



# **POLK COUNTY**

## **Zoning Ordinance**

## **Article I. Authority and Enactment clause**

For the purpose of promoting health, safety, morals and general welfare, and by authority granted by the General Assembly of the State of North Carolina, General Statutes, particularly Part 3 Article 18 of Chapter 153, the Polk County Board of Commissioners hereby ordains and enacts into law the following articles and sections.

## **Article II. Short Title**

This ordinance shall be known and may be cited as "The Zoning Ordinance of Polk County, North Carolina."

## **Article III. Applicability & Jurisdiction**

### **Section 3.1 Jurisdiction.**

The provisions of this ordinance shall be applicable to the unincorporated areas of the county lying outside of any extra territorial zoning districts as specifically identified and delineated on the zoning map entitled "Official Zoning Map, Polk County, North Carolina." Parts of the county not identified as the zoning area shown on this map are not affected by these regulations.

### **Section 3.2 Exemption.**

This ordinance shall in no way regulate, restrict, prohibit, or otherwise affect bona fide farms within the jurisdiction of this ordinance, now enacted, or hereafter amended or revised. Any use of such property for nonfarm purposes, however, shall be subject to this ordinance.

### **Section 3.3 Vested Rights.**

In accordance with NCGS 153A-344.1 the following shall apply to zoned areas of Polk County:

#### **Section 3.3.1 Definition of Vested Right**

A vested right means the right to undertake and complete the development and use of a property under the terms and conditions of an approved site specific development plan.

#### **Section 3.3.2 Establishment of Vested Right**

A vested right shall be deemed established with respect to any property upon the valid approval, or conditional approval, of a site specific development plan or a phased development plan, following notice and public hearing by the county with jurisdiction over the property. Such vested right shall confer upon the landowner the right to undertake and complete the development

and use of said property under the terms and conditions of the site specific development plan or the phased development plan including any amendments thereto. A county may approve a site specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. A county shall not require a landowner to waive his vested rights as a condition of developmental approval. A site specific development plan or a phased development plan shall be deemed approved upon the effective date of the county's action or ordinance relating thereto.

### **Section 3.3.3 Duration and Termination of Vested Right**

- A. A right which has been vested as provided for in this section shall remain vested for a period of two (2) years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the County.
- B. Polk County Board of County Commissioners may provide that rights shall be vested for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the County. This shall not apply to development agreements approved in accordance with NCGS 153A-349.1-13.

## **Article IV Application of Regulations.**

### **Section 4.1 Use, occupancy and erection of buildings.**

No building, structure, or land shall hereafter be used or occupied, and no building, structure or parts thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the districts in which they are located, except as hereinafter provided. Please refer to Article 9 for administrative regulations and procedures.

### **Section 4.2 Limitation on number of principal buildings on one lot.**

Except as hereinafter provided in Section 6.2.3, 6.2.5 and 7.3, only one principal building and its customary accessory buildings may hereafter be erected on any lot. For the purposes of this Ordinance, a mobile home shall be considered a principal building. *(Exception: In the event of a medical condition where a family member requires close supervision or constant care a permit may be issued by the Planning Administrator or the Planning Board for a mobile home or manufactured home to be placed on a lot in the rear yard of another structure for a period of twelve months. The Planning Board or Planning Administrator may renew the permit at the end of the twelve month period.)*

**Section 4.3 Sharing of yard requirements.**

No part of a yard, court, or other open space provided about any building or structure for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building or structure.

**Section 4.4 Reduction of lot and yard areas prohibited.**

No yard or lot existing at the time of passage of this ordinance shall be reduced in size of area below the minimum requirements set forth herein.

**Section 4.5 Street access.**

No building shall hereafter be erected on a lot which does not abut a publicly dedicated, publicly approved or publicly maintained street, or have access to a public road, or in the case of a subdivision, have access to an approved private street.

**Section 4.6 Off-street parking.**

Off-street automobile parking or automobile storage space shall be provided on every lot at the time any principal building is enlarged or increased in capacity, or at the time one (1) type of use is converted to another, or whenever any of the following uses listed in Section 4.8 are hereafter established. Such space shall be provided with vehicular access to a street or alley and shall not be provided in a setback area required by the provisions of Article 7. Each automobile parking space shall consist of an improved hard-surface or crushed stone not less than two hundred (200) square feet in area exclusive of adequate access drives and maneuvering space. Such space shall be provided with vehicular access to a street or alley and shall not thereafter be encroached upon or altered.

**Parking Lot Landscaping Requirements**

Trees and shrubs are required in and around parking lots with more than ten spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, help absorb runoff, reduce glare from parking lots, and to help filter exhaust from vehicles.

1. Where parking areas with more than ten spaces adjoin a public right-of-way, a landscaped planting strip 10 feet wide shall be established and continuously maintained between the public right-of way and parking area(s). Parking areas within 50 feet of the right-of-way shall have a visually modifying screen or barrier that meets one of these standards:
  - a. evergreen shrubs shall be planted 30 inches apart as measured from the center, and attain a height of at least 48 inches within four years of installation;

- b. the screen or barrier is of the same material as the principal building; or
- c. there is an earthen berm at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs shall be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 30 inches apart.

No screen is required at parking lot entrances or exits, and no screen shall obstruct vision within 50 feet of an entrance, exit or intersection. The landscaped planting strip shall be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees, so that no soil is exposed.

- 2. Parking areas with more than five spaces shall have at least one deciduous tree for every five (5) parking spaces, with some appropriate clustering of trees permitted, and 6-foot by 18-foot projecting landscaped islands generally every 10 parking spaces. Whenever possible, interior parking spaces should have a continuous planter strip six (6) feet wide between rows of parking. Where appropriate, provisions shall be made to ensure that adequate pedestrian paths are provided throughout the landscaped areas. In all cases, at least one deciduous tree shall be provided for a parking lot regardless of the number of spaces provided.
- 3. Areas in a parking lot not used for driveways, maneuvering areas, parking spaces, or walks shall be permanently landscaped with suitable materials and permanently maintained.

**Section 4.7 Minimum Parking Requirements.**

The required number of off-street parking spaces shall be equal in number to at least the minimum requirements for the specific uses set forth below:

<u>Residential Uses</u>	<u>Required Parking Spaces</u>
Single-family residence	2 spaces
Multifamily residence	1½ spaces per dwelling unit
Guest house	2 spaces
Mobile home	2 spaces for each mobile home
<u>Public and Semi-Public Uses</u>	<u>Required Parking Spaces</u>
Bowling alleys	1 space for each employee, 2 spaces for each

lane

Churches	1 space for each 4 seats in the main sanctuary
Elementary school and junior high school	1 parking space for each classroom and administrative office
Hospitals and nursing homes	1 space for each 2 beds, exclusive of bassinets, and 1 space for each physician and nurse, and 1 space for each 2 additional employees
Public or private libraries	1 space for each 150 square feet of gross floor area for public use, plus 1 space for each 2 employees on the shift of greatest employment
Public utility buildings	1 parking space for each 200 feet of gross floor area
Skating rinks (ice and roller skating)	1 space for each 100 square feet of floor (rink) areas used for amusement, plus 1 space for each 4 fixed seats in the principal building
Senior high school	1 parking space for each 20 students for which the building was designed plus 1 parking space for each classroom and administrative office
Sanitariums, rest and convalescent homes	1 space for each 6 beds plus 1 space for each staff or visiting doctor plus 1 space for each 4 employees
Theaters, community recreation centers	1 space per 4 fixed seats in the largest assembly room, or one space for each 40 square feet of floor area available for the accommodation of movable seats in the largest assembly room, or one space for each 150 square feet of gross floor area, whichever is needed by the facility

#### Business Uses

#### Required Parking Spaces

Antique and gift shops 6 spaces per shop

Automobile sales and repair garages	1 space for each 2 employees at maximum employment on a single shift and 2 spaces for each 300 square feet of repair or maintenance space
Automobile washing establishments	1 space for each 2 employees at maximum employment on a single shift; 5 spaces shall also be located at the entrance and exit of the facility
Customary home occupation	2 spaces in addition to residence requirements
Doctor's or dentist's office	4 parking spaces per doctor in addition to 1 space for each employee
Drive-in restaurants	1 space per employee, plus parking space equivalent to 5 times the size of the main building
Drive in theaters	Reserved parking space off the street shall be provided for patrons awaiting admission in an amount not less than 30 percent of the vehicular capacity
Motels, tourist homes, tourist courts	1 space for each sleeping room plus 1 additional space for each 3 employees
Offices, business	1 parking space for each 400 square feet of gross floor area
Public or private clubs, including golf courses (clubhouse)	1 parking space for each 200 square feet of gross floor space
Restaurants	1 space per employee, plus parking space equivalent to 1 space per 3 seats or stools
Roominghouses, boardinghouse, and hotels	1 space for each sleeping room plus 1 additional space for each 3 employees

Retail uses not otherwise indicated in this section	1 space for each 250 square feet indicated in this section of total floor area
Service stations	3 spaces for each grease rack plus 2 spaces for each gas pump
Roadside stands	6 off-street parking spaces
<u>Wholesale and Industrial Uses</u>	<u>Required Parking Spaces</u>
Wholesaling, industrial plants and truck terminals	1 space per employee at peak shift

#### **Section 4.8 Combined parking space.**

The required parking space for any number of separate uses may be combined in one (1) lot but the required space for one (1) use may not be assigned to another use, except that one-half of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or Sundays.

#### **Section 4.9 Parking spaces provided within four hundred (400) feet of principal use.**

If the off-street parking space required cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided within four (400) hundred feet of the main entrance to such principal use, provided such land is in the same ownership or long-term lease as the principal use. Said land shall be used for no other purpose so long as no other adequate provisions of this ordinance have been made for the principal use. In such cases, the applicant for a zoning compliance or zoning permit for the principal use shall submit with his application an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use or for which it is made available. Upon the payment of the necessary fee and the issuance of a zoning compliance or zoning permit, the zoning administrator shall cause said instrument to be registered in the office of the Register of Deeds of Polk County.

#### **Section 4.10 Off-street loading and unloading spaces.**

Every building or structure used for business, or wholesale or industry shall provide space as indicated below for the loading and unloading of vehicles. Such space shall have access to a public street or alley. For the purposes of this article, an off-street loading space shall consist of an improved hard-surface or crushed stone and have minimum dimensions of nine (9) feet wide, thirty (30) feet long, with fourteen (14) feet overhead clearance.

- a. Retail business: One (1) space for each three thousand (3,000) square feet of floor area or fraction thereof, unless differently required by Section 4.8.

- b. Wholesale or industry: One (1) space for each ten thousand (10,000) square feet of floor area or fraction thereof.

## **Article V. Establishment of Districts and Boundaries and Map.**

### **Section 5.1 Establishment of districts.**

For the purpose of the ordinance, the area designated on the zoning map is hereby divided into the following districts:

Residential (R)

Agricultural-residential (AR)

Residential estate/low density (RE-1)

Residential estate/low density (RE-2)

Residential estate/very low density (RE-5)

Multifamily residential (MR)

Neighborhood Commercial (NC)

Highway commercial (HC)

Industrial (I)

Multiple use (MU)

Family Farm (FF)

Agricultural-residential/very low density (AR-5)

### **Section 5.2 District boundaries.**

The boundaries of the districts as herein established are shown upon the map accompanying this ordinance entitled "Official Zoning Map, Polk County, North Carolina," and made a part thereof. The zoning map and all the notations, references and other information shown thereon is hereby made a part of this ordinance the same as if such information set forth on the map were all fully described and set forth herein. The zoning map properly attested is on file in the office of the zoning administrator and is available for inspection by the public.

### **Section 5.3 Rules governing boundaries.**

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

- a. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or railroad rights-of-way lines or such lines extended, such centerlines, street lines, or railroad right-of-way lines shall be construed to be said boundaries.
- b. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- c. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map.
- d. In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by use of the scale appearing in the map.
- e. Where district boundaries are indicated as approximately following the centerline of stream beds, or river beds, such centerlines shall be considered to be such boundaries.
- f. Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered previously in this section, the board of adjustment shall interpret the district boundaries.

### **Section 5.4 Statement of District Intent**

#### *5.4.1 Residential district (R).*

The residential district (R) is intended to provide locations for residential purposes, and limited private and public uses which do not detract from the residential character of the neighborhood. This district is further intended to prohibit business and industrial land uses and any other uses that would interfere with the developing or continued use of land for residential purposes.

#### *5.4.2 Agricultural-residential district (AR).*

The agricultural-residential district (AR) is intended to provide areas for general agricultural purposes, and low density residential purposes. This district is further intended to protect from scattered and uncoordinated development, and to

discourage any use that because of its size or character would create unusual requirements and costs for providing public services such as water supply, refuse, and sewerage disposal before such services are generally needed.

#### 5.4.3 *Residential estate/low density district (RE-1).*

The residential estate/low density district (RE-1) is intended as a district in which the principal use of land is for low density residential purposes and for other residentially related facilities designed for serving the residents of these districts. These districts consist primarily of single-family detached dwelling units placed on relatively large lots with considerable open spaces between structures, thus creating a low density residential environment. Nonresidential uses are limited in order to maintain the low density character and to preserve the natural features of those areas. Likewise, dimensional requirements pertaining to lot size, building setbacks, and yard requirements, have been established to promote the general welfare of the community.

#### 5.4.4 *Residential estate/low density district (RE-2).*

The residential estate/low density district (RE-2) is intended as a district in which the principal use of land is for low density residential purposes and for other residentially related facilities designed for serving the residents of these districts. These districts consist primarily of single-family detached dwelling units placed on relatively large lots with considerable open spaces between structures, thus creating a low density residential environment. Nonresidential uses are limited in order to maintain the low density character and to preserve the natural features of those areas. Likewise, dimensional requirements pertaining to lot size, building setbacks, and yard requirements, have been established to promote the general welfare of the community.

#### 5.4.5 *Residential estate/very low density district (RE-5).*

The residential estate/very low density district (RE-5) is intended as a district in which the principal uses of land are for (1) nonprofit private equestrian courses, nature centers and recreational facilities, (2) private stables and (3) very low density residential purposes and for other residentially related facilities designed for serving the residents of these districts. These districts consist primarily of single-family detached dwelling units placed on large lots with considerable forestation or open spaces between structures, thus creating a very low density residential environment. Nonresidential uses are limited in order to maintain the very low density character and to preserve the natural features of those areas. Likewise, dimensional requirements pertaining to lot size, building setbacks, and yard requirements have been established to promote the general welfare of the community.

#### *5.4.6 Multifamily residential district (MR).*

The multifamily residential district (MR) is intended to provide an area for the development of single and multifamily uses such as apartments and condominiums.

#### *5.4.7 Highway commercial district (HC).*

The highway commercial district (HC) is intended to provide for the orderly development and concentration of highway commercial uses at appropriate locations, and to encourage the development of these locations so as to minimize traffic hazards. The principal use of this district is to provide for the provision of products and services to tourists and the motoring public in areas adjacent to interstate and other major highways.

#### *5.4.8 Industrial district (I).*

The industrial district (I) is intended to provide for the orderly development of industry which will provide increased employment and which will not be detrimental in terms of creating a damaging environment in the surrounding area.

#### *5.4.9 Neighborhood Commercial (NC).*

The neighborhood commercial district (NC) is intended to provide suitable locations for limited, neighborhood-oriented, commercial businesses and service activities in close proximity to residential neighborhoods, schools, and hospitals. This district is designed to allow for a mix of residential, commercial, business and service uses to serve the residents, occupants, patients, students, and visitors to the area, in limited areas, along major traffic arteries and at key intersections, to preserve the traffic carrying capacity of the streets, to provide for off-street parking, and to limit building illumination to minimum needed for safety. The type of uses allowed, and the standards established for development in this district, should be compatible with the residential character of the area, and not to encourage extensive development, but rather to provide concentrations of general commercial and business activities. This district should currently have water and sewerage services or be expected to have such services available in the foreseeable future.

#### *5.4.10 Multiple Use (MU).*

The multiple use district (MU) is intended to provide locations for most types of land uses allowed in the other zoning districts. Uses in this district should not endanger the public health and safety, not substantially injure the surrounding property values, and be in harmony with the surrounding area. In light of historic development patterns in this district, and in consideration of the significant impact

of large scale residential development within Polk County, special provision is made with respect to major subdivisions.

#### *5.4.11 Family Farm (FF).*

The family farm district (FF) is intended to provide locations for most types of land uses allowed in the other zoning district. Uses in this district should not endanger the public health and safety, not substantially injure the surrounding property values, and be in harmony with the surrounding area.

#### *5.4.12 Agricultural Residential Very Low Density (AR-5)*

The agricultural-residential/very low-density district (AR-5) is intended to provide areas for general farming purposes (including agriculture, horticulture and forestland), support of farming activities, and very low-density residential purposes. The district consists primarily of rural residential properties with acreage and individual/family farming operations, for example, vineyards, orchards, soybeans, hay and timber production; beef, goat, pig, dairy and horse farms and stables; and small specialty farms such as produce gardening, flower/nurseries and beekeeping. This district is intended to protect from scattered and uncoordinated development, particularly higher-density, suburban-type subdivisions that are typically incompatible with farming activities (for reasons such as traffic, water demands, and objections to the noises, smells, hours and machinery of farming), and to discourage any use that because of its size or character would create unusual requirements and costs for providing public services such as water supply, refuse and sewerage disposal. The district is not intended to attract or support major agri-businesses such as corporate pig or poultry farming, cattle feed lots or fertilizer manufacturing plants. The district does allow small businesses, non-intrusive to neighboring properties, to be conducted on a resident's property; examples would include artist/craft studio; research/writing/transcription; farrier; carriage supply sales; acupuncture/massage; accounting; woodworking; technology/web design. Uses in this district should not endanger the public health and safety, not substantially injure the surrounding property values, and be in harmony with the surrounding area.

### 5.4.13 Mobile Home Overlay (MHO)<sup>i</sup>

The mobile home overlay zoning classification (MHO) is intended to provide a means for homeowners to provide housing for family members on the lot on which the homeowners' home is located. A medical hardship, as specified in Section 4.2 of this Ordinance, is not necessary in order for a mobile home to be situated on a lot located within an MHO district. MHO districts are an overlay zone, affecting the underlying zoning district only as stated herein.

*5.4.13.1 Uses Authorized.* The uses authorized in an MHO district, including permitted uses, permitted uses with conditions, and conditional uses, shall be the same as for the underlying zoning district(s) with one exception: accessory mobile homes shall be permitted as conditional uses subject to the standards contained herein.

*5.4.13.2 Development Standards.* Dimensional and other development standards shall be the same as for the underlying zoning district(s) except as modified herein.

*5.4.13.3 Conditional Use Permits.* Conditional use permits shall be limited to a specific hardship relating to a specific primary resident of the accessory mobile home. If the identity of that primary resident of the accessory mobile home or the nature of his or her hardship changes, a new conditional use permit shall be necessary to continue use of the accessory mobile home. The Board of Adjustment shall issue a conditional use permit to allow the placement of an accessory mobile home in an MHO district only upon making the following findings:

- a. The lot on which the accessory mobile home is to be placed contains an existing single-family home in which the owner(s) of the lot reside (*resident owner*).
- b. The accessory mobile home is clearly accessory to the existing single-family home on the property; the gross floor area of the accessory mobile home may not exceed 75% of the gross floor area of the existing single-family home.
- c. The accessory mobile home shall have a primary resident who is either a member of the family of the *resident owner* of the existing single-family home or the spouse of a member of such family. The accessory mobile home shall not be used as an income-producing property. For purposes of this section, a person shall be considered a member of the family of the *resident owner* if he or she is within the third degree of kinship, by blood or adoption, computed in accordance N.C.G.S. § 104A-1 (First: parents, children; Second: grandparents, grandchildren, siblings; and Third: great grandparents, great grandchildren, aunts, uncles, nieces, nephews).
- d. A substantial hardship exists which will be alleviated by the placement of the accessory mobile home. This hardship may be financial.

- e. The accessory mobile home shall be situated on the property in such a manner as to minimize its impacts on adjoining property owners.

*5.4.13.4 Revocation of Conditional Use Permit.* The Board of Adjustment may revoke a conditional use permit issued for placement of an accessory mobile home in an MHO district on the following grounds:

- a. The primary resident identified in the application for a conditional use permit no longer resides in the home.
- b. The hardship identified in the application for a conditional use permit no longer exists.
- c. Any other violation of the terms of the conditional use permit or the conditional use standards contained herein.

*5.4.13.5 Additional Responsibilities of the Resident Owner.* The *resident owner* shall have the following additional responsibilities with regard to an accessory mobile home:

- a. Record in the Office of the Register of Deeds the conditional use permit before a building permit may be issued.
- b. File an annual report with the Planning Department on forms provided by the County indicating the status of the accessory mobile home. This report shall be in the form of an affidavit swearing to the truth of the matters contained therein.
- c. Remove the accessory mobile home within 90 days of the following:
  - 1) The accessory mobile home no longer serves as the residence for a family member of the *resident owner*.
  - 2) Revocation of the conditional use permit authorizing the accessory mobile home.

**Article VI. Permitted Use Table.**

P = Permitted

P\* = Permitted with conditions

C = Allowed as a Conditional Use

Blank Space = Not Permitted

The permissibility of any use not listed, or not closely resembling any listed use, will be decided upon by the Board of Adjustment based on the district intent clause.

	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P	P
Automobile, truck, & farm Implement sales & service				C				P	P	P	P	C
Bed & Breakfast				P		P	P	P		P	P	P
Cemetery <i>*see 6.2.7 for restrictions</i>	P*	P*	P*	P*	P*	P*	P	P		P	P	P*
Church, synagoge, temple, or other religious Building <i>*see 6.2.1 for restrictions</i>	P*	P*	P*	P*	P*	P*	P	P		P	P	P*
Clubs, public or private <i>*see 6.2.1 for restrictions</i>	P*	P*	P*	P	P			P		P	P	P*
Community recreation centers	P	P	P	P	P	P	P			P	P	P
Convenience stores, including those that sell petroleum and petroleum products						C	C	P		P	P	
Customary home occupations	P	P	P	P	P	P	P	P	P	P	P	P
Day care facility <sup>ii</sup> <i>*see 6.2.8 for restrictions</i>	P*	P*	P*	P*	P*	P*	P	P*	P*	P*	P*	P*
Duplex				P	P	P	P	P	P	P	P	P
Golf courses & country clubs	P	P	P	P	P	P	P	P	P	P	P	
Guest House <i>*see 6.2.3 for restrictions</i>	P*	P*	P*	P*	P*	P*	P	P	P	P	P	P*
Hospitals & clinics				P			P	P		P	P	C
Laundry & dry cleaning services							C	P	P	P	P	
Libraries, public or private				P		P	P			P	P	P
Manufacturing, Light									P	P	P	C
Manufacturing									P	C	P	
Mobile or Manufactured Home, Individual				P						P	P	P
Mobile or Manufactured Home Parks				P		P				P	P	
Modular Home	P	P	P	P	P	P	P	P	P	P	P	P
Motels & hotels								P		C	P	
Multifamily residences						P	P	P		P	P	

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Blank Space = Not Permitted

	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Nursery and/or landscape business, & greenhouse				P			P	P		P	P	P
Offices, business, medical, professional & public, including banks							P	P	P	P	P	
Offices pertaining to permitted use	P	P	P	P	P	P	P	P	P	P	P	P
Printing, publishing, & engraving establishments							C	P	P	P	P	
Public safety facilities (fire, police, etc...)				P			P	P	P	P	P	C
Radio & TV stations & studios								C	C	C	C	
Recreational facilities, for profit (bowling alleys, skating rinks, etc...)				C		C	C	P	P	C	P	
Recreational facilities, non-profit (parks, playgrounds, nature centers, equestrian courses, etc...)*see 6.2.4 for restrictions	P*	P*	P*	C						C	P*	C
Recreational Vehicle & travel trailer parks, service & camp areas				C				P		C	P	
Restaurants, excluding fast food & drive thru services							P	P		P	P	C
Restaurants, including fast food & drive thru services								P	P	P	P	
Rest & convalescent homes, sanitariums				P	P	P	P	P	P	P	P	C
Retail trade, commercial services, sales and rental of merchandise & equipment							C	P	P	P	P	C
Retail business customarily serving residential neighborhoods & conducted within an enclosed building						C	P	P		P	P	
Roadside stands selling home grown products				P				P		P	P	P
Sawmill				P						P	P	C
Schools, public or private	P	P	P	P	P	P	P			P	P	P
Schools, vocational, business, & special schools									P	P	P	
Service stations								P	P	P	P	

P = Permitted

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C = Allowed as a Conditional Use

Blank Space = Not Permitted

	RE1	RE2	RE5	AR	R	MR	NC	HC	I	MU	FF	AR5
Single family residences	P	P	P	P	P	P	P	P	P	P	P	P
Spectator sport facilities 500 or more spectators									C	C	C	
Spectator sport facilities less than 500 spectators				C	C	C	C	C	C	C	P	
Stables, private <i>*see 6.2.5 for restrictions</i>	P*	P*	P*	P						P	P	P
Storage & warehousing									P	C	P	
Theaters							C	P		P	P	
Towers <i>*see Polk County Tower Ordinance</i>								P*	P*	P*	P*	
Truck terminals								P	P	P	P	
Utility buildings and facilities, public <i>*see 6.2.6 for Restrictions</i>	P*	P*	P*	P*	P*	P*	P*	P	P	P	P	P*
Veterans' Affairs Office <sup>iii</sup>	P						P	P	P	P		
Veterinarian clinics, animal shelters <i>*see 6.2.9 for Restrictions</i>		P*	P*	C			C	C		C	P	C
Waste Handling, Treatment, Processing, Management or Disposal Facility											C	
Wholesale sales, retail sales & supply houses								P	P	P	P	

## **Section 6.2 Other Restrictions**

6.2.1 Churches and clubs (public or private) provided they are located not closer than fifty (50) feet from any property line with required off-street parking spaces and separated from side and rear property lines by a planted buffer strip at least ten (10) feet in width. The buffer strip shall be composed of two staggered rows of evergreen shrubs or sheared evergreen trees so that an effective screen year-round is present.

6.2.2 Clubs, public or private, provided they are located not closer than fifty (50) feet from any property line with required off-street parking spaces and separated from side and rear property lines by a planted buffer strip at least ten (10) feet in width. The buffer strip shall be composed of two staggered rows of evergreen shrubs or sheared evergreen trees so that an effective screen year-round is present.

6.2.3 Guest house, provided that it shall be placed according to applicable setbacks from any property line and provided that not more than one (1) such facility shall be permitted on any lot. A guest house meeting these requirements may be situated on the same lot as a single family residence.

6.2.4 Nonprofit private equestrian courses, nature centers and recreational facilities, provided that the parcel of land proposed for development shall contain no less than two hundred (200) acres; all structures shall be so placed as not to be closer than three hundred (300) feet from any property line; activities proposed shall in no way have deleterious affects (such as, but not necessarily limited to noise, excess traffic and other effects that go beyond the property line) on adjoining RE-2 and RE-5 developments; the parcel shall be so located as to provide for ingress and egress from the site directly onto a major thoroughfare having an existing or planned right-of-way at least sixty (60) feet in width and shall in no way traverse single-family subdivisions.

6.2.5 Private stable for not more than one (1) horse on a lot or parcel at least two (2) acres in area; and provided further, that for each additional horse stabled thereon, an additional contiguous two (2) acres of land shall be provided. In no instance shall a horse be confined nearer than seventy-five (75) feet to any property line abutting an existing residence.

The RE-5 districts also allow for horse farms, including the boarding of horses and the extension of on-site riding lessons, provided any stable, barn, or structure required be setback at least three hundred (300) feet from all abutting residentially zoned land.

6.2.6 Provided all structures shall be set back at least thirty (30) feet from the property line and all exposed apparatus shall be safely enclosed and landscaped.

6.2.7 Only when associated with a church.

6.2.8 Provided all state and/or county regulations are met.

6.2.9 Animal shelters and kennels owned by non-profit corporations that serve the needs of the county and its citizens.

## **Article VII. Dimensional Requirements**

### **Section 7.1 General Provisions**

- A. The minimum for side yard property line which abuts a street, shall be 25 feet.
- B. Along each property line which is adjacent to a residential district, the property owner or developer shall place and maintain a buffer strip fifteen (15) feet wide upon which shall be planted an evergreen screen hedge to provide appropriate screening against noise, glare, fumes, dust, and other harmful effects. The buffer strip may utilize existing evergreen vegetation.
- C. All lots identified in a watershed must also meet the requirements of the Polk County *Watershed Ordinance*.
- D. All new lots shall meet the requirements of *Subdivision Ordinance* except that the minimum lot sizes shall meet the dimensional requirements in the table below.
- E. It is not permitted to average the lot areas to meet the minimum lot areas established in this Article. However, Cluster Developments shall be allowed in accordance with the Subdivision Ordinance, so long as the maximum density shall be equal to one dwelling unit per the minimum lot size listed in the dimensional table below. For example, if the minimum lot size is 43,560 square feet (1 acre), then the maximum density is one unit per acre.

**Section 7.2 Dimensional Table**

District	Max. Building Height from main floor (Ft)	Min. District Size (Acres)	Min. District Frontage on all Thorough-fares (Ft.)	Min. Lot Size – No Public/ Water or Sewer (Sq. Ft.)	Min. Lot Size – With Public/ Water or Sewer (Sq. Ft.)	Min. Lot Width (Ft)	Min. Front Yard Setback from Right-of-way (Ft)	Min. Side Yard (Ft)	Min. Rear Yard (Ft)
Residential Estate/Low Density (RE-1)	40	-	-	43,560 <sup>1</sup> (1 acre)	43,560 <sup>1</sup> (1 acre)	150	50	25	25
Residential Estate/Low Density (RE-2)	40	-	-	87,120 <sup>1</sup> (2 acres)	87,120 <sup>1</sup> (2 acres)	200	50	50	50
Residential Estate/Very Low Density (RE-5)	40	-	-	217,800 <sup>1</sup> (5 acres)	217,800 <sup>1</sup> (5 acres)	200	50	50	50
Residential (R)	40	-	-	43,560 <sup>1</sup> (1 acre)	21,780 <sup>1</sup> (½ acre)	70	25	15	25
Agricultural Residential (AR)	40	-	-	43,560 <sup>1</sup> (1 acre)	21,780 <sup>1</sup> (½ acre)	100	25	25	25
Multifamily Residential (MR)	40	-	-	- <sup>1</sup>	10,890 <sup>1</sup> Plus 3,000 for each additional unit (max. 12 dwelling units per acre)	70	25	15	25
Neighborhood Commercial (NC)	40	-	-	21,780 <sup>1</sup> (½ acre)	21,780 <sup>1</sup> (½ acre)	80	50 or 75 from road centerline whichever is greater	20	20 or 25 adjacent to a Resid. area
Highway Commercial (HC)	40	-	1,000 ft. and separated by 1/4 mile of resid. zoned frontage	- <sup>1</sup>	- <sup>1</sup>	100	30	25	25
Industrial	40	1 acre	-	87,120 <sup>1</sup> (2 acres)	87,120 <sup>1</sup> (2 acres)	200	50	25	25
Multiple Use	40	1 acre	-	43,560 <sup>1</sup> (1 acre)	43,560 <sup>1</sup> (1 acre)	70	25	15	25
Family Farm	40	1 acre	-	43,560 <sup>1</sup> (1 acre)	21,780 <sup>1</sup> (½ acre)	70	25	15	25
Agricultural Residential Very Low Density (AR-5)	40	-	-	217,800 <sup>1</sup> --- *43,560 (1 acre)	217,800 <sup>1</sup> --- *43,560 (1 acre)	200 --- *150	50 --- *50	50 --- *25	50 --- *25

\*These requirements also apply to existing nonconforming lots in the AR5 district.

<sup>1</sup>Any major subdivision of land in this category (as major subdivision as defined in the Subdivision Ordinance), shall subject all such subdivided land to the minimum lot area requirements and all other requirements for major subdivisions as set forth in the Subdivision Ordinance. (All references to the Subdivision Ordinance shall refer to the Subdivision Ordinance as the same may be amended from time to time.)

### **Section 7.3 Group development**

In the case of two (2) or more principal buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this ordinance may be waived by the county Planning Board in a manner that will be in harmony with the character of the neighborhood, provided:

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

**7.3.2** The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located.

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

**7.3.4** The building heights do not exceed the height limits permitted in the district in which the project is located.

**7.3.5** All sanitation and utility services shall be reviewed by and approved by the county sanitarian.

**7.3.6** A design plan showing how the requirements of Subsection[s] 7.3.1-7.3.5 will be met is submitted along with the application for a group project. The procedure for approval of group development plans shall consist of the submission of a design plan showing the proposed layout, including the location of buildings, driveways, off-street parking spaces and recreation areas, etc., to the administrator for study and recommendation prior to final approval by the Planning Board

## **Article VIII. Nonconforming Situations**

### **Section 8.1 Purpose**

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The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. Any nonconformity created by an establishment or change in the zoning districts or text of these regulations shall be regulated by the provisions of this Article. This Article is also established to require that non-conforming situations be terminated under certain circumstances.

### **Section 8.2 Extension or Enlargement of Nonconforming Situations**

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- A. Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.
- B. A nonconforming use may be extended through any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.
- C. A nonconforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became nonconforming. Per Subsection 8.2(G) below, nothing herein shall prevent the reconstruction or expansion of a single-family dwelling that is nonconforming as to use.
- D. The volume, intensity, or frequency of use of property where a non-conforming situation may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Article occur.
- E. Physical alteration of nonconforming structures or structures containing a nonconforming use is unlawful if it results in:
  - 1) An increase in the total amount of space devoted to a non-conforming use;
  - 2) Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements; and
  - 3) The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the nonconforming activity.
- F. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovations—work estimated to cost more than ten percent but less than 60 percent of the taxed value of the structure to be renovated—may be done provided that the work will not result in a violation of any other paragraph in this Article. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five-year period.
- G. Any structure used as a single-family residence and maintained as a nonconforming situation may be enlarged or replaced, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. Nothing herein shall prevent the maintenance, repair, extension or construction of a residential accessory building or swimming pool, provided it is done in the conformance with the requirements of this Ordinance.

### **Section 8.3 Nonconforming Lots of Record**

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Where the owners of a legally existing lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this ordinance, such lot may be used as a building site provided all other dimensional and use requirements are met. This Section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it.

### **Section 8.4 Re-establishment of a Nonconforming Situation Prohibited**

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- A. If a nonconforming use is abandoned for a period of one year or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming.
- B. Any nonconforming building or structure or any building or structure containing a nonconforming use for which major repair or reconstruction is proposed in any amount equal to 60 percent or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to 60 percent or more of its taxed value shall only be repaired and/or constructed and used as a conforming structure and a conforming use.
- C. Per Subsection 8.2(G) above, nothing herein shall prevent the reconstruction of a single-family dwelling that is nonconforming as to use.

### **Section 8.5 Nonconforming Uses**

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- A. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert back to a nonconforming use.
- B. A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment.
- C. If a nonconforming use and a conforming use, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed only to a conforming use.
- D. Conforming uses may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provisions of this Ordinance for the establishment of new uses is violated.

## **Article IX. Administration and Enforcement.**

### **Section 9.1 Zoning Administrator**

To provide the general administration, interpretation and enforcement of this ordinance the Polk County Board of Commissioners shall appoint a zoning administrator who will be directly responsible to, and report periodically, to the Board.

It is the intent of this ordinance that all questions relative to its general administration, interpretation and enforcement shall be presented to the zoning administrator. Appeal from his determinations and decisions shall be made to the zoning board of adjustment. Further recourse shall be taken to the courts as established by law. It is also the intent of this ordinance that the county commissioners shall not hear or pass on disputed questions of interpretations or enforcement of it. The duties of the county commissioners in connection with this ordinance shall only include those related to the calling and holding of public hearings and voting upon any proposed amendments to or repeal of this ordinance, as provided by law.

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

If a ruling of the zoning administrator is questioned, the aggrieved party or parties may appeal such ruling to the board of adjustment.

### **Section 9.2 Certificate of zoning compliance required.**

No buildings, signs or other structures shall be erected, moved, added to, or structurally altered until a certificate of zoning compliance has been issued by the zoning administrator. No certification of zoning compliance shall be issued except in conformity with the provisions of this ordinance.

### **Section 9.3 Application for certificate of zoning compliance.**

All applications for certificate of zoning compliance shall be accompanied by two (2) sets of plans showing the dimensions and shape of the parcel to be built upon, the exact sizes, uses and locations on the parcel of buildings already existing, if any, and the locations, dimensions and uses of the proposed buildings or alterations. The application shall include such other information as

may be necessary to determine conformance with and provide for the enforcement of this ordinance. A fee shall be charged for the processing of each such application. In addition, any other information called for on the application form shall also be included.

#### **Section 9.4 Health department approval of water supply and sewage disposal facilities.**

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

#### **Section 9.5 Certificate of occupancy required.**

A certificate of occupancy issued by the zoning administrator is required in advance of:

1. Occupancy or use of a building hereafter erected, altered or moved.
2. Change of use of any building or land.

A certificate of occupancy, either for the whole or a part of a building shall be applied for coincident with the application for a certificate of zoning compliance and shall be issued within ten (10) days after the erection or structural alteration of such building or part shall have been completed in conformity with the provision of this ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied, the zoning administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the zoning administrator and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

#### **Section 9.6 Remedies.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the zoning administrator or county attorney or any appropriate authority of the county, or any adjacent, nearby or neighboring property owner who would be specially affected by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent the violation in the case of such building, structure or land, but a property owner may take such action only if such owner, after exhausting all available administrative remedies, has been unable to induce any such authority to take appropriate action.

#### **Section 9.7 Penalties.**

Any person who shall violate any provision of this ordinance, or who shall violate or fail to comply with any lawful order made thereunder, or who shall continue to work upon any structure when such work is unlawful or after having received lawful written notice from the appropriate authority to cease work, shall be guilty of a misdemeanor, punishable upon conviction thereof by a fine not exceeding fifty (\$50.00) or imprisonment not exceeding thirty (30) days. Each day such violation continues shall constitute a separate offense.

### **Section 9.8 Fees.**

In order to adequately remunerate such costs as advertising, legal fees, etc., a fee for the administration of this ordinance is hereby set forth. A fee, established by the Board of Commissioners, shall be charged to the petitioner for an application to amend the ordinance (text or map), for a zoning compliance permit from the board of zoning adjustment.

## **Article X. Zoning Board of Adjustment.**

### **Section 10.1 Establishment of a zoning board of adjustment.**

A zoning board of adjustment is hereby established. Said board shall consist of five (5) members to be appointed by the county commissioners for overlapping terms of three (3) years. Initial appointments shall be as follows: one (1) member for a term of three (3) years, two (2) members for a term of two (2) years, and two members for a term of one (1) year. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the board shall be for three-year terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the zoning board of adjustment. Members of the zoning board of adjustment, shall be residents of zoned areas within the county's zoning jurisdiction and, insofar as possible, shall be appointed from different zoning districts. The board of county commissioners shall also appoint three (3) alternate members to serve on the board of adjustment in the absence for any cause of any regular member. Such alternate members shall be appointed for three-year terms; provided, however, that in the case of the first appointment of alternate members, one (1) shall be appointed for a three-year term, one (1) shall be appointed to a two-year term and one (1) shall be appointed to a one-year term. Such alternate members while attending any regular or special meeting of the board and serving in the absence of any regular member shall have and exercise all the powers and duties of such regular member so absent.

### **Section 10.2 Proceedings of the zoning board of adjustment.**

The zoning board of adjustment shall elect a chairman and vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The board shall appoint a secretary, who may be a county officer, member of the board of adjustment, and/or an employee of the county, or a volunteer citizen of the county who has the qualifications to fulfill the requirements of the position. The board shall adopt rules and bylaws in

accordance with the provisions of this ordinance and of Article 18 of Chapter 153A of the General Statutes of North Carolina. Meetings of the board shall be held at the call of the chairman, or in his absence, the vice-chairman, either of whom may administer oaths. All meetings of the board shall be open to the public.

### **Section 10.3 Decisions of the zoning board of adjustment.**

The concurring vote of four (4) members of the board of adjustment shall be necessary to reverse any order, requirement, decision of the zoning administrator or 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. On all appeals, applications and other matters brought before the board of adjustment, said board shall inform in writing all the parties involved of its decisions and the reasons therefor.

### **Section 10.4 Appeals to the zoning board of adjustment.**

Appeals to the zoning board of adjustment may be taken by any person aggrieved, or by any official or board of Polk County affected by any decision of the zoning administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the zoning administrator and with the secretary of the zoning board of adjustment a notice of appeal and specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the zoning administrator and on due cause shown.

### **Section 10.5 Powers and duties of the board of adjustment.**

The zoning board of adjustment shall have the following powers and duties:

10.5.1 *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement of this ordinance.

10.5.2 *Conditional uses.* To hear and decide requests for conditional use permits upon which the board of adjustment is required to pass under this ordinance..

10.5.3 *Permissibility of uses not listed in Article 6.* To hear and decide upon request the permissibility of any use not listed in the permitted use table, nor closely resembling any listed use as determined by the zoning administrator, based upon the district intent clause.

10.5.4 *Variances.* To authorize upon request in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to

special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done. The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of adjustment that the following conditions exist:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- b. A literal interpretation of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- c. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- d. The special circumstances are not the result of the action of the applicant.
- e. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
- f. The variance is not a request to permit a use of land, building, or structure which is not permitted by right, or by condition use in the district involved.
- g. If no construction has taken place for a period of two (2) years after the issuance of a variance, an extension must be reapplied for.

10.5.5 *Notice of Meeting.* When an appeal or a request is to be heard by the board, adjacent property owners are to be mailed a notice of the meeting

### **Section 10.6 Appeals from the board of adjustment.**

Any person or persons, jointly or severally, aggrieved by any decision of the board, or any official or board of Polk County may, within thirty (30) days after the filing of the decision in the office of the board, but not thereafter, present to the superior court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, whereupon such decision of said board shall be subject to review by certiorari as provided by law.

## **Article XI. Amendments**

### **Section 11.1 Procedure.**

This ordinance, including the zoning map, may be amended from time to time, but no amendment shall become effective unless it shall have been proposed by, or shall first have been submitted to, the Polk County Planning Board for review and recommendation. The planning board shall have thirty (30) days within which to submit its report. If the planning board fails to submit its report within the thirty-day period, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the board of county commissioners before adoption of any proposed amendment to this ordinance. A notice of such public hearing shall be given in accordance with state statutes.

### **Section 11.2 Planning board study.**

Every proposed amendment or repeal of this ordinance shall be referred to the planning board for its recommendation and report, provided that no proposal shall be required to be considered by the planning board within ten (10) days from filing of the proposal with the zoning administrator. Each application shall be signed and shall contain at least the following information:

- a. The applicant's name in full, applicant's address, address or description of the property to be zoned or rezoned. When instituting a zoning change, the applicant must pay all advertising and mailing costs incurred by the County.
- b. Applicant's interest in the property and the type of zoning or rezoning requested.
- c. If the proposed change would require a change in the zoning map, an accurate diagram of the property proposed for rezoning showing:
  - 1) All property lines with dimensions and directions shown on the map as north, east, west, and south (north arrow);
  - 2) Adjoining streets with rights-of-way and paving widths;
  - 3) The location of all structures, the use of all land;
  - 4) Zoning classification of all abutting zoning districts, the names and addresses of current abutting property owners;
  - 5) Comprehensive site plan if the application is for commercial, industrial, multifamily or mobile home developments.
- d. A statement regarding the changing conditions, if any, in the area or in the county generally, that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
- e. Any other relevant information which the planning board or zoning administrator may request.

## **Article XII. Definitions**

Except where specifically defined below, all words used in the present tense include the future tense; the singular number includes the plural; the word “building” includes the word “structure”; the word “lot” includes the word “plot” or “parcel”; the term “shall” is always mandatory; the word “used” or “occupied,” as applied to any land or building shall be construed to include the words “intended”, arranged or designed to be used or occupied.

*Accessory building.* A building, subordinate to the main building on a lot and used for a purpose customarily incidental to that main or principal building.

*Automobile, truck, farm equipment & farm implement sales and service (Major and Minor):* An establishment primarily engaged in the sales, repair, or maintenance of motor vehicles, motorized farm equipment, and farm implements. Major repairs and maintenance includes paint, body, fender repair and painting, and major engine overhaul. Minor repairs and maintenance include brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups, and transmission work. Both major and minor repairs and maintenance are to be performed within a completely enclosed building.

*Bed & Breakfast:* A private residence, several rooms of which are set aside for overnight guests whose paid accommodations include breakfast. It must meet all legally required tax, fire, building, health, and other requirements for this size and use of property. This establishment advertises publicly and can legally post a sign. Reservations may be made directly with the property owner.

*Bona fide farm.* The production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

*Building.* Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or property.

*Building, principal.* A building in which is conducted the main or principal use of the lot on which said building is situated.

*Cemetery:* Land used or intended to be used for the interment of the dead and dedicated for cemetery purposes.

*Church, Synagogue, Temple, Or Other Religious Building:* A building used for public religious worship.

*Club, public or private.* Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not for profit or to render a service that is customarily carried on as a business.

*Cluster Development.* A type of major subdivision that is intended is to allow smaller than minimum lot sizes with dwelling units clustered in smaller areas in order to preserve larger areas of open space and environmental resources.

*Community Recreation Center.* A place, structure, area, or other facilities used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

*Conditional use.* A use which is determined by the zoning board of adjustment to fulfill the intent of the zoning district in which the use is proposed to be located. A conditional use must be a use which does not endanger the public health and safety, does not substantially injure the surrounding property values, and one that is in harmony with the surrounding area.

*Convenience Stores, Including those that sell petroleum and petroleum products:* Small franchised or un-franchised stores or markets that sell groceries, consumer goods, foods and petroleum products such as gasoline, diesel fuel, and motor oil.

*Customary home occupation.* Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, and in connection with which there is no display and no person, not a resident on the premises, is employed specifically in connection with the customary home occupation, except that not more than one (1) assistant may be employed; provided further, that no mechanical equipment is installed or used except such that is normally used for domestic or professional purposes, and that not over twenty-five (25) percent of the floor space of any structure is used for home occupations.

*Day Care Facility:* A place that provides for the care of children or adults. Those receiving care do not reside in the facility, are present primarily during daytime hours, do not regularly stay overnight, are not all related to each other by blood or marriage and are not legal wards or foster children of those providing care.

*Duplex.* A single building consisting of two separate dwelling units (other than a two-family dwelling including accessory apartment), providing the two dwelling units are not simply attached by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling unit contains no more than three bedrooms per unit. A duplex structure with more than three bedrooms within either dwelling unit shall be classified as multifamily.

*Family.* Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.

*Golf Courses & Country Clubs:* Land, buildings, and related facilities owned or operated by a for-profit or nonprofit corporation, association, or group of individuals or a municipality, operated for the social and/or recreational sports use of its public or private membership.

*Group development.* A group of two (2) or more principal buildings built on a plot of land not less than two (2) acres not subdivided into the customary streets and lots and which will not be subdivided. Examples would be: row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.

*Guest House:* A separate and complete dwelling unit located on the same lot as the structure of a single-family dwelling but not intended for year-around use.

*Hospitals & Clinics:* Institutions designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

*Laundry & Dry Cleaning Services:* A dry cleaning, self-service laundry and/or laundry establishment which may have a pick-up and drop-off window for customer service and provided the operation and all chemicals related thereto shall be in compliance with all applicable standards and requirements of the Environmental Protection Agency (EPA) and all other applicable agencies.

*Libraries, Public or Private:* Facilities or buildings where literary, musical, artistic, or reference materials are kept for public or private reference use.

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

*Lot of record.* A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Polk County, North Carolina, or a lot described by metes and bounds, the description of which has been so recorded.

*Lot width.* The distance between side lot lines measured at the building line.

*Major Subdivision.* Major Subdivision shall have the same meaning, and shall be defined, as set forth in the Subdivision Ordinance of Polk County as now adopted or as may be hereafter amended.

*Manufactured home.* Single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes.

*Manufacturing, Light.* The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely

within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants. (International Zoning Code ICC 2003)

*Mobile home.* A moveable or portable dwelling or other building, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy or for other uses and not an “over the road” or travel trailer. This definition includes one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or of two (2) or more units separately towable but designed to be joined into one (1) integral unit, as well as a portable dwelling composed of a single unit. This definition shall not be construed to include modular residential dwelling units and other modular building units of a nonresidential nature.

*Mobile home, accessory.* A mobile home, as defined herein, intended to be situated on a lot with an existing single-family home pursuant to a conditional use permit (MHO)<sup>1</sup>.

*Mobile Home Park.* A parcel or contiguous parcels of land which have been so designated and improved that it contains four (4) or more manufactured or<sup>1</sup> mobile home lots available to the general public for placement thereon of manufactured or<sup>1</sup> mobile homes for occupancy.

*Modular Home.* Single-family, detached housing of which the principal structural components are prefabricated off-site and in conformity with the North Carolina Residential Code IRC, and shall include structures commonly known as modular homes.

*Motels & Hotels:* Any buildings or portions thereof containing ten or more lodging units, with or without separate restaurant facilities, primarily for transients, including hotels, tourist cabins and tourist courts, but not including bed and breakfast inns as defined herein.

*Multifamily Residences:* Buildings or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

*Nonconforming lot.* A lot existing at the establishment or revision of this Ordinance (and not crated for the purposes of evading the restrictions of this Ordinance) that does not meet the minimum area requirements of the district in which the lot is located.

*Nonconforming use.* A structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this ordinance or as a result of subsequent amendments to this ordinance. This term also refers to the activity that constitutes the use made of the property.

*Nonconforming situation.* A situation that occurs when, at the establishment or revision of this Ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes made unlawful by the Ordinance.

*Nursery, Landscape Business, & Greenhouse:* A nursery is a place where plants are propagated and grown to usable size. They can be retail nurseries which sell to the general public, wholesale nurseries which sell only to other nurseries and to commercial landscape gardeners and private nurseries which supply the needs of institutions or private estates.

A greenhouse is a permanent structure, designed to protect plants. This structure may or may not have a permanent heating system installed in it. For the purposes of this Ordinance, cold frames (temporary structures covered with plastic or other materials, supported by metal pipes) are included in this definition.

Landscaping is the business of improving the appearance of a piece of land by planting flora or altering the contours of the ground.

*Offices, Business, Medical, Professional, & Public buildings including banks:* Land, buildings, and other facilities used by establishments primarily engaged in providing goods or services to business establishments or individuals on a contract or fee basis.

*Parking space.* A storage space of not less than two hundred (200) square feet for one (1) automobile plus the necessary access space. It shall always be located outside the dedicated street or highway right-of-way.

*Planning board.* The Polk County Planning Board.

*Printing, Publishing, & Engraving Establishments:* Establishments primarily engaged in rendering services to business establishments or individuals on a contract or fee basis such as, but not limited to, engraving, advertising, mailing, photocopying, duplicating, and providing business signs and plaques.

*Public sewage system.* A single system of wastewater collection, treatment, and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

*Public Safety Facilities:* Buildings and facilities used in providing public safety services such as police, fire, ambulance, and emergency services.

*Public water supply system.*

- a. A system for the provision, to the public, of piped water for human consumption if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes:
  1. any collection, treatment, storage, and distribution facility under control of the operator of such system and used primarily in connection with such system; and
  2. any collection or pre-treatment storage facility not under such control which is used primarily in connection with such system.
  
- b. A public water system is either a “community water system” or a “non-community water system”:
  1. “Community water system” means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
  2. “Non-community water system” means a public water system which is not a community water system.

*Radio & TV Stations & Studios:* Land, buildings, and equipment used for the production, transmittal, or reception of signals or programming over the airwaves as a commercial or public service, including, without limitation, telephonic, radio, television, or cable television. For purposes of this ordinance, the term shall not include a non-commercial individual use such as residential television antennas, satellite dishes, or ham radio antennas, or a commercial use that is purely incidental to other business activities of the owner. The facilities may include a tower, pole, or similar structure which supports or incorporates, or is intended to support or incorporate, one or antennas operated for commercial or public purposes above ground, whether freestanding, guyed, or affixed to a building. \*Refer to tower ordinance, if applicable.

*Recreation Facilities, For Profit:* A place, structure, area, or other facilities operated for profit and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community

*Recreation Facilities, Not for Profit:* A place, structure, area, or other facilities not operated for profit and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

*Recreational Vehicle & Travel Trailer Parks, Service, & Camp Areas:* A parcel of land and facilities designed and equipped to accommodate travel trailers and/or to serve as a campground, designed as a temporary dwelling for travel, recreation or vacation uses.

*Restaurants, Excluding Fast Food & Drive-Through Services:* Establishments that sell food not already prepared for consumption on or off the premises and do not include drive-in or drive-up facilities for ordering.

*Restaurants, Including Fast Food & Drive-Through Services:* Establishments that sell food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

*Rest & Convalescent Homes, Sanitariums:* Facilities for the care of the aged and infirm whose principal need is a home with such sheltered and custodial care as their age and infirmities require. Medical care is only occasional, such as may be required in the home of any individual.

*Retail Trade, Commercial Services, Sales, & Rental of Merchandise & Equipment:* Establishments engaged in selling or renting goods, merchandise, or services to the general public or businesses for personal, household, or commercial consumption. The establishments may also render services incidental to the sale of such goods. The establishment may process some of the products which it sells so long as such is processing incidental to such retail sales. The term shall not be deemed to include establishments in which the sale of goods or merchandise is incidental to another use, such as junk yards and wrecking yards as defined by NCGS 136-143.

*Retail Business Customarily Servicing Residential Neighborhoods & Conducted within an Enclosed Building:* Establishments engaged in selling goods, merchandise, or services to the general public for personal or household consumption. The establishments may also render services incidental to the sale of such goods. The establishment may process some of the products which it sells so long as such is processing incidental to such retail sales. The term shall not be deemed to include establishments in which the sale of goods or merchandise is incidental to another use, such as junk yards and wrecking yards as defined by NCGS 136-143.

*Roadside Stands Selling Home-Grown Products:* A business establishment selling primarily home-grown or home manufactured products, operated next to a dedicated public or private right-of-way for vehicular traffic which affords the principal means of access to abutting property.

*Sawmill:* A facility in which logs are converted to lumber by running them through a saw.

*Schools, Public or Private:* Land, buildings, and facilities operated by publicly or privately elected or appointed school officials in which the complete educational curriculum program and activities are under the control of these officials and which is supported primarily by public or private funds.

*Schools, Vocation, Business, and Special Schools:* Land, buildings, and facilities that do not offer a complete educational curriculum and that are operated by publicly or privately elected or appointed school officials in which the education program and activities are under the control of these officials and which is supported primarily by public or private funds.

*Service Station:* An establishment where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

*Single family residence.* A building or portion thereof providing complete living facilities for a family. The term “single family residence” shall not be deemed to include a motel, hotel, tourist home, mobile home, manufactured home, modular home or structure designed or, in fact, used for transient residence. A single family residence may also consist of another dwelling unit, such as an accessory apartment or garage apartment, provided the floor area of the accessory unit does not exceed forty percent of the floor area of the single-family dwelling unit, nor is greater than 750 square feet, and further provided the accessory unit’s exterior design and entry locations preserve the appearance of the single-family dwelling unit.

*Spectator Sport Facility (500 or More Spectators):* An indoor or outdoor place, structure, area, arena, or other facility used for providing spectator seating, sanitation facilities, food, or parking for 500 or more sports spectators.

*Spectator Sport Facility (Less than 500 Spectators):* An indoor or outdoor place, structure, area, arena, or other facility used for providing spectator seating, sanitation facilities, food, or parking for 500 or less sports spectators.

*Stable, Private:* A privately owned building in which livestock is kept. It most commonly means a building that is divided into separate stalls for individual animals.

*Storage & Warehouse Facility:* Structures or premises in which goods, merchandise or equipment are stored for eventual use or distribution.

*Street or road.* A dedicated and accepted public right-of-way for vehicular traffic which affords the means of access to abutting properties.

*Structure.* Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent locations on the ground, excluding a conventional rail, plank, board, picket or wire fence so long as it is not located within the public or maintenance right of way of any road.

*Subdivision.* Subdivision shall all have the same meaning, and shall be defined, as set forth in the Subdivision Ordinance of Polk County as now adopted or as may be hereafter amended.

*Theater:* An indoor or outdoor facility used primarily for the presentation of live stage productions, performances or motion pictures.

*Tower:* A tower, pole, or similar structure, exceeding 20 feet in height, which supports or incorporates, or is intended to support or incorporate, one or more private, commercial or public sign, antenna, light, or other item above ground, whether freestanding, guyed, or affixed to a building. The term shall include mobile towers. \*Refer to tower ordinance.

*Truck Terminal:* A building or area where cargo is loaded to and discharged from trucks.

*Utility Buildings and Facilities, Public:* A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treated water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

*Variance.* A structure which is prohibited under the literal interpretation of the terms of the zoning ordinance. Only the board of adjustment can authorize a variance which may be granted in certain hardship situations as defined in the ordinance to enable a property owner to make use of his property.

*Veterans' Affairs Office.* A building or structure, or portion thereof, whose purpose is to assist veterans and their families in the presentation and processing of claims as they may be entitled to under Federal, State or local laws, and otherwise assist veterans.

*Veterinarian Clinics, Animal Shelters:* Veterinarian clinics are facilities where professionals skilled in diseases and care of animals and/or reptiles provide outpatient or inpatient care of chronically ill animals or reptiles. Animal shelters are private, governmental or nonprofit organization facilities devoted to the welfare, protection and humane treatment of animals. The boarding of animals is an incidental use in such facilities.

*"Waste Handling, Treatment, Processing, Management or Disposal Facility:"* includes, but is not limited to, Sanitary Landfill, Municipal Solid Waste Sanitary Landfill, Construction/Demolition Landfill, Dump, Open Dump, Waste Incineration Facility, Hazardous Waste Landfill or Processing Facility, Radioactive Waste Processing or Disposal Facility, Medical Waste Processing or Disposal Facility, Waste Transfer Facility, State Regulated Compost Facility, Industrial Process Waste Landfill or Processing Facility, Industrial Solid Waste Facility, Waste Treatment and/or Processing Facility and Septage Management Facility (not including state approved land application sites). Reference shall be made to the North Carolina General Statutes and to the North Carolina Administrative Code for further definition of each of the foregoing. (Exempts Polk County Government from these restrictions when operating a facility for the citizens of Polk County).

*Wholesale Sales, Retail Sales, & Supply Houses:* Establishments engaged in retail sales of goods or merchandise directly to the general public for personal or household consumption or to retailers for resale to the general public and rendering services incidental to the sale of such goods. Such an establishment may process some of the products which it sells so long as such is processing incidental to such retail or wholesale sales.

*Yard, front.* An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street and the front line of the building, projected to the side lines of the lots.

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

*Yard, side.* An open, unoccupied space on the same lot with a principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

**Article XIII. Legal Status Provisions.**

**Section 13.1 Validity.**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**Section 13.2 Conflict with other laws.**

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals or general welfare of Polk County. Where the provisions of any other statute or local ordinance are in conflict, the more restrictive or that imposing the higher standards shall govern.

**Section 13.3 Effective date.**

This ordinance, and any amendment to it, shall take effect and be in force from and after its adoption by the Board of County Commissioners of Polk County, North Carolina. Effective date of this ordinance shall be January 31, 2008.

Adopted this 31st day of January, 2008.

Polk County Board of Commissioners

\_\_\_\_\_  
Chairman

Attest:

Approved as to legal form:

\_\_\_\_\_  
Clerk to the Board

\_\_\_\_\_  
County Attorney

<sup>i</sup> Creating the MHO Mobile Home Overlay zoning classification; establishing standards 10.20.09

<sup>ii</sup> Replacing the use classification and definition of Child Care Facilities with Day Care Facility 8.31.09

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<sup>iii</sup> Creating a new use classification of Veterans' Affairs Office 8.31.09