

ORDINANCE NUMBER 1035
TOWN OF MAGGIE VALLEY
AN ORDINANCE AMENDING THE TEXT OF THE UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, The Town of Maggie Valley held a public hearing on April 11, 2023; and

WHEREAS, A public notice was published on March 25 and April 1, 2023; and

NOW THEREFORE BE IT RESOLVED BY THE MAGGIE VALLEY BOARD OF ALDERMEN THAT:

1. All requirements were met in accordance with G.S. 160D-601.
2. That the Unified Development Ordinance will be amended as attached.

Adopted in Open Session, this the 11th day of April 2023.



Michael Eveland, Mayor

ATTEST:



Kathy Johnson, Town Clerk



Unified Development Ordinance Administrative Text Amendments

Subject: UDO Text Amendments

Planning Board Meeting: 3/21/2023 5:30 PM

Board of Alderman: 4/11/2023 6:30 PM

The following report provides a brief review of each proposal:

1. 160.02 DEFINITIONS

Uses listed below are referenced in the UDO but lack definitions. The amendment defines:

- | | | |
|----------------------------|-----------------|-------------------|
| - Accessory Dwelling Units | - Flea Market | - Tailgate Market |
| | - Produce Stand | - Yard Sale |

2. 154.10 FLEA MARKETS AND PRODUCE STANDS

This amendment adds uses such as Tailgate Markets and Yard Sales and sets standards for the operation of each. Standards were pulled from the Town's Code of Ordinances.

3. 155.05 DESIGN GUIDELINES

This amendment makes roof pitch requirements equivalent to the current UDO definition where there was previously a conflict. It reduces the minimum roof pitch from 7/12 to 3/12.

4. 156.12 SUBDIVISION DESIGN STANDARDS

This amendment makes provisions for the use of flag lots in major and minor subdivisions. It sets limits on how many may be utilized in each instance.

5. 156.13 STREET STANDARDS

This amendment "cleans up" language including standards for public/limited residential streets. It also clarifies the approval process.

6. & 7. 161.04 ADMINISTRATION & 161.05 PROVISIONS FOR FLOOD HAZARD REDUCTION

These amendments to the Floodplain Regulations change the square foot threshold of 150 sq ft to 600 sq ft for accessory structures in line with State allowances. This threshold represents when an elevation certificate becomes required.

Planning Board Recommendation:

The *Planning Board unanimously recommended approval of the proposed text amendments with various changes as highlighted.*

Consistency with 2022 Land Use Plan Update:

The Maggie Valley Zoning Ordinance was adopted in 1998 and is in need of revisions. To adequately address the changes that will be occurring in the Town, it will be necessary to bring the ordinance up to date and make it more meaningful. The following are recommendations that address specific changes to the Zoning Ordinance, changes to the Zoning Map, or overall policies that relate to land development.

1. Add a table of permitted uses with associated Special Requirements.

This will make the Zoning Ordinance easier to navigate and amend. In addition, it will easily allow for the inclusion of special, or supplemental, requirements. See Appendix A for a sample table. The table should be reviewed by the Planning Director and Planning Board and necessary changes should be made before incorporating the table into the zoning ordinance.

4. Require Special Requirements and Special Use Permits for certain land uses.

Certain land uses require additional standards above and beyond a staff-level approval. Requirements for these uses should be met for each occurrence. These requirements generally address parking, location, or other site-specific standards.

Attachment:

- Ordinance 1035 including Proposed Unified Development Ordinance Language
- Governing Board Consistency Statement

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Adopted in Open Session, this the 11th day of April 2023.

SECTION 1: AMENDMENT “160.02 DEFINITIONS” of the Town of

Maggie Valley Municipal Code is hereby *amended* as follows:

160.02 DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DWELLING, ACCESSORY. A smaller secondary dwelling unit either detached or attached to the primary dwelling located on the same parcel of property as the principal structure such as a garage apartment or cottage.

DWELLING, MULTI-FAMILY. A building or portion thereof used or designed as a residence for 3 or more families living independently of each other and doing their cooking therein, including apartments, apartment hotels, and group houses.

DWELLING, SINGLE-FAMILY. A building arranged or designed to be occupied by 1 family.

DWELLING, TWO-FAMILY. A building arranged or designed to be occupied by 2 families living independently of each other.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for 1 family.

FLEA MARKET. A building in which booths or sales areas are provided for entry by various unrelated individuals to sell a variety of merchandise.

PRODUCE STAND. An enclosed stand or place open to the public for selling agricultural products.

TAILGATE MARKET. An area open to the public where craftspeople sell their products directly to buyers either from a vehicle or a table.

YARD SALE. The display and sale of personal property which has been owned or previously used.

SECTION 2: AMENDMENT “154.10 FLEA MARKETS AND

PRODUCE STANDS” of the Town of Maggie Valley Municipal Code is hereby *amended* as follows:

154.10 ~~FLEA MARKETS~~ TAILGATE MARKET, YARD SALE, AND PRODUCE STANDS STAND

~~Flea markets, produce stands, provided that: They be totally enclosed structures (a garage or sliding doors to “open” the area to the outside will be allowed). All buildings will be permanent and meet all building related codes. Public restrooms will be provided. At least 2 off-street parking spaces (9 feet by 18 feet, plus necessary access space) shall be provided per individual display area or booth. Prior to being granted a special exception, the owner of the facility shall provide a plan(s) showing the lot and dimensions, the building and dimensions, and the number of parking spaces. Also, a sketch representing the building’s front appearance is required. Any other information deemed appropriate by the Board of Adjustment.~~

- A. Limited to three (3) consecutive days of operation.
- B. Must be operated on the premises of the long-term renter or owner with that individual present at all times, **or with written consent of the property owner.**
- C. No fixtures or devices on which outdoor merchandise is displayed shall be attached to the sidewalk, public utilities, or other public areas without the permission of the Town of Maggie Valley. Outdoor merchandise areas shall not be permitted within **5** feet of the sidewalk or within 3 feet of a roadway entrance or exit of the subject parcel.
- D. All merchandise located within an outdoor merchandise area shall be placed so that the outdoor merchandise and the fixtures or devices on which the merchandise is displayed are stable and not easily tipped and shall not be hazardous to the public.
- E. Outdoor merchandise areas shall not contain dangerous or exotic animals: i.e., snakes, pit bulls, rottweilers, or Doberman pincher dogs, or any other animal considered by the Code Enforcement Officer to be a danger/nuisance to the public, and the like.
- F. Nonprofit organizations may conduct outdoor sales on any property with written consent of the property owner.
- G. This section does not apply to events held on the Festival Grounds, also all promotional events refer to the special events ordinance.

SECTION 3: AMENDMENT “155.05 DESIGN GUIDELINES” of the

Town of Maggie Valley Municipal Code is hereby *amended* as follows:

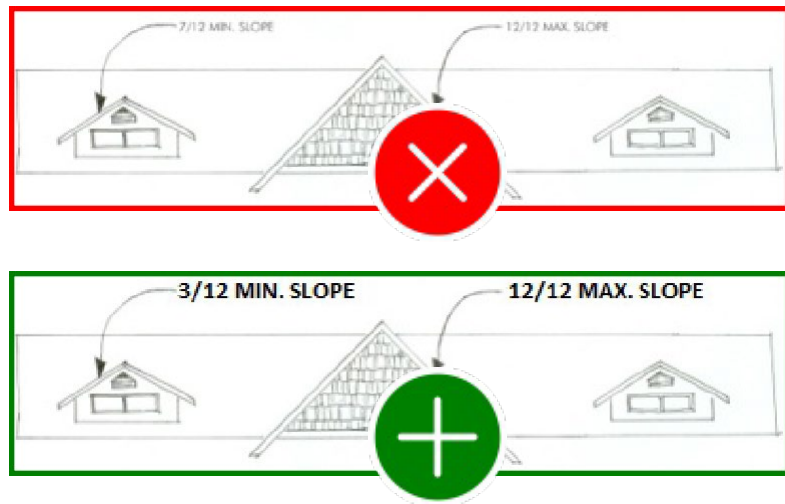
155.05 DESIGN GUIDELINES

In consideration of all applications for design review and approval, the Town Planner shall take into account the proposal’s level of compliance with the following criteria:

- A. *Building materials.* Materials shall be selected for suitability to the mountain architectural style. For the village character of Maggie Valley, this means using natural and traditional materials such as wood and native stone. All sides of a building should relate to each other. The front should not look substantially different from the other sides. The number of different materials on exterior finishes should be limited. For the front elevation, or façade, on all new commercial and multi-family developments, the following standards apply:

Acceptable:

1. Roof pitches with ~~7~~3/12 to 12/12 slope



SECTION 4: AMENDMENT “156.12 SUBDIVISION DESIGN

STANDARDS” of the Town of Maggie Valley Municipal Code is hereby *amended* as follows:

156.12 SUBDIVISION DESIGN STANDARDS

B. *Lots*

6. All flag lots or panhandle lots shall have a minimum twelve foot (12') wide road ~~frontage width of 35 feet thereby providing an~~ access strip to the lot. The length of said strip shall not exceed 100 feet. ~~Said strip shall not be used to determine lot area or width or setback lines.~~ The maximum number of flag lots shall be one (1) for major ~~all~~ subdivisions with twenty (20) lots or less and one (1) per every twenty (20) lots for major subdivisions over twenty (20) lots in size. Flag lots, panhandle lots, and other irregular shaped lots shall not be approved in minor subdivisions except in cases where such lots would:
 - a. Not be contrary to the purpose of this Chapter; and
 - b. Heighten the desirability of the subdivision; and
 - c. Where necessary, enable a lot to be served by water and a waste disposal system.

SECTION 5: AMENDMENT “156.13 STREET STANDARDS” of the

Town of Maggie Valley Municipal Code is hereby *amended* as follows:

156.13 STREET STANDARDS

A. *General Provisions*

1. If the tract to be subdivided is located on both sides of an existing, recorded private right-of-way that contains an existing private road, the applicant shall be required to upgrade the portions of the existing private road which are contained on the tract that is being subdivided to meet the road standards found in this Section.
2. It should be understood that all roads proposed to be public must originate as private roads until there is formal dedication and acceptance by the town.
3. Private roads are allowed, only if ~~designed and constructed to meet public street standards~~ approved as part of a Conditional Zoning District by the Board of Aldermen or by the Zoning Board of Adjustment on an individual basis.
4. The applicant shall determine at the time of application if the subdivision roads are to be public, private or a combination of both types.

B. *Right-of-Way Access*

1. All subdivisions greater than two (2) lots must abut on a private or public street right-of-way. The right-of-way shall, for public roads, meet or exceed the minimum width specified in the Road Classification Table (7-1), for private roads, the minimum width ~~specified~~ approved as part of a Conditional Zoning District by the Board of Aldermen or by the Zoning Board of Adjustment on an individual basis ~~in Table 7-1 and must be capable of supporting a road.~~ The right-of-way standards apply within the boundaries of the property being developed.
2. Proposed subdivisions which abut an existing or recorded public or private right-of-way which do not meet the minimum width requirements of this Chapter shall be required to provide additional rights-of-way to conform to the appropriate standards, as provided below. The applicant shall provide up to one-half (1/2) of the required right-of-way measured from the centerline of the existing right-of-way. If the subdivision is located on both sides of the existing road right-of-way, ~~then~~ the full right-of-way requirement shall be required.

C. *Town Street System Requirements*

1. All roads considered for addition to the Town Street System must be located within the Town Limits.
2. Streets must meet all minimum construction and design standards unless approved as part of a Conditional Zoning District by the Board of Aldermen or by the Zoning Board of Adjustment on an individual basis. Streets that have received deviations from the street construction and design standards may not be eligible for admission into the Town Street System.

3. Development within a masterplan (phased development) subdivision must be 75% complete.
4. A petition for street dedication from all property owners or developer.
5. Developer or property owners must dedicate a free and clear right-of-way.

D. *Application Requirements.* Any developer desiring to construct a new subdivision road, to be designated as a Town Street, must submit the following information to the Town Planner for evaluation:

1. Two complete subdivision construction plats, including any future expansion plans
2. Horizontal alignment indicating general curve data on site plan
3. Typical Road Way Section
4. Vicinity Map
5. Four (4) copies of the recorded plat
6. Drainage facilities to be reviewed by the Public Works Director.
7. If the new subdivision road will connect to a state road, a permit authorizing construction on the state right-of-way must be obtained from the Division of Highways before construction begins.

E. *Streets that do not qualify for Town Street System*

1. Streets that do not qualify for admittance into the Town Street System will be eligible for some minor street maintenance and repair provided by the Town on a case-by-case basis. Those requesting assistance must do so in writing.
2. All requests must include:
 - a. Street name
 - b. Street location
 - c. Number of homes/lots that the street services
 - d. Specific service request.
3. Applications for street maintenance assistance will be accepted twice a year. Assistance applications and deadline schedules will be held in the Town Clerk's Office. A project review committee will prioritize projects. Projects will be completed as funding allows.

F. *Street Classification Definitions*

1. **LOCAL STREET** is a street or a section of a road which:
 - a. Provides direct or indirect access from the entrance of the subdivision inward to ~~ten~~five (5-10) or more existing or proposed residential lots and/or dwelling units and is designed to be the main travel path for the residential access. In calculating residential density, dwelling units having driveway access on the subject road and dwelling units on side roads which feed the subject residential collector road shall be counted.
 - b. ~~Is designed to serve, or has the potential to serve in a future phase, property in the same ownership of the applicant that, if developed, will meet the 10 dwelling-unit standard.~~Connects proposed

~~developments with existing developments where the aggregate sum of dwelling units in both developments is 10 or more. Serves a nonresidential facility located within a residential development, such as a frequently used recreation area, club house, golf course, public utility site, and the like. (NOTE: See Table 7-1, "Local" column)~~

2. **LOCAL RESIDENTIAL STREET** is a street or group of streets which abuts less than 105 residential lots or serves less than 105 existing or proposed residential dwelling units ~~and does not connect thoroughfares. (NOTE: See Table 7-1, "Local" column)~~
3. **LIMITED RESIDENTIAL DRIVEWAY** is a street which abuts no more than ~~four~~ two (24) residential lots, each containing or to contain no more than one (1) existing or proposed residential dwelling unit and its associated driveway ~~and which does not connect thoroughfares. (NOTE: See Table 7-1, "Limited" column)~~ Not eligible for Town Street Maintenance.

G. *Minimum Street Design and Construction Standards*

1. If not specifically listed in Table 7-1 below or elsewhere in this Section, design and subsequent construction of streets shall be reviewed by the Planning Board based on the standards and requirements of the NCDOT and with the local NCDOT District Engineer policy modifications.
2. Deviations from the Minimum Street Design & Construction Standards may be granted as part of a Conditional Zoning District by the Board of Aldermen or by the Zoning Board of Adjustment on an individual basis. The Board shall consider several different factors before issuing a deviation such as but not limited to; the developer's attempt to minimize environmental damage, lot specific topographic challenges, average daily vehicle counts, recommendations from public safety officials, and the Planning Board. Deviations granted ~~by the Zoning Board of Adjustment~~ may impact the street's/subdivision's eligibility in the Town Street Maintenance System. All deviations granted by the Board must appear on the Final Plat.
3. Table 7-1: Minimum Street Design & Construction Standards (and notes)
 - a. One Way Roads are not eligible for Town Street System Maintenance
 - b. "T" or "Y" Turnarounds may be approved by the Town Planning Board on an individual basis. If using a "Y" or "T," 1 extension extending at least 25 feet and the other extending a minimum of 50 feet and a maximum of 100 feet which will allow a vehicle with a wheel base of at least 25 feet to complete a turning movement with a maximum of 1 backing movement, may be considered.

Road Classification Table 7-1		
Item	Local	Residential Limited
Number of dwelling units served	10 5+	3-4
Road Right of Ways	30 feet	25 feet
Maximum grade (measured at 50 feet intervals)	18%	18%
Minimum travelway width (2 way road)	18 feet	16 feet
Shoulder width (each side, 2 way road)	2 feet	2 feet
Cul-de-Sac (radius)	30 feet	20 feet
Vertical Clearance	15 feet	15 feet
Design Speed	20 mph	15 mph
Subgrades pre-base	95% compaction	95% compaction
Stone base (ABC) compacted	8 inches	8 inches
Subgrades pre- pavement	100% compaction	100% compaction
Asphalt	2 inches of I-2	2 inches of I-2
Cut Slope	1:1	1:1
Fill slope	1 1/2 : 1	1 1/2 : 1
Ditch slope	3 to 1	3 to 1
ABC: Aggregate Base Course; I-2 Asphalt		

4. Road drainage and culverts

- a. All road or drainage structures shall be constructed in accordance with **NCDOT** state road standards. Road drainage side ditches shall be constructed with sufficient depth and width to carry the expected volume of storm water runoff. Where the road crosses streams or minor watercourses, culverts shall be designed and installed in accordance with state road standards. Site plans shall show all the drainage culvert locations, as well as the length, diameter and type of culvert. The road should be built so that water will drain from the road surface into side ditches.

SECTION 6: AMENDMENT “161.04 ADMINISTRATION” of the Town

of Maggie Valley Municipal Code is hereby *amended* as follows:

161.04 ADMINISTRATION

B. *Floodplain development application, permit and certification requirements.*

3. Certification Requirements.

e. *Certification Exemptions.* The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this section:

- (3) Accessory Structures less than ~~150~~ 600 square feet meeting requirements of Section 161.05(B)(8).

(Ord. 748, passed 2-23-2012)

SECTION 7: AMENDMENT “161.05 PROVISIONS FOR FLOOD

HAZARD REDUCTION” of the Town of Maggie Valley Municipal Code is hereby *amended* as follows:

161.05 PROVISIONS FOR FLOOD HAZARD REDUCTION

B. *Specific standards.* In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 161.03(B), or 161.05(D), the following provisions, in addition to the provisions of Section 161.05(A), are required:

8. *Accessory Structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 161.05(B)(4)(c). An accessory structure with a footprint less than ~~150~~ 600 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 161.04(B)(3).

(Ord. 333, passed 2-17-2004)

GOVERNING BOARD CONSISTENCY STATEMENT

Text Amendments to the Unified Development Ordinance

WHEREAS, in accordance with N.C. Gen. Stat. § 160D-605, the following is stated:

Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

WHEREAS, the Planning Board of the Town of Maggie Valley unanimously recommends approval based on the Town's 2007 Land Use Plan (updated 2022) which states "The Maggie Valley Zoning Ordinance was adopted in 1998 and is in need of revisions. To adequately address the changes that will be occurring in the Town, it will be necessary to bring the ordinance up to date and make it more meaningful. The following are recommendations that address specific changes to the Zoning Ordinance, changes to the Zoning Map, or overall policies that relate to land development."

WHEREAS, the Planning Board suggests further changes (as highlighted) to add clarity and further the spirit and intent of the Future Land Use Plan; and

WHEREAS, as directed above, Town Board of Aldermen must approve a Plan Consistency Statement with regard to each adoption or rejection of a zoning amendment;

NOW THEREFORE, based on the record of the proceedings related to the zoning request, THE BOARD OF ALDERMEN OF THE TOWN OF MAGGIE VALLEY HEREBY STATES:

Section 1: The proposed zoning amendment is **consistent** with the 2022 Land Use Plan which states the following:

1. Add a table of permitted uses with associated Special Requirements. This will make the Zoning Ordinance easier to navigate and amend. In addition, it will easily allow for the inclusion of special, or supplemental, requirements. See Appendix A for a sample table. The table should be reviewed by the Planning Director and Planning Board and necessary changes should be made before incorporating the table into the zoning ordinance.
4. Require Special Requirements and Special Use Permits for certain land uses. Certain land uses require additional standards above and beyond a staff-level approval. Requirements for these uses should be met for each occurrence. These requirements generally address parking, location, or other site-specific standards.