the Land**

Special Use Permits, and all conditions attached thereto, shall run with the land and be binding on the original applicant as well as all successors, assigns, and heirs, and shall be filed in the Office of the Register of Deeds of Watauga or Avery County, North Carolina.



## Figure 14.1—Application for Special Use Permit

### Application for a Special Use Permit for Property in the Town of Seven Devils

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

#### To the Board of Adjustment for the Town of Seven Devils:

I hereby petition the Board of Adjustment for a Special Use Permit as authorized by Article 14 of the Unified Development Ordinance for the Town of Seven Devils. I understand that the requirements set forth in the Town of Seven Devils Unified Development Ordinance will apply to all plans submitted.

#### Description of Property

Physical Location of Property (including street address): \_\_\_\_\_

Size of Property \_\_\_\_\_ County \_\_\_\_\_ PIN # \_\_\_\_\_

Current Zoning District \_\_\_\_\_

General Use of Property: \_\_\_\_\_

#### Applicant Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone # (s): \_\_\_\_\_

E-mail: \_\_\_\_\_

#### Property Owner

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone # (s): \_\_\_\_\_

E-mail: \_\_\_\_\_

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.
- Eight (8) copies of current zoning map with location of property indicated.
- A surveyed plat of the property in question.
- Statements from the applicant describing how the proposed Special Use would meet the criteria for approval of such a permit as described in Article 14 of the Unified Development Ordinance.
- Personal or Certified Check in the amount as set forth in the Town of Seven Devils Annual Operating Budget for the application fee. Application fee shall be paid to the Town of Seven Devils, NC for each application for a Special Use Permit in order to cover the necessary administrative costs.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Amount Paid: \_\_\_\_\_ Received by: \_\_\_\_\_ Date: \_\_\_\_\_

## **Figure 14.2—Requirements for Public Hearing—Special Use Permit**

### **Requirements for Public Hearing and Property Owner Notification in Relation to Application for a Special Use Permit**

Notice should include:

- Party requesting the public hearing.
- Date, time, and place where public hearing is to be located.
- Subject of the Hearing (Including location of property and reason for Special Use Permit request).
- Contact Information for the Town of Seven Devils:

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

Notices must be sent in accordance with Article 2, Section 3(k) at least ten (10) calendar days but not more than twenty-five (25) calendar days before the scheduled public meeting.

#### ***Sample Notice:***

#### **Public Hearing**

The Town of Seven Devils will hold a Public Hearing at 5:30 pm on Monday, June 20, 2011 at Town Hall. The Public is invited to discuss the request by XYZ to rezone a twenty (20) -acre tract on Windy Meadows from Low-Density Residential (LDR) to Medium-Density Residential (MDR). For more information, please contact The Town of Seven Devils at 157 Seven Devils Road, Seven Devils, NC 28604. Phone: (828) 963-5343.

## **Article 15. PERMITS AND SITE PLAN APPROVAL**

### ***Section 1. Zoning Permit Required***

It shall be unlawful to begin any clearing, grading, excavation, or other earth disturbing activities on lands contemplated for development or to begin any construction, moving, alteration or renovation, except: (1) ordinary repairs of any building or other structure or (2) as otherwise specifically provided in this ordinance, until the Zoning Administrator has issued a Zoning Permit for such action.

It shall also be unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which there exists a nonconforming use, until the Zoning Administrator has issued a Zoning Permit for such action, certifying that the intended use(s) comply with the applicable requirements of this Ordinance.

### ***Section 2. Site Plan Review Required***

Site plan review and approval by the Zoning Administrator, Planning Board, and Board of Adjustment, as appropriate, shall be required prior to the issuance of a Zoning Permit for any development or change in use described in Section 1.

### ***Section 3. Requirements for Site Plans***

Site plans shall contain sufficient information, drawn to scale, to allow the Zoning Administrator, Planning Board, and Board of Adjustment to determine if the requirements of this Ordinance, as applied to the proposed development, have been met. In general, the site plan shall include the following information:

1. **Driveways and Traffic Circulation** - The proposed points of entrance and exit together with proposed traffic patterns.
2. **Parking and Loading** - The proposed location and layout of parking and loading areas, including parking spaces and aisles.
3. **Timing of Development** - The proposed schedule of development, including phases or stages likely to be followed.
4. **Natural Elements** - Topography, streams, large rock formations, protected trees, and other natural elements, showing what is to be preserved.
5. Preliminary sketches of all structures, street access, and property lines.
6. Location and designs of lighting, signs, and service and garbage collection areas.
7. Proposed landscaping, screening, and buffers.

8. Detailed plans and supporting calculations for the construction of stormwater management installations. Refer to Article 13 in this Ordinance.

#### **Section 4. Procedures**

##### **(a) *Application Submittal Requirements***

Applications for a Zoning Permit shall be filed with the Zoning Administrator. See Figure 15.1 for application, guidelines, and fees.

The Zoning Administrator shall accept no application unless it complies with such submittal requirements. Applications that are not complete shall be returned promptly to the applicant, with a notation of the deficiencies in the application.

Applications for a Building Permit, or a Sign Permit may be made coincidentally with the application for a Zoning Permit.

##### **(b) *Action on the Application***

On receipt of a completed application, the Zoning Administrator or his/her designee shall review the application and site plan.

In the case of developments requiring a Special Use Permit, the procedures established in Article 14, Section 3 of this Ordinance shall be followed.

The Zoning Administrator may take final action on all applications for developments not requiring Special Use Permit. Final action shall be based solely on finding as to compliance with all applicable provisions of this Ordinance.

##### **(c) *Actions Subsequent to Decision***

No land or structure for which a Zoning Permit has been issued shall be used or occupied until the final inspection is held and a Certificate of Occupancy has been issued.

##### **(d) *Appeal of Decision***

A decision of the Zoning Administrator in granting or denying a Zoning Permit may be appealed to the Board of Adjustment in accord with the provisions of Article 17 of this Ordinance.

#### **Section 5. Construction Completion and Permit Expiration**

A Zoning Permit shall expire six months after the date of issuance if work authorized by the permit has not commenced. All buildings and structures shall be completed within two (2) years of permit issuance. If construction is not complete within 2 years, a new zoning and building permit is required.

For the purposes of this ordinance, construction completion shall mean that the building or structure has received a final inspection approval from the Zoning Administrator and a Certificate of Occupancy by the appropriate inspecting authority.

**Figure 15.1—Zoning Permit**

# Town of Seven Devils

157 Seven Devils Road  
Seven Devils, NC 28604

## Zoning Permit

Phone (828) 963-5343

Permit Number: \_\_\_\_\_ Date Issued \_\_\_\_\_

Name:		Phone:	
Address:			
Property Owner (if different):		Phone:	
Address:			
Location:		<input type="checkbox"/> Inside Town <input type="checkbox"/> Inside ETJ	
Tax Parcel ID:		Lot Dimensions:	
Zoning:	<input type="checkbox"/> LDR <input type="checkbox"/> MDR <input type="checkbox"/> HDR <input type="checkbox"/> RB <input type="checkbox"/> GB <input type="checkbox"/> SC		
Proposed Use:			
Does the lot meet the required street frontage?		<input type="checkbox"/> No <input type="checkbox"/> Yes	
The house is located on a <input type="checkbox"/> Public Street <input type="checkbox"/> Private Street. If private street, attach a copy of the recorded easement and/or the Street Maintenance Agreement. (Note: No maintenance or snow removal is provided by the Town of Seven Devils on private roads/streets, etc.) Attachment <input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>Setbacks</b>	<b>Utilities</b>	<b>Type of Activities</b>	<b>Other Regulations</b>
Required Actual Front: _____, _____ Rear: _____, _____ Side: _____, _____ Side: _____, _____ Height: _____, _____ Lot Width: _____, _____	<input type="checkbox"/> Well <input type="checkbox"/> Town Water <input type="checkbox"/> Septic Tank	<input type="checkbox"/> New Construction <input type="checkbox"/> Alteration <input type="checkbox"/> Addition <input type="checkbox"/> Repair <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Septic Tank <input type="checkbox"/> Sign <input type="checkbox"/> Site Preparation <input type="checkbox"/> Driveway <input type="checkbox"/> _____	<b>Signs</b> Type _____ Size _____ Sq. Ft. Buffer Required? <input type="checkbox"/> No <input type="checkbox"/> Yes, In accordance with: Town Engineer Approval Required? <input type="checkbox"/> Yes <input type="checkbox"/> No State D.O.T. Driveway permit required? <input type="checkbox"/> Yes <input type="checkbox"/> No

I do hereby certify that the information on this permit is accurate and correct to the best of my knowledge and I agree to comply with all state, county and/or town codes regulating such use/activity, and with all plans or specifications submitted herewith. I understand that the Zoning Permit will expire after six (6) months if the authorized work has not begun. I also understand that the permit will expire if the authorized work is suspended or abandoned for a period of one (1) year. In all cases, the Zoning Permit will expire on the last day of the eighteenth (18) month after issuance. I understand that any driveway installation includes installation of all necessary drainage facilities as specified by the Town Engineer/Public Works.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

I hereby certify that the proposed use and/or activity described above is in compliance with the Zoning Ordinance of the Town of Seven Devils.

\_\_\_\_\_  
Signature of Zoning Officer

\_\_\_\_\_  
Date

## **Article 16. NON-CONFORMITIES**

### **Section 1. Intent**

This Article is intended to recognize that the eventual elimination, as expediently as is reasonable, of existing uses or structures which are not in conformity with the provisions of this Ordinance, is as much a concern of health, safety and welfare as is the prevention of the establishment of new uses or structures which would violate this Ordinance.

### **Section 2. Nonconforming Lots**

#### **(a) Definition**

A nonconforming lot is a lot that was lawfully created prior to the effective date of this Ordinance or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Article 7 of this Ordinance for the zoning district in which it is located.

#### **(b) Nonconforming Lots**

No use that requires a greater lot size than the established minimum lot size listed in Article 7, Table 7.1 for the appropriate zoning district is permissible on a non-conforming lot.

If compliance with applicable setback regulations of a structure intended for a nonconforming lot is not reasonably possible, then the nonconforming lot may be used as a building site subject to the Board of Adjustment granting a Variance to allow deviations in the setback requirements. The property owner or their designee can make an application for a variance to the Zoning Administrator.

### **Section 3. Nonconforming Uses**

#### **(a) Definition**

A nonconforming use is a use of land, buildings, or a structure that was lawfully established prior to the effective date of this ordinance or a subsequent amendment thereto, but does not conform to the Use Regulations of Article V for the zoning district in which it is located.

#### **(b) Regulations**

Nonconforming uses may be continued subject to the following limitations:

1. No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures.

2. No nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless it (the nonconforming use) is thereafter devoted to a more conforming use.
3. If a nonconforming use ceases for more than one hundred and eighty (180) calendar days in any twelve (12) month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses.

#### **Section 4. Nonconforming Features**

(a) *Definition*

A nonconforming feature is a physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this Ordinance or a subsequent amendment thereof.

(b) *Regulations*

Nonconforming features may be continued subject to the following limitations:

1. No enlargement, extension, or structural alteration of any building, structure, or other development of land having a nonconforming feature shall increase the degree or extent of the nonconforming feature.
2. When a manufactured home is removed and replaced by another unit, that unit shall meet the manufactured home community standards set forth in Article 12 of this Ordinance.



## **Article 17. INTERPRETATIONS, APPEALS AND VARIANCES**

### **Section 1. Interpretations**

Where there is any uncertainty as to the intent or actual meaning of this Ordinance, or as to the intended location of any zoning district boundary shown on the Zoning Map, the Zoning Administrator shall make an interpretation of said provision or boundary on request of any person.

Any person aggrieved by such interpretation (as defined in Article 3, Section 2 of this Ordinance) may appeal the interpretation to the Board of Adjustment in accordance with the provisions of Article 2, Section 3(d) of this Ordinance.

In making an interpretation of any zoning district boundary, or in deciding any appeal thereof, the Zoning Administrator or Board of Adjustment shall apply the following standards:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines.
2. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following corporate limits shall be construed as following such limits.
4. Boundaries indicated as approximately following the shorelines or centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such shorelines or centerlines. In the event of a change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline.
5. Boundaries indicated as approximately parallel to, or as extensions of, features described in 1 through 4 above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by reference to the scale of the map.

Where features described in 1 through 5 above, as existing on the ground, are at variance with those indicated on the Zoning Map, or in other circumstances not covered by 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.

### **Section 2. Appeals**

#### **(a) *Decision of the Zoning Administrator***

The person aggrieved by any decision of the Zoning Administrator made in the administration of the provisions of this ordinance may make an appeal to the Board of Adjustment.

An application for appeal shall be filed within thirty (30) calendar days of the filing of the decision being appealed or the delivery of any required written notice of the decision,

whichever is later. See Article 17 - Figure 1 for application form, guidelines, and fees. No refund of the fee or any part thereof shall be made once the application is filed unless the applicant withdraws the application by written notice before letters of notice are sent to adjoining property owners or posting of the Evidentiary Hearing, whichever is sooner. The portion of the fee that may be refunded will be reduced by 10% per day starting from the date of application submittal.

(b) *Stay of Further Action*

An appeal by aggrieved parties to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed. The only exception is if the Zoning Administrator certifies to the Board of Adjustment that, based on findings stated in the certificate, a stay would cause imminent peril to life or property, or because the situation appealed from is transitory in nature, an appeal would seriously interfere with enforcement of this Ordinance.

**Section 3. Variance**

A Variance from the regulations of this Ordinance may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the Variance, and that, by granting the Variance, the intent of this Ordinance, the Vision Statement, and the Comprehensive Land Use Plan will be observed, public safety and welfare secured, and substantial justice done as prescribed by the North Carolina Municipal Zoning Enabling Act, Chapter 160D, Article 19. The burden of proving that these conditions exist is on the applicant.

To grant a variance, the Board of Adjustment, by a four-fifths majority, must make the following findings:

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.

Specifically, in reaching their conclusion under this finding, the Board of Adjustment must determine that all of the following are true:

- a. The hardship results from the application of the ordinance.
  - b. The hardship is suffered by the applicant's property rather than personal circumstances.
  - c. The hardship is not the result of the applicant's own actions.
  - d. The hardship is peculiar to the applicant's property.
2. The variance is in harmony with the general purposes and intent of the Unified Development Ordinance, Vision Statement, and the Comprehensive Land Use Plan, and preserves their spirit.

3. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done.

#### **Section 4. Procedures for Appeals and Variances**

##### **(a) *Application Submittal Requirements***

Applications for appeal (Figure 17.1) or a Variance (Figure 17.2) shall be filed with the Zoning Administrator. No refund of the fee or any part thereof shall be made once the application is filed unless the applicant withdraws the application by written notice before letters of notice are sent to adjoining property owners or posting of the Evidentiary Hearing, whichever is sooner. The portion of the fee that may be refunded will be reduced by 10% per day starting from the date of application submittal.

This Unified Development Ordinance shall prescribe the form(s) on which applications are made, as well as any other materials that may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

The Zoning Administrator shall accept no application unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

On receipt of a complete application, the Zoning Administrator shall transmit the application to the Board of Adjustment. In the case of applications for appeal, the Zoning Administrator shall also transmit to the Board of Adjustment all documents constituting the record on which the decision being appealed was based. All appeals to the Board of Adjustment shall be de novo (as if it had not been previously decided). To be placed on the agenda, applications, fees, and all accompanying material must be received no less than thirty (30) calendar days before the next regularly scheduled meeting of the Board of Adjustment.

If the applicant proposes any substantial change to the application subsequent to acceptance of the application, an amended application shall be submitted and treated as an original application, with all fees and requirements applicable.

##### **(b) *Evidentiary Hearing***

Upon receipt of an application for appeal or for a Variance, the Board of Adjustment shall hold an Evidentiary Hearing on the application at its next regularly scheduled meeting.

The Town of Seven Devils is responsible for notification of the Evidentiary Hearing. Additionally, the Town is responsible for mailing notices to owners of all property within 100 feet of the property in question. The applicant is responsible for providing to the Town the list of owners who should receive this mailed notice.

The Evidentiary Hearing shall be open to the public and all Persons with Standing shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. All persons who intend to present evidence at the Evidentiary Hearing shall be sworn in. The Board of Adjustment may limit the introduction of repetitive testimony and may exclude irrelevant evidence.

In the case of applications for a Variance, the applicant shall bear the burden of presenting evidence sufficient to establish conclusively that the requested Variance will comply with each of the determinations required in Section 17.03.

A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing, a summary of its findings, and the evidence supporting those findings.

(c) *Action on the Application*

After completion of the Evidentiary Hearing, the Board of Adjustment shall take action on the application within thirty-five (35) calendar days.

In the case of applications for appeal, such action shall be to reverse, or affirm (wholly or partly), or modify the decision being appealed.

If for some reason the Board of Adjustment does not have enough information, action will be suspended until further evidence can be obtained. Action must be taken at the first Board meeting following the obtaining of all necessary information.

In the case of applications for a Variance, such action shall be based on findings as to each of the determinations required in Section 17.3. Action taken on the application shall be one of the following:

1. Approval
2. Approval with conditions
3. Denial

The Board of Adjustment may impose reasonable conditions on the granting of any Variance to ensure that the public health, safety, and general welfare shall be protected, and substantial justice done. In its consideration of applications for a Variance, the Board of Adjustment shall not use the existence of nonconformities in the vicinity as justification for the granting of Variances.

The concurring vote of four-fifths (4/5) of the membership shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or any agent charged with the enforcement of this ordinance. The concurring vote of four-fifths (4/5) of the membership of the Board of Adjustment shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation of this Ordinance. All standard rules and regulations for voting apply to members of the Board of Adjustment in enforcement of this Ordinance.

In every case, the record of the action of the Board of Adjustment shall include a summary of its findings and the evidence supporting them.

(d) *Actions Subsequent to Decision*

The Zoning Administrator shall notify the applicant of the action taken on the application by registered or certified mail and shall cause a copy of the decision to be filed in Town Hall.

If a Variance is granted, the nature of the Variance and any conditions attached thereto shall be entered on the face of any necessary Zoning Permit. See Figure 17.4 for Variance form.

If an application for a Variance is denied, the applicant may not resubmit a Variance application unless it is substantially different from the application for which the permit was denied. If an Appeal of a decision of the Zoning Administrator has been denied, the appellant may not resubmit an Appeal unless the subject of the Appeal is substantially different from the subject for which the Appeal was denied.

(e) *Appeal of Decision*

An aggrieved party may appeal any decision made by the Board of Adjustment concerning an application for an Appeal or a Variance to the Watauga or Avery County Superior Court. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) calendar days of the filing of the decision in Town Hall or the delivery of the notice as required in Subsection 17.04, whichever is later.

**Article 17—Figure 1—Application for Appeal Page 1**

**Application for Appeal to the Town of Seven Devils Board of Adjustment**

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

**Description of Property**

Location of Property: \_\_\_\_\_  
Size of Property \_\_\_\_\_ County \_\_\_\_\_ PIN# \_\_\_\_\_  
Current Zoning District \_\_\_\_\_  
Current General Use of Property \_\_\_\_\_

**Applicant Information**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone # (s): \_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_

**Property Owner Information**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone # (s): \_\_\_\_\_  
\_\_\_\_\_  
E-mail: \_\_\_\_\_

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form (both pages), typed or filled out in black ink.
- Two (2) copies of the scaled site plan for the property in question.
- Two (2) copies of current zoning map with location of property indicated.
- Two (2) copies of any additional information the applicant intends to present at the Evidentiary Hearing.
- A list of names and addresses of the owners of property within 100 feet of the property in question.
- Personal or Certified Check in the amount determined by the current Fee Schedule for each application for an appeal to cover the necessary administrative costs.

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) calendar days before the next scheduled meeting of the Board of Adjustment.

**Article 17—Figure 1—Application for Appeal Page 2**

**To the Town of Seven Devils Board of Adjustment:**

I, \_\_\_\_\_ hereby appeal to the Board of Adjustment from the following adverse decision by an agent of the Town of Seven Devils.

Who rendered the decision? \_\_\_\_\_

Briefly describe what the decision prevents you from doing? \_\_\_\_\_

Date of the decision: \_\_\_\_\_

Date you received the decision: \_\_\_\_\_

How do you think the ordinance or guidelines should be interpreted?

What section(s) of the ordinance or guidelines support your interpretation?

Why do you think your interpretation is correct? \_\_\_\_\_

Why do you think that the agent of the Town's interpretation is wrong? \_\_\_\_\_

Other comments/information that you would like to have considered: \_\_\_\_\_

I certify that the information presented in this application and attachments is accurate to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Amount Paid \_\_\_\_\_ Received by: \_\_\_\_\_ Date: \_\_\_\_\_

**Article 17—Figure 2—Application for Variance Page 1**

**Application for a Variance for Property in the Town of Seven Devils**

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

To The Town of Seven Devils Board of Adjustment:

I, \_\_\_\_\_, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Seven Devils Unified Development Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land in a manner shown by the Scaled Site Plan attached to this application. I request a variance from the following provisions of the Unified Development Ordinance: \_\_\_\_\_

I request the variance so that the aforementioned property can be used in a manner indicated by the Scale Site Plan attached to this application or, if the Scaled Site Plan does not adequately reveal the nature of the variance, as more fully described herein (if variance is requested for a limited time only, specify duration of request): \_\_\_\_\_

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:**

**A Variance from the regulations of this Ordinance may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the Variance, and that, by granting the Variance, the intent of this Ordinance, the Vision Statement, and the Comprehensive Land Use Plan will be observed, public safety and welfare secured, and substantial justice done as prescribed by the North Carolina General Statute Article 19-Planning and Regulation of Development. The burden of proving that these conditions exist is on the applicant.**

In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to assist the Board of Adjustment in determining their findings:



**Article 17—Figure 2—Application for Variance Page 2**

**1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.**

Specifically, in reaching their conclusion under this finding, the Board of Adjustment must determine that all of the following are true:

- a. The hardship results from the application of the ordinance. (The Board of Adjustment must limit itself to evidence of hardship resulting from the application of the ordinance to the property involved.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. The hardship is suffered by the applicant's property rather than personal circumstances. (The hardship must be one that affects the applicant's property directly. The public's hardship is irrelevant. Also, unique personal or family hardships are irrelevant because a variance, if granted runs with the land not with the current landowner's present circumstances.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- c. The hardship is not the result of the applicant's own actions. (The applicant may not show hardship that he inflicted on himself or that the applicant could have avoided.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. The hardship is peculiar to the applicant's property. (If the hardship results from the conditions that are neighborhood-wide, relief becomes a matter for the Town Council to amend the ordinance.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Article 17—Figure 2—Application for Variance Page 3**

**2. The variance is in harmony with the general purposes and intent of the Unified Development Ordinance, Vision Statement, and the Comprehensive Land Use Plan, and preserves their spirit.**

State facts and arguments to show that the variance requested represents the least possible

deviation from the letter of the ordinance that will allow reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood. \_\_\_\_\_

**3. In the granting of the variance, the public safety and welfare has been assured and substantial justice has been done.**

State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.
- Two (2) copies of the scaled site plan for the property in question.
- Two (2) copies of any additional information the applicant intends to present at the Evidentiary Hearing.
- List of names and addresses of affected property owners
- Personal or Certified Check for the application fee as specified in the latest Fee Schedule. Application fee shall be paid to the Town of Seven Devils, NC for each application for a Variance in order to cover the necessary administrative costs.
- Names and addresses of owners of property within 100 feet of the property in question (see Figure 17.3).

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) calendar days before the next scheduled meeting of the Board of Adjustment.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

_____ Signature of Applicant	_____ Date
Amount Paid _____ Received by: _____ Date: _____	

**Article 17—Figure 3—Requirements for Evidentiary Hearing—Appeal or Variance**

**Requirements for Evidentiary Hearing and Property Owner Notification in Relation to Application for Appeal or Variance**

Notice should include:

- Party requesting the Evidentiary Hearing.
- Date, time, and place where Evidentiary Hearing is to be located.
- Subject of the Evidentiary Hearing (including location of property and reason for appeal or requested (variance)).
- Contact Information for the Town of Seven Devils:

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

Notices must be sent in accordance with Article 2, Section 3(k)

Notice of Evidentiary Hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the Hearing; to the owner of the property that is the subject of the Hearing if the owner did not initiate the Hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the Hearing; and to any other persons entitled to receive notice as provided by the Unified Development Ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the Hearing. Within that same time period, the city shall also prominently post a notice of the Hearing on the site that is the subject of the Hearing or on an adjacent street or highway right-of-way.

#### **Evidentiary Hearing – *Sample Notice***

The Town of Seven Devils Board of Adjustment will hold an Evidentiary Hearing at 5:30 pm on Monday, June 20, 2011 at Town Hall. Persons with Standing are invited to discuss the request by XYZ to (appeal)(request a variance) {description}. For more information, please contact The Town of Seven Devils at 157 Seven Devils Road, Seven Devils, NC 29604. Phone: (828) 963-5343

### **Article 17—Figure 3—Requirements for Evidentiary Hearing—Appeal or Variance**

#### **Order to Grant/Deny A Variance for Property in the Town of Seven Devils, North Carolina**

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604

The Board of Adjustment for the Town of Seven Devils, having held an Evidentiary Hearing on \_\_\_\_\_ to consider the Variance application submitted by \_\_\_\_\_ for the property located at \_\_\_\_\_, in a matter not permissible under the literal terms of the Unified Development Ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following Findings of Fact and draws the following **Conclusions**:

1. It is the Board of Adjustment's conclusion that there are/are not practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, specifically section(s) \_\_\_\_\_. This conclusion is based on the following Findings of Fact: \_\_\_\_\_
2. It is the Board of Adjustment's conclusion that the variance is/is not in harmony with the general purposes and intent of the Unified Development Ordinance, Vision Statement, and the Comprehensive Land Use Plan, and preserves their spirit. This conclusion is based on the following Findings of Fact: \_\_\_\_\_
3. It is the Board of Adjustment's conclusion that in the granting of the variance, the public safety and welfare has/has not been assured and substantial justice has/has not been done. This conclusion is based on the following Findings of Fact: \_\_\_\_\_

Therefore, based upon the foregoing, it is ordered that the application for a VARIANCE be GRANTED/DENIED, subject to the following conditions: \_\_\_\_\_

Ordered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Chairman, Board of Adjustment

\_\_\_\_\_  
Town Clerk

NOTE: An aggrieved party may appeal every decision of the Board of Adjustment to the Watauga or Avery County Superior Court. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) calendar days of the filing of the decision by the Town Clerk or the delivery of the notice required in Article 17, Section 4(d), whichever is later.

## **Article 18. ENFORCEMENT**

### ***Section 1. Violation***

Whenever by the provisions of this Ordinance, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulations or limitation is imposed on the use of any land, or on the erection, alteration, or the use or change of use of a structure a failure to comply with such provisions shall constitute a violation of this Unified Development Ordinance.

## **Section 2. Complaints Regarding Violations**

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

## **Section 3. Persons Liable**

The owner, tenant, or occupant of any land or structure, or part thereof and any architect, engineer, 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 be subject to the penalties and remedies provided herein.

## **Section 4. Procedures Upon Discovery of Violations**

Upon determination that any provision of this Article is being violated, the Zoning Administrator shall deliver a written notice by personal service or by registered or certified mail, return receipt requested, to the person(s) responsible for such violation and ordering the action necessary to correct it. The person(s) responsible must remedy violation within ten (10) calendar days after the receipt of notice of violation.

The notice of violation, shall state the action the Zoning Administrator intends to take if the violation is not corrected, and shall advise that the Zoning Administrator's order may be appealed to the Seven Devils Board of Adjustment as provided in Article 17 of this Ordinance.

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 Zoning Administrator may seek enforcement without prior written notice by invoking any of the penalties authorized in Section 5 of this Ordinance.

## **Section 5. Penalties and Remedies.**

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Any act constituting a violation of this Ordinance or failure to comply with any of its requirements, including the violations of any conditions and safeguards established in connection with grants of Variances or Special Use Permits shall also subject the offender to a civil penalty as set forth in the Town of Seven Devils Annual Operating Budget Ordinance (plus court costs and attorney fees incurred by the Town). If the offender fails to pay the penalty within ten (10) working days of receiving final written notice of a violation, the Town may recover the penalty in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender

received a final written notice of violation and did not appeal to the Board of Adjustment within the time limit prescribed in Article 17, of this Ordinance.

Failure to develop or maintain the property in accordance with the plans submitted will result in the revocation of any and/or all permits.

**This ordinance may also be enforced by any appropriate, equitable action or proceedings instituted by the Zoning Administrator which would prevent, restrain, correct, or abate a violation of this Ordinance.**

Each calendar day that any violation continues after receipt of the final written notice of such violation shall constitute a separate violation and a separate offense for the purpose of the penalties and remedies specified herein.

#### **Article 19. AMENDMENTS**

### **Section 1. Intent**

In order to establish and maintain sound, stable and desirable development within the planning jurisdiction of the Town of Seven Devils, it is intended that this Ordinance not be amended except for one (1) of the following reasons:

1. To correct a manifest error in the Unified Development Ordinance or Zoning Map
2. Because of changed or changing conditions in a particular area or neighborhood or the community as a whole, or
3. To promote and forward the purposes of the Seven Devils Comprehensive Land Use Plan.

It is further intended that if this Ordinance is amended, it be amended only as necessary to the promotion of public health, safety, or general welfare of the citizens of Seven Devils, and in conformance with the Seven Devils Comprehensive Land Use Plan.

### **Section 2. Amendment Initiation**

A request to amend this Ordinance may be initiated by:

1. The Seven Devils Town Council, upon its own motion.
2. The Seven Devils Planning Board.
3. The Town Manager, Zoning Administrator or other official of the Town of Seven Devils.
4. Any property owner or citizen or agent thereof, upon submittal of application to the Zoning Administrator.

All requests and applications for amendments to this Unified Development Ordinance shall be acted upon as provided by this Article.

### **Section 3. Procedures**

#### **(a) *Acceptance of Requests***

Any request initiated as provided in Section 2 shall be referred to the Zoning Administrator, Planning Board, or any other appropriate board for their consideration. Such requests shall be heard in public and acted upon in accordance with the procedures of this Article.

#### **(b) *Application Submittal Requirements***

Application for amendments to this Ordinance, as provided in Section 2(4), shall be filed with the Zoning Administrator, who will provide an application form with guidelines and schedule of fees. No refund of the fee or any part thereof shall be made once the application is filed unless the applicant withdraws the application by written notice before letters of notice are sent to adjoining property owners or publication of the public hearing,

whichever is sooner. The amount to be refunded will be reduced by 10% per day starting from the date of application submittal.

This Unified Development Ordinance shall prescribe the form(s) upon which applications will be made, as well as any other materials deemed necessary to make the determinations called for in each particular case.

The Zoning Administrator shall accept no application unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

Upon receipt of a completed application, the Zoning Administrator shall cause an analysis to be made of the application to determine conformity with the intent of this Article and based on his or her findings, shall prepare a report and recommendation to the Planning Board. To be placed on the agenda, applications, fees, and all accompanying material must be received no less than thirty (30) calendar days before the next regularly scheduled meeting of the Planning Board.

If the applicant proposes any substantial change to the application subsequent to acceptance of the application, an amended application shall be submitted and treated as an original application, with all fees and requirements applicable.

(c) *Planning Board Review*

The Planning Board shall review each request or application along with the Zoning Administrator's recommendations, and shall prepare and submit a written recommendation to the Town Council based on its findings as to conformity with the intent of this Article. Recommendations shall be submitted to the Town Council as soon as practical.

(d) *Council Action*

At its first regular meeting following the receipt of the recommendation from the Planning Board, the Town Council shall hold a public hearing and review each request or application for amendment to this Ordinance. The Town Council will consider the recommendations of the Planning Board and Zoning Administrator. Notification of the public hearing is the responsibility of the Town of Seven Devils.

e *Effect of Denial or Withdrawal on Subsequent Applications*

When an application has been denied or withdrawn by the applicant after the first publication of the public hearing, the Zoning Administrator shall not accept another application for the same or similar amendment affecting the same property or portion thereof, until the expiration of one (1) year from the date of denial or withdrawal as appropriate. Nothing in this subsection, however, shall prohibit the Town Council or Planning Board from initiating an amendment for any property at any time.



## Article 19—Figure 1—Application for Amending UDO

### Application for Amending the Seven Devils Unified Development Ordinance

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

Specific sections of the Unified Development Ordinance being requested for change: \_\_\_\_\_

Change requested is described as follows: \_\_\_\_\_

Reason(s) for the requested amendment(s) is/are as follows: \_\_\_\_\_

#### Applicant Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone # (s): \_\_\_\_\_

E-mail: \_\_\_\_\_

#### Property Owner Information

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone # (s): \_\_\_\_\_

E-mail: \_\_\_\_\_

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.
- Two (2) copies of any additional information the applicant intends to present at the public hearing.
- A list of names and addresses of the affected property owners.
- Personal or Certified Check in the amount determined by the current Fee Schedule for each application for a zoning classification change to cover the necessary administrative costs.

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) calendar days before the next scheduled meeting of the Planning Board.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Amount Paid \_\_\_\_\_ Received by \_\_\_\_\_ Date \_\_\_\_\_

## **Article 19—Figure 2—Requirements for Public Hearing—Amendment to UDO**

### **Requirements for Public Hearing and Property Owner Notification in Relation to Application for an Amendment to the Unified Development Ordinance**

#### **Notice should include:**

- Party requesting the public hearing.
- Date, time, and place where public hearing is to be located.
- Subject of the Hearing (including location of property and requested zoning changes, if applicable).
- Contact Information for the Town of Seven Devils:

Town of Seven Devils  
157 Seven Devils Road  
Seven Devils, NC 28604  
Phone: (828) 963-5343

To comply with North Carolina State Law, notices must be published in a local newspaper of general circulation to actual paid subscribers, as outlined in NCGS 1-597, such as the Watauga Democrat. To meet the requirements, ads may be published in fine print in the legal ads section.

Notices must be published in the designated newspaper for two (2) consecutive weeks, starting at least ten (10) calendar days but not more than twenty-five (25) calendar days before the scheduled public meeting.

If the amendment applies to a specific property, notices must be mailed through first class mail to owners of all property within 100 feet of the property in question. Property owners can be identified through Watauga County or Avery County tax records. These notices must be postmarked at least ten (10) calendar days but not more than twenty-five (25) calendar days before the scheduled public meeting. The same notice that was placed in the designated newspapers can be mailed to the property owners.

#### **Sample Notice:**

Public Hearing

The Town of Seven Devils will hold a Public Hearing at 5:30 pm on Monday, June 21, 2004 at Town Hall. The Public is invited to discuss the request by XYZ Development to rezone a twenty (20) -acre tract on Windy Meadows from Low-Density Residential (LDR) to Medium-Density Residential (MDR). For more information, please contact The Town of Seven Devils at 157 Seven Devils Road, Seven Devils, NC 28604. Phone: (828) 963-5343

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Amendment Case Number: \_\_\_\_\_

Received By: \_\_\_\_\_

Date: \_\_\_\_\_

**19. LEGAL STATUS**

***Section 1. Severability***

It is the legislative intent of the Town Council of Seven Devils in adopting this Ordinance that all provisions thereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare for the inhabitants of the Town and any ETJs it has acquired, or may acquire in the future. It is the further intent of the Town Council that this Ordinance shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this Ordinance

be held to be unconstitutional or invalid, such holding should not be construed as affecting the validity of any of the remaining provisions.

***Section 2.      Conflicting with Other Laws***

When provisions of this Ordinance impose higher standards than are required in any other statute or legal Ordinance or regulation, provisions of this Ordinance shall govern. When the provisions of any other statute or local Ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of that statute or local Ordinance or regulation shall govern.

***Section 3.      Relationship to Prior Ordinances***

This Ordinance in part carries forward by re-enactment some of the provisions of the former Zoning, Subdivision, and Construction Ordinances of the Town of Seven Devils and that it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all right and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Seven Devils enacted in 1997, as amended, which are not re-enacted herein, are hereby repealed. All suits at law or in equity and/or legal actions resulting from the violation of any Zoning or Unified Development Ordinance heretofore in effect, which are now pending in any of the courts of North Carolina or the United States shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted or litigated to their finality the same as if this Ordinance had not been adopted. With the respect to any and all violations of any Zoning or Unified Development Ordinance heretofore in effect, legal action to enforce said Ordinance may be hereafter filed and prosecuted or litigated. Nothing in this Ordinance shall be construed as to abandon or dismiss any litigation or prosecution now pending, and/or which had heretofore been instituted or prosecuted.