

# CHAPTER 4: GENERAL REQUIREMENTS

Section 4.1	Applicability of General Provisions.....	4-2
Section 4.2	Zoning Affects Every Building and Use.....	4-2
Section 4.3	Historic Properties and Natural Assets .....	4-2
Section 4.4	Dams and Wetlands .....	4-2
Section 4.5	Lot of Record .....	4-3
Section 4.6	Relationship of Buildings to Parcels.....	4-3
Section 4.7	Property Identification / Emergency Lighting Standards .....	4-4
Section 4.8	Public Utilities .....	4-4
Section 4.9	Use of Mobile Units for Storage.....	4-6
Section 4.10	Recreational Vehicles, Boats, Travel Trailers,Other Trailers and Commercial Vehicles.....	4-7
Section 4.11	Clotheslines.....	4-7
Section 4.12	Recreational Equipment.....	4-7
Section 4.13	Pet Runs .....	4-7
Section 4.14	Fences .....	4-8
Section 4.15	Stacked Firewood .....	4-10

## **Chapter 4: General Requirements**

### **Section 4.1 Applicability of General Provisions** (Chapter Amended 11/12/14)

The following provisions shall apply throughout the jurisdiction of the Ordinance, regardless of the underlying zoning district.

### **Section 4.2 Zoning Affects Every Building and Use**

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

### **Section 4.3 Historic Properties and Natural Assets**

A. Actions will be taken to safeguard the heritage of the Village by preserving any archaeological site or any property that embodies important elements of its cultural, social, economic, political or architectural history and likewise all due consideration should be given to promoting the use and conservation of such property for the education, pleasure and enrichment of all the residents of the Village of Whispering Pines;

B. Owners of private lands containing Indian relics, artifacts, mounds or burial grounds are urged to refrain from the excavation or destruction thereof and to forbid such conduct by others, without the cooperation of the director of the State Museum and the Secretary of the Department of Cultural Resources or without the assistance or supervision of some person designated by either as qualified to make scientific archeological explorations;

C. If located within the proposed subdivision or within any contiguous property, the name and location of all historic properties shall be clearly identified on both the preliminary and final plats. If any such historic property is listed on the U.S. Department of Interior's National Register of Historic Places, or has been designated by local Ordinance as an "Historic Property" pursuant to North Carolina General Statute 160A, Article 19, Part 3A, the Village Council may provide that the North Carolina Department of Cultural Resources, Division of Archives and History shall be given an opportunity to make recommendations concerning an individual subdivision plan before the plan is approved.

### **Section 4.4 Dams and Wetlands**

**Dams:** All dams within areas of proposed development, that store permanent water, will be reviewed by a Professional Engineer, licensed by the Board of Examiners for Engineers and Surveyors, and certified by his / her stamp (seal) that such dam(s) is safe and currently meets the minimum requirements concerning spillways, embankments, storm storage, cores and keyways, slopes, discharge and other design features recognized and generally accepted as sound engineering practices applied to earthen, concrete, rock or other embankments including dams, berms.

If a dam fails to meet minimum standards recognized and generally accepted as sound engineering practices by state regulatory agencies; such dams shall be rebuilt or repaired to meet those standards or breached prior to the issuance of any development permit(s) or approval of preliminary plat / site plan.

**Wetlands:** No lot shall be created or platted which contains an area of delineated wetlands larger than 500 sq. ft. This rule shall not apply to lots exempt from the subdivision standards as set forth in Section 3.3.

### **Section 4.5 Lot of Record**

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No yard or Lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth in this Ordinance. Yards or Lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance. See Section 5.5 Table of Dimensional Requirements.

### **Section 4.6 Relationship of Buildings to Parcels**

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#### **Section 4.6.1 Applicability**

Every building erected, moved, or placed shall be located on a parcel and in no case shall there be more than one (1) principal residential building on a parcel except as otherwise provided for in this Ordinance.

All principal residential buildings shall face the front yard. For corner lots and through lots, the proposed direction of the building shall be indicated on development permit or site plan applications.

In all zoning districts, double frontage Lots shall provide the minimum yard requirements for front yards along both street fronts.

#### **Section 4.6.2 Allowable Encroachments into Required Setbacks**

The principal buildings or structures on a Lot, including decks, landings, terraces, porches, and patios on a grade, shall not be located in whole or in part in a required setback, except as follows:

- A. Building steps may project up to three (3) feet into any required setback;
- B. HVAC equipment may encroach a maximum of three (3) feet into side and rear yard setbacks only;
- C. Sidewalks may encroach into any setback;
- D. Handicap ramps meeting building code standards may encroach in any setback;
- E. Other accessory uses, buildings and fences may encroach into required setbacks, as set forth in Chapter 6.
- F. Driveways, parking lots, loading areas, and sidewalks may encroach into any setback but not into any required buffer or landscaping.

#### **4.6.3 Front Yard Setbacks Exceptions**

## **Chapter 4: General Requirements**

For dwellings in residential districts, where Lots located on either side of a center Lot are improved with buildings having a front yard setback of less than twenty-five (25) feet, and the structures are no more than two hundred (200) feet apart, the required setback of the center Lot shall be the average of the setback of the two (2) adjacent principal buildings.

### **4.6.4 Corner Visibility**

On any corner property in all districts, within the triangular area formed by the center lines of the intersecting streets and a line joining points on such center lines at a distance of eighty (80) feet from the intersection, there shall be no obstruction to vision between a height of two (2) feet and a height of ten (10) feet above the average center line grade of each street.

## **Section 4.7 Property Identification Standards (Amended 10/14/15)**

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### **Section 4.7.1 Purpose**

To assist the Fire Rescue Department and Police Department in providing maximum protection of the health, safety and general welfare of the entire community the following property identification standards shall be applicable to residential development in all Zoning Districts.

### **Section 4.7.2 Property Identification**

- (1) Property address numbers, at least four (4) inches high on a contrasting background, shall be displayed on the front of the structure in a position that is clearly legible and visible from the street fronting the property and on both sides of all mail boxes or an appropriate address marker post with uniform numerals at least three (3) inches high on a contrasting background.
- (2) All waterfront properties shall display address numbers on a dock or an appropriate address marker post with uniform numerals at least three (3) inches high on a contrasting background.
- (3) Multiple dwelling units, in addition to conforming address markers, must also have signs clearly indicating the location of individual units.
- (4) Residents shall be responsible for maintaining address markers in a clearly visible condition.

### **Section 4.7.3 Emergency Lighting**

All dwellings shall be equipped with a 'Slater Lifelite' type switch or equal to activate a flashing light on a post lamp or front entry light(s)

## **Section 4.8 Public Utilities**

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For all developments, all utility services, including all electric, telecommunication or similar wire services, shall be placed underground and must meet all federal, state and local requirements.

Public utility facilities that in the determination of the Administrator are clearly necessary for the service of individual properties and developments such as water, sewer, electric, cable, telephone and similar facilities shall be considered as permitted residential uses. Facilities that have a range of choices as to location shall be considered as special uses.

**Section 4.8.1 Water and Wastewater Requirements**

The Lot sizes required for the various Districts in this Ordinance were drawn upon the assumption that adequate water supply and wastewater disposal systems are available to each and every Lot. The lack of adequate systems for one or both facilities may require larger Lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.

All drinking and household water shall be obtained from the Village recognized distribution system company when available in any District or, when unavailable, from a source approved by the County Health Officer.

No privy of any kind shall be permitted except in Village owned recreational areas. During periods of construction, on-site self-contained potable sanitary toilets, meeting existing health regulations, shall be required. They shall be removed from the site prior to the issuance of a Village Certificate of Compliance.

All sanitary sewage disposal systems shall be installed in accordance with the requirements of the North Carolina Division of Health Services. All plans for construction within the Village and its Extraterritorial Area are to be referred to the Moore County Health Department for approval and placement of the system before a Village Development Permit will be issued. A copy of the Septic Tank and Improvements Permit and Certification of Completion issued by the Moore County Health Department shall be filed with the Village. The Planning and Zoning Administrator shall maintain a file of such approvals.

No preliminary subdivision plat may be approved by the Council unless the applicant demonstrates that each lot within such subdivision can likely be served by a wastewater treatment system of a type and size that is adequate to handle the wastewater demands of each proposed lot. If each lot in a proposed subdivision is proposed to be served by a ground absorption sewage treatment system of not more than 3,000 gallons per day, then the applicant shall submit a report prepared and sealed by a licensed soils scientist certifying that each lot on the plat contains within the lot a sufficient area of suitable or provisionally suitable soils to accommodate an entire ground absorption sewage disposal system (including repair area) and drain fields that can serve the intended use of the lot consistent with the North Carolina Rules for Sanitary Sewage Disposal Systems, 15A NCAC 18A.1900 et seq.

Sanitary septic systems shall be approved and installed as specified above provided that the entire sewage disposal system, including drain fields, for all new construction shall be on the designated lot used for the principal building requiring sewage disposal system.

Prior to the approval of a final plat, the developer shall submit a report, from a licensed soil scientist, which includes a lot-by-lot evaluation for septic system capacity. The report must show that each proposed residential lot has been evaluated under the current provisions of Title 15A NCAC 18A.1900 et seq. The evaluation should note whether there is adequate space for an on-site individual private water source and an on-site subsurface sewage treatment and disposal system, if needed. If the developer proposes a system that would treat a flow of 3,000 GPD or greater, and therefore would require state approval, a letter from the State would also be required

## Chapter 4: General Requirements

to be submitted for final plat approval. The licensed Soil Scientist shall be required to sign and seal the submitted report and the final subdivision plat. Moore County Environmental Health shall review all such submittals.

### Section 4.8.2 Maintenance of Wastewater Treatment Facilities

If a wastewater treatment system (“Disposal System”) that requires approval by an agency of State government is constructed to serve a development, and the developer intends or expects that such Disposal System will be conveyed to an association of property owners (“Association”), the following requirements shall be applicable.

- A. The developer shall not transfer ownership and/or control of the Disposal System to the Association until construction has been completed in accordance with the permit and approved plans, and the appropriate State agency has inspected and approved of the facilities. In order to change the name of the permit holder, the developer must request that the permit be reissued to the Association.
- B. The developer shall not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of its Disposal System until a permit has been reissued to the Association.
- C. The developer shall provide in the Declaration and Association Bylaws that the Disposal System and appurtenances thereto are part of the common elements and shall thereafter be properly maintained and operated in conformity with law and the provisions of the permit for construction, operation, repair, and maintenance of the system and facilities. The Declaration and Bylaws shall identify the entire wastewater treatment, collection and disposal system as a common element, which will receive the highest priority for expenditures by the Association except for Federal, State, and local taxes and insurance.
- D. The developer shall provide in the Declaration and Association Bylaws that the Disposal System will be maintained out of the common expenses. In order to assure that there shall be funds readily available to repair, maintain or construct the Disposal System, beyond the routine operation and maintenance expenses, the Declaration and Association Bylaws shall provide that a fund be created out of the common expenses. Such fund shall be separate from the routine maintenance funds allocated for the facility and shall be part of the yearly budget.
- E. In the event the common expense allocation and separate fund are not adequate for the construction, repair, and maintenance of the Disposal System, the Declaration and Association Bylaws shall provide for special assessments to cover such necessary costs. There shall be no limit on the amount of such assessments, and the Declaration and Bylaws shall provide that such special assessments can be made as necessary at any time.

### Section 4.8.3 Irrigation Systems

Irrigation systems using the public water system must meet all state, county and water distributing system company requirements for permitting. Irrigation systems using lake water are regulated in Chapter I of the Whispering Pines Code of Ordinances.

**Section 4.9 Use of Mobile Units for Storage**

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The use of mobile homes, travel trailers and truck trailers, or similar units, for storage purposes shall be expressly prohibited in all zoning districts.

**Section 4.10 Recreational Vehicles, Boats, Travel Trailers, Other Trailers and Commercial Vehicles**

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A. Regulations for residential Lots or properties in All Zoning Districts

- (1) A principal structure must be located on the same parcel.
- (2) Property owners or residents may park such vehicles on their property provided that they are appropriately enclosed or screened so as not to be visible from adjoining residences or streets when not located in a garage or carport.
- (3) Property owners or residents may park such vehicles on their own property in order to pack, unpack, clean, or otherwise prepare the vehicle or trailer for use for a period of up to two (2) days by obtaining a permit from the Village Police Department. A maximum of two (2) permits may be obtained in a thirty (30) day period.
- (4) Guests of residents may park a recreational vehicle on the host's property for a period of up to seven (7) days by obtaining a permit from the Village Police Department. A maximum of two (2) permits per RV license plate number may be obtained over a consecutive 90-day period at any one location. Under no circumstances can a parked vehicle be used for living quarters. (Amended 6/10/15)
- (5) Commercial motor vehicles, as defined by this ordinance and by G.S. 20-4.01, are prohibited on all residential Lots and properties. This subsection shall not prevent the temporary parking of vehicles driven to and from work, provided that such vehicles do not meet the definition of "commercial motor vehicle" (4/12/17)

**Section 4.11 Clotheslines**

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Clotheslines shall be located in the rear yard only and shall be located inside any required setbacks for the principal building.

**Section 4.12 Recreational Equipment**

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All recreational equipment and children's play equipment (including playhouses), except standard basketball equipment, shall be located in the rear yard only. Setback requirements for the side and rear Lot lines are equal to the side yard setback requirements for the zoning district.

Standard basketball equipment may be placed in front or side yards. Such equipment must be located at least 35 feet from the nearest edge of the road pavement. Only one basketball goal may be placed on a residential Lot. Basketball equipment may not be mounted on buildings, trees, or utility poles and must be maintained.

**Section 4.13 Pet Runs**

Pet runs are permitted in any zoning district provided they are located in the rear of the house and within the required setbacks for the district in which they are located. All pet runs shall be limited to a size of two hundred (200) square feet with no length longer than twenty (20) feet and four (4) feet in height. Fencing must be constructed of green, black or brown vinyl coated chain link or euro fence.

**Section 4.14 Fences**

A. **Exceptions:** The following structures shall not be subject to the provisions of this section:

- (1) Structures sixteen (16) inches in height or lower and electronic fences buried in the ground.
- (2) Structures screening stored side or rear yard items such as garbage cans, gas tanks, or HVAC units.
- (3) Fences surrounding swimming pools as regulated in Chapter 6 SR 2
- (4) Pet runs as regulated in Section 4.13

B. **Regulations for All Zoning Districts:**

- (1) All fences require a permit issued by the Village
- (2) No fence shall be located within an easement, the public right of way or obstruct a clear view of a public road or pedestrian walkway from another public road or from a driveway or pedestrian walkway.
- (3) A fence deemed to be a traffic or safety hazard or in disrepair shall be modified by its owner to correct this condition within sixty (60) days of written receipt of notification of the hazard from the Administrator.
- (4) Fences shall be constructed with the finished side facing the adjacent property or street.
- (5) Fences on property not abutting a lake or pond may be constructed along rear property lines and side property lines up to and connecting to the front corner of the home.
- (6) Fences on property abutting a lake or pond may be installed parallel to the rear property line for the entire width of the property but shall not be closer to the lake or pond than thirty (30) feet from the shoreline.
- (7) There shall be no restrictions on the placement of fences in the RS/H district, provided that the property is more than 4 acres.

(8) Fences for telecommunications facilities in the RA District shall be as permitted by the site plan approval.

(9) Fences shall not exceed a height of forty-eight (48) inches above existing grade. Ground elevation shall not be modified / elevated so as to subsequently construct a fence on an elevated berm.

**C. Approved Fence Types Except for OP, AC, and NS Zoning Districts:** Types of fences that may be installed are as follows:

(1) Split Rail (Wooden) or Post and Rail (Wooden or Plastic) with a maximum of three (3) horizontal members and matching posts. Wire mesh may be used in conjunction with a Split Rail or Post and Rail Fence type, in rear and side yards only, provided the mesh is attached to the inside of the fence, does not exceed the height of the highest horizontal members, and the opening of the wire is at least two (2) inches square. No other wire fences, including barb wire or razor wire, are permitted.

(2) Brown, Green or Black vinyl Coated Chain Link with openings not less than two (2) inches and not greater than three (3) inches.

(3) Brown, Green or Black Euro Fence with openings not less than two (2) inches square and not greater than three (3) inches square

(4) Picket (Wooden or Plastic) with vertical members being between three (3) and four (4) inches in width and the spacing between vertical members or pickets is equal to the width of the vertical member.

(5) Wrought Iron with open post and rail.

(6) Shadow Box / Board on Board with vertical members or pickets installed alternately from one side to the other and the spacing between vertical members or pickets is equal to the width of the vertical member

**D. Approved Fences for Zoning Districts OP, AC, and NS** are as defined, if applicable, within the conditions of a major special use permit or as in Section 4.13 C (1) above.

**E. Regulations Governing Fences For A Person with Special Needs:**

Notwithstanding the other provisions of this section, the Administrator may approve the construction of a fence for a person with special needs on a lot used for single-family residential purposes within the RA, RS, RS/H, or RM zoning districts as follows:

(1) The Administrator shall determine, based on medical documentation, that such a fence is needed to prevent a person (whether a child or an adult) who resides on the premises that is the subject of the permit and who is mentally impaired or challenged from wandering away from the premises.

## **Chapter 4: General Requirements**

(2) The Applicant shall provide the Administrator with a written statement that all adjoining property owners have been notified of the request for fencing for a person with special needs.

(3) The fence authorized pursuant to this subsection shall not exceed 60 inches in height. All other Subsections of this section shall apply to such fences.

(4) A fence for a person with special needs that is constructed pursuant to a permit issued under this subsection shall be brought into compliance with the other provisions of this ordinance or removed within thirty days after a mentally impaired or challenged person no longer resides on the premises where the fence is constructed.

(5) Construction of the fence for which a permit has been issued under this section may not be commenced until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Moore County Registry, and the permit has been so recorded (at the expense of the applicant). The acknowledgment shall indicate that the fence must be brought into compliance with this ordinance or removed within thirty days after the date when a person with special needs no longer resides on the property.

### **Section 4.15 Stacked Firewood**

Firewood that has been cut or split, for burning in a fireplace or wood stove, must be stacked in the side or rear yards only.