

ARTICLE I  
TITLE

This ordinance shall be known as the "Zoning Ordinance of the Town of Marshall, North Carolina."

ARTICLE II  
AUTHORITY AND ENACTMENT

The Town Board of Aldermen of the Town of Marshall, North Carolina, in pursuance of the authority granted by the General Statutes of North Carolina, Article 19, Chapter 160A-381 through 160A-392, hereby ordains and enacts into law the following articles and sections for the purpose of promoting the health, safety, morals and general welfare of the community.

ARTICLE III  
JURISDICTION

Section 300. Jurisdiction

The provisions of this ordinance shall be applicable to all land within the corporate limits of the Town of Marshall, North Carolina, as established on the map entitled "Official Zoning Map, Town of Marshall."

Section 301. Bona Fide Farms Exempt

This ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses except that any such use of such property for non-farm purposes shall be subject to such regulations.

ARTICLE IV  
INTERPRETATION AND DEFINITIONS

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein are defined as follows:

Section 400. Word Interpretation.

Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The words "town board" shall mean the Marshall Town Board of Aldermen.

The words "planning board" shall mean the Town of Marshall Planning Board.

The words "board of adjustment" shall mean the Town of Marshall Board of Adjustment, and shall include both regular and alternate members.

The word "ordinance" shall mean the Zoning Ordinance of the Town of Marshall.

The word "may" is permissive.

The word "shall" is mandatory.

The word "lot" includes the words "plot" or "parcel."

The word "building" includes the word "structure."

The word "street" includes the words "road" and "highway."

The words "person" or "applicant" include a firm, association, organization, partnership, corporation, company, trust, an individual, or governmental unit.

The words "zoning map" or "Marshall Zoning Map" shall mean the Official Zoning Map of the Town of Marshall.

The words "used" or "occupied" as applied to any land or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied."

#### Section 401. Definitions.

Accessory Use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films, and other periodicals which are characterized by their emphasis on matter depicting, describing or relating to adult sexual activities or adult nudity.

Alley. A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Amusement Center. Any building or other structure, or portion thereof, which is used for commercial games and/or entertainment which include but are not limited to coin or token operated game machines, billiard tables, and other activities and facilities designed for commercial amusement or recreation.

Apartment. A part of a building consisting of a room or rooms intended, designed or used as a residence by an individual or a single family.

Apartment, Garage. A part of a garage consisting of a room or rooms intended, designed or used as a residence by an individual or a single family.

Boarding House/Rooming House. A building where, for compensation, lodging and meals are provided for not more than five persons.

Buffer Strip. A buffer strip is a strip of land containing vegetation consisting of evergreen trees or shrubs and/or fencing located along the side and rear lot lines, but said buffer along streets shall be set back sufficiently to avoid interference with street right-of-way. If consisting only of vegetation, such buffer strip shall not be less than 15 feet in width and shall be composed of trees and shrubs of a type which at inception shall be not less than five feet in height, unless otherwise specified. If a fence is used, said fence shall be opaque and at least eight feet in height. The board of adjustment may vary these requirements when it deems appropriate.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structure, with or without a roof, shall not be deemed to make them one building.

Building, Accessory. A detached building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot.

Building Height. The distance measured from the highest ground level at the structure foundation to the highest point of the roof.

Building, Principal. A building used for the same purpose as the principal use of the lot.

Building Setback Line. A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. Whenever the front, side or rear portions of a lot abut a street right-of-way, setback lines shall be measured from said right-of-way line.

Child Care Center. A use of land and buildings to provide group care for children.

Customary Incidental Home Occupation. Any profession or occupation conducted entirely within a dwelling by a family member or occupant permanently residing on the premises. No merchandise shall be sold or displayed on the premises, and no mechanical equipment shall be installed which is not normally used for domestic or professional purposes. No more than 25% of the total floor space of the dwelling may be used for a home occupation, and only one home occupation shall be permitted in one dwelling unit. No exterior evidence of the presence of a home occupation shall be allowed other than a sign as permitted in this ordinance. Only members of the immediate family residing in the same dwelling unit and not more than one other employee may be employed in the operation of a home occupation. One off-street parking space shall be required in addition to the parking requirements for the dwelling unit.

District. A section of the Town of Marshall in which zoning regulations are uniform.

Dwelling, Multi-Family. A building or portion thereof used or designed as a residence for two or more families living independently.

Dwelling, Single Family. A building arranged or designed to be occupied by one family.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.

Easement. A grant by a property owner of a strip of land for specified purpose and use by the public, a corporation or persons.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Family Care Home. A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons.

Group Care Facility. An establishment qualified for a license by the State of North Carolina which provides resident services to individuals of whom one or more are unrelated. The individuals are handicapped, aged or disabled, are undergoing rehabilitation or extended care, and are provided services to meet their needs. This category includes group homes for all ages, and foster and boarding homes.

Handicapped Person. A person with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122-58.2(1)b

Individual Sewer System. Any septic tank, ground absorption system, privy or other facility serving a single source or connection and approved by the county sanitarian.

Individual Water System. Any well, spring, or other source used to supply a single connection.

Junk Yard. Any land or land and structure in combination in which structures are incidental to the operation of the principal activity, used for the storage, baling, packing, sorting, handling, disassembling, purchase or sale of any materials which are used, salvaged, scrapped or reclaimed, but are capable of being reused in some form, including but not limited to metals, bones, rags, fibers, paper, cloth, rubber, rope, bottles machinery, tools, appliances, fixtures, utensils, lumber, boxes, crates, pipe, pipe fittings, tires, motor vehicles, and motor vehicle parts.

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. For the purposes of this ordinance, the word lot shall mean any number of contiguous lots or portions thereof, upon which one or more principal structure is to be erected for a single use.

Lot Depth. The average horizontal distance between front and rear lot lines as measured along the side lot lines.

Lot of Record. Any lot for which a plat has been recorded in the Register of Deeds Office of Madison County, or described by metes and bounds, the description of which has been so recorded.

Lot Width. The distance between side lot lines measured at the front building line.

Manufactured Home. A factory assembled portable housing unit, or a portion thereof, built on a chassis and intended for use as a dwelling unit, and is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one and two-family dwellings. A manufactured home is designed to be transported on its own chassis and has a measurement of 40 feet or more in length and eight feet or more in width. A manufactured home shall be construed to remain a manufactured home whether or not wheels, axles, hitch, or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. All vehicles which are designated mobile homes by the Uniform Standards Code for Mobile Homes Act shall be considered manufactured homes. A manufactured home shall not be construed to be a travel trailer or other form of recreational vehicle.

Manufactured Home, Class A. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

(a) The manufactured home has a length of not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;

(b) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two tenths feet for each twelve feet of horizontal run (2.2 feet and 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction;

(c) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter;

(d) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

(e) The manufactured home is set up in accordance with the standards set by the N.C. Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;

(f) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the N.C. Department of

Insurance, attached firmly to the primary structure and anchored securely to the ground; and

(g) The moving hitch, wheels and axles, and transporting lights have been removed.

Manufactured Home, Class B. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, and that meet or exceed criteria (e), (f) and (g) for Class A homes above.

Manufactured Home, Class C. Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

Manufactured Home Park. Any premises where two or more manufactured homes are parked for living and sleeping purposes, or any premises used or set apart for the purpose of supplying to the public parking space for two or more manufactured homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use as part of such manufactured home park.

Modular Housing. A form of manufactured housing that meets the construction standards of the North Carolina Uniform Residential Building Codes for one and two-family dwellings regardless of how the unit or its components are transported to the site.

Non-conforming Use. Any parcel of land, use of land, building or structure existing at the time of adoption of this ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located.

Nursing Home. A nursing home is defined as an institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent who do not usually require special facilities, such an operating room, x-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care is indicated.

Parking Space. An area for parking a vehicle plus the necessary access space. Parking space(s) shall always be located outside the dedicated street right-of-way, shall be provided with vehicular access to a street or alley and shall be not less than nine feet wide and eighteen feet long.

Parks. The term "park" shall include those areas developed either for passive or active recreational activities. The development may include, but shall not be limited to, walkways, benches, open fields, multi-use courts, swimming and wading pools, amphitheaters, etc. The term "park" shall not include zoos, travel trailer parks, amusement parks, or vehicle, equestrian or dog racing facilities.

Retail Business. Establishments selling commodities directly to the consumer.

Street (Road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Street: A dedicated and accepted public right-of-way for vehicular traffic.

Highway: A traffic artery designed primarily to carry heavy volumes of through vehicular traffic.

Major Street: A street designed primarily to carry heavy volumes of local vehicular traffic.

Minor Street: A street, the principal purpose of which is to provide vehicular access to the properties abutting it.

Cul-de-Sac: A street permanently terminated by a turn-around.

"Y" or "T" Turning Spaces: The termination of a street which will allow a vehicle to turn around with the use of one backing movement.

Marginal Access Street: A minor (service) street which parallels and is immediately adjacent to a major street or highway; and which provides access to abutting property.<sup>1</sup>

Street Line. The public right-of-way line for a street.

Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Travel Trailer. Any vehicle, self-propelled or otherwise, which is designed for transient, non-permanent living.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to special conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Wholesale Business. The sale of goods in large quantities usually for resale.

Yard. A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

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 right-of-way line and the front line of the building, projected to the side lot lines of the lot.

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 lot line and extending from the rear line of the front yard to the front line of the rear yard.

Zoning Administrator. An official or designated person of the Town of Marshall charged with enforcing and administering the zoning ordinance.

<sup>1</sup> Added by amendment adopted May 15, 2006.

ARTICLE V  
ESTABLISHMENT OF ZONING DISTRICTS AND MAP

Section 500. Use Districts.

For the purpose of this ordinance, the Town of Marshall is hereby divided into the following use districts:

- R-1 Low Density Residential District
- R-2 Medium Density Residential District
- R-3 High Density Residential District
- C-1 Central Business District
- C-2 General Business District
- C-3 Heavy commercial-Industrial District

Section 501. Establishment of District Boundaries.

The boundaries of these districts are hereby established as shown on the Official Zoning Map of the Town of Marshall.

Section 502. Establishment of Zoning Map.

A zoning map entitled the "Official Zoning Map of the Town of Marshall" setting forth all approved use districts and their respective boundaries is hereby made a part of this ordinance and shall be maintained in the office of the Zoning Administrator of the Town of Marshall. This map shall be available for inspection by interested persons during normal business hours of the zoning administrator. It shall be the duty of the Zoning Administrator of the Town of Marshall to maintain the said map and post any changes thereto as they may be made.

Section 503. Rules Governing District Boundaries.

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

- (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers or other bodies of water, shall be construed to follow such lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following town limit lines shall be construed as following such town limit lines.

(4) Where district boundaries are so indicated that they are approximately parallel to the center lines 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. If no distance is given on the map, such dimension shall be determined by the use of the scale shown on said zoning map.

(5) Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (4), the board of adjustment shall interpret the district boundaries.

ARTICLE VI  
USE REQUIREMENTS BY DISTRICT

Section 600. Intent.

It is the intent of this article that if any use or class of use is not specifically permitted in a district as set forth below, it shall be prohibited in that district.

Section 601. R-1 Low Density Residential District.

(1) Intent. The R-1 Low Density Residential District is established as a district in which the principal use of land is for low density single family residential purposes. This district is further intended to protect existing single family neighborhoods in Marshall from incompatible land uses. It is also the intent of this district to allow for certain types of nonresidential community facilities that would not be detrimental to the residential character of the district.

(2) Permitted Uses. Within the R-1 Low Density Residential District, the following uses are permitted:

Single family dwellings including modular housing, but excluding manufactured homes

Churches or similar places of worship, excluding revival tents

Nursery schools and private kindergartens

Colleges, universities, public elementary and secondary schools, and private schools having curricula approximately the same as ordinarily given in public schools, but not including trade schools.

Golf courses, parks, playgrounds, swimming pools, community centers, country clubs and lodges.

Garage Apartments

### Home Occupations

Customary accessory buildings, including private garages and noncommercial workshops and greenhouses. Such buildings shall be located in the rear yard, shall be no closer than five feet from any property line, and shall be no more than 600 square feet in size if located less than 15 feet from the property line.

### Section 602. R-2 Medium Density Residential District.

- (1) Intent. The R-2 Medium Density Residential District is established as a district in which the principal use of land is for medium density single family residential purposes. This district is also intended to protect existing single family residential areas from incompatible land uses. It is also the intent of this district to allow for certain types of nonresidential community facilities that would not be detrimental to the residential character of the district.
- (2) Permitted Uses. Within the R-2 Medium Density Residential District the following uses are permitted.

Any use permitted in the R-1 Low Density Residential District (listed as a permitted use).

Family Care Homes

Manufactured homes on individual lots

Rooming and Boarding Houses

Bed and Breakfasts

Duplexes

Public utility buildings and facilities if such use is essential for the service of the immediate area, provided that:

- All buildings shall be located at least 35 feet from any lot line.
- Fences and/or other appropriate safety devices are installed to protect the public safety and welfare.
- No vehicles or equipment are stored, maintained or repaired on the premises.
- All structures are in keeping with the residential character of the neighborhood.

### Section 603. R-3 High Density Residential District

- (1) Intent. The R-3 High Density Residential District is established as a district in which the principal use of land is for higher density single and multi-family residential purposes. This district thus allows for a variety of residential uses in areas where the traffic circulation pattern would accommodate higher density residential

development. It is also the intent of this district to allow for certain types of nonresidential community facilities that would not be detrimental to the residential character of the district.

- (2) Permitted Uses. Within the R-3 High Density Residential District the following uses are permitted.

Any use permitted in the R-2 Medium Density Residential District (listed as a permitted use).

Multi-family dwellings  
Manufactured Home Parks

Section 604. C-1 Central Business District.

- (1) Intent. The C-1 Central Business District is established as a district intended to protect and promote the continued vitality of the commercial area of Marshall. This district is intended to allow for a wide variety of commercial and service oriented uses, and to discourage any land uses that would be detrimental to the continuation of this district as the primary shopping and service area of the town. It is the intent of this district to discourage extensive strip commercial development, but rather provide concentrations of general commercial activities.
- (2) Permitted Uses. Within the C-1 Central Business District, the following uses are permitted:

Any use permitted in the R-3 High Density Residential District (listed as a permitted use), except that customary accessory buildings may be larger than 600 square feet in size.

Animal hospitals, but with no open kennels on premises

Assembly halls, coliseums, gymnasiums, and similar structures

Automotive sales and service, including paint and body shops and garages, but excluding junk yards as defined in this ordinance. All repairs are to be made within a building and all vehicles stored on the premises shall display a valid North Carolina inspection sticker.

Automobile service stations

Automobile washing establishments

Bakeries and other manufacturing of prepared food and miscellaneous food products

Banking and other financial institutions

Beauty and barber shops

Bicycle sales and repair

Bowling alleys

Bus terminals

Business colleges, barber and beauty colleges, art schools, music and dance studios and similar uses, industrial or vocational trade schools

Civic organizations, clubs, lodges, and fraternal organizations

Dairy bars and ice cream manufacturers

Dry cleaning, laundry establishments, and laundry pick-up stations

Electrical repair shops

Fabricating shops such as woodworking, cabinet, etc.

Feed and seed shops

Florist shops

Funeral homes and mortuaries

Furriers and fur storage

General stores selling food, clothing, hardware, etc.

Glass and mirror shops, tile, flooring, etc.

Grocery stores

Hospitals, sanitariums, nursing homes, medical or dental clinics

Hotels and motels

Locksmiths and gunsmiths including sales

Medical and dental offices and clinics

Museums and art galleries

Newspaper offices and printing plants

Offices: business, professional, public

Photographic studios and camera supply stores

Physical fitness centers

Plumbing, heating, and air conditioning shops

Printing, publishing, and reproducing establishments

Produce or fruit establishments

Public utility buildings and facilities

Radio and television stations

Radio and television sales and service

Restaurants, including restaurants with drive-thru service

Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, floor covering, paint, antique, art goods, jewelry, gift, music, toy, sporting goods, book and stationery, magazine, candy, tobacco, pet and hobby and craft stores, but not excluding similar retail outlets

Service or filling stations

Sign painting and fabricating shops

Skating rinks, provided they are in a permanent structure

Tailor, dressmaking, and millinery shops

Taxicab stands

Telephone, telegraph, cable television or messenger service offices

Theaters housed in permanent structures and drive-in theaters

#### Section 605. C-2 General Business District

- (1) Intent. The C-2 General Business District is established as a district intended to regulate uses which, because of their very nature, are recognized as having unique operational characteristics. These uses are designed primarily to meet the needs of the traveling public. It is the further intention of this district to insure these uses do not have a deleterious effect on the neighborhoods or other commercial areas of the town
- (2) Permitted uses Within the C-2 General Business District the following uses are permitted:

All uses permitted within the C-1 Central Business District

Commercial greenhouses

Golf or baseball driving ranges

Machine, sheet metal and roofing shops

Oil and fuel dealers

Storage units

#### Section 606. C-3 Heavy Commercial - Industrial District.

- (1) Intent. The C-3 Industrial District is established as a

district intended to provide for manufacturing and warehousing and similar uses. It is not the intent of this district to allow such uses in areas where they would be incompatible with surrounding land uses.

- (2) Permitted Uses. Within the C-3 Heavy Commercial - Industrial District the following uses are permitted:

Any industry which does not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazard, or other objectionable conditions.

Storage yards, not including junkyards, but including open storage (All storage must be enclosed within adequate fencing to insure public safety.)

Wholesaling or warehousing

Transportation terminals, freight and passenger

Farm equipment sales and services

ARTICLE VII  
AREA AND YARD REQUIREMENTS

ARTICLE VIII  
SIGN REGULATIONS

This article is established to regulate and control all existing and future signs throughout the zoning jurisdiction of the Town of Marshall. The provisions of this article shall apply to the display, construction, erection, placement, alteration, use, location, and maintenance of all signs, except as specifically exempted in this article.

Section 800. Definitions

The following words or terms shall have the meanings as herein defined:

Abandoned Sign: A sign which was erected on property in conjunction with a particular use, which use has been discontinued for a period of one hundred eighty days or more, or a temporary sign for an event which has occurred.

Changeable Copy Sign: A sign on which message copy is changed manually or electronically in the field, through the utilization of attachable letters, numbers, symbols and other similar characters or changeable pictorial panels. Time and temperature signs are not included in this definition.

Commemorative Sign: Any sign erected in remembrance of a person or event or which is commemorative in nature. Any commemorative sign shall be approved by the Board of Aldermen.

Community Festival Sign: Signs that are placed to commemorate and/or attract attention to a community festival officially recognized by the Board of Aldermen.

Construction Sign: A temporary sign whose message is limited to identification of architects, engineers, contractors, and other individuals or firms involved with construction on a specific site, the name of the building, the intended purpose of the building, and the expected completion date.

Directional Sign, Off-Premise: Any off-premise sign indicating the location of or providing directions to a business, development, or other activity.

Exempt Sign: Any sign that is specifically listed as exempt from this ordinance. Said listed exempt signs are not regulated by the terms of this ordinance.

Flashing Sign: A sign that incorporates flashing or blinking lights, or a sign with moving parts or parts which simulate movement, including signs or lights on signs reflecting or emitting a glaring light that could impair driver vision.

Governmental Sign: Any sign erected by or on the order of an authorized public official in the performance of his office or duty including, but not limited to, traffic control signs, street name signs, warning and directional signs, public notice, or signs of a similar nature.

Home Occupation Signs: A sign used in association with a permitted home occupation conducted in the dwelling unit occupied by the operator of the business.

Incidental Sign: A single face, non-illuminated professional or announcement sign attached wholly to a building, window, or door containing information relative to emergencies, store hours, credit cards honored, and other similar accessory information.

Multiple Tenant Development: A development in which there exists a number of individual and/or separate activities. In which there are appurtenant shared facilities such as parking.

Noncommercial Message: Any message protected by the First Amendment that does not direct attention to a business operated for profit, or to a commodity or service for sale.

Nonconforming Sign: A sign legally erected and in existence prior to the date of adoption of this ordinance or an amendment to the ordinance, that does not meet the standards imposed by this ordinance.

Off-Premise Advertising Sign: A sign identifying, advertising or directing the public to a business, merchandise, service, institution, residential area, entertainment, or activity which is located, sold, rented, based, produced, manufactured, furnished or taking place at a location other than the property on which the sign is located.

On-Premise Advertising Sign: A sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

Political Sign: A sign erected for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the town may vote.

Portable Sign: A sign generally constructed to be easily movable without a permanent attachment to the ground and which may or may not be equipped with wheels. Such signs may be designed for changeable messages. Signs painted on or attached to operational vehicles and signs defined as temporary signs are not included in this definition.

Real Estate Sign: A sign erected by the owner, or his agent, advertising real property upon which the sign is located for rent, for lease, or for sale.

Roof Sign: A sign erected over or on, and Wholly supported by or partially dependent upon the roof of any building for support, or attached to the roof in any way and extends above the roof line of a building.

Setback: The shortest horizontal distance between the edge of the pavement or traveled surface and the closest point of a sign or its supporting member.

Sign: Any form of publicity or advertising which is designed to be visible from any public way, directing attention to an individual business, commodity, service, activity or product by means of words,

lettering, numerals, trade names or trademarks, or other pictorial matter designed to convey such information. Signs shall include the sign structure.

Sign Structure: A supporting structure erected or intended for the purpose of identification, with or without a sign thereon, situated upon or attached to the premises upon which any sign may be fastened, affixed, displayed or applied, provided however, said definition shall not include a building or fence.

Temporary Sign: Any sign, whether attached to principle structure or free standing, which is intended to be displayed for a limited time for a specific event. This definition does not include portable signs. If a sign display area is permanent but the copy displayed is subject to periodic changes, that sign shall not be regarded as temporary.

#### Section 801. Area of Sign Defined.

The area of a sign shall be considered to be that of the smallest rectilinear figure which encompasses all lettering, wording, design or symbols, but which shall have a continuous perimeter of not more than eight straight lines, together with any background difference on which the sign is located if such background is designed as an integral part of and related to the sign. Any cut-outs or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the message shall be excluded. In the case of a double-faced sign, the area of the sign shall be considered to include all faces visible from one direction. The area of a wall or window sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

#### Section 802. Method of Attachment Defined.

- (1) Attached Sign: Any sign attached to, applied on, or supported by any part of a building (such as a wall, window, canopy, awning or marquee) which encloses or covers useable space.
- (2) Free-Standing Detached Signs: Signs supported by a structure placed in the ground and which are wholly independent of any building or object other than the sign structure for support.

#### Section 803. Height of Free-Standing, Detached Signs Defined.

The height of a free-standing detached sign shall not exceed the maximum height set forth in this ordinance. The height of a free-standing detached sign shall be measured as the vertical distance from the uppermost point of the sign or sign structure, whichever is higher, and the base of the sign at grade. However, when the base of a sign at grade is located below the adjacent street grade, the height of the sign shall be measured from the uppermost point of the sign or sign structure to the street grade.

#### Section 804. Value of Signs Defined.

The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the zoning administrator shall estimate the original cost based upon the best information reasonably available.

Section 805. Permits Required.

All signs hereafter erected, placed, posted, attached, painted or otherwise made visible from an adjacent property or right-of-way require a sign permit in accordance with the provisions of this ordinance except as otherwise prohibited, exempted or not requiring a permit by this article. Any sign which requires a permit which is displayed without the requisite permit shall be in violation of this ordinance and shall be considered an illegal sign.

Section 806. Signs Exempt from Regulations.

The following signs are exempt from the regulations of this ordinance, except where such sign would be prohibited under section 810:

- (1) Signs not visible from beyond the boundaries of the property on which they are located.
- (2) Signs of a governmental body, including traffic warning or regulatory signs and devices, and signs of non-profit organizations. These signs shall also include other governmental signs including building identification, directional, information, and welcome signs.
- (3) Trade names and graphics which are located on gas pumps, newspaper, soft drink and similar vending devices.
- (4) Flags, or insignia of any governmental, non-profit, or business organization.
- (5) Seasonal/holiday signs and decorations associated with a national or religious holiday.
- (6) Warning of danger signs posted by utility or construction companies.
- (7) Signs on vehicles indicating the name of a business, unless the primary use of the vehicle is for the display of signs.
- (8) Signs required by law, statute or ordinance.
- (9) No trespassing, no loitering and similar private warning signs.
- (10) Incidental signs.
- (11) Commemorative signs.
- (12) Special event signs and special event directional signs related to events sponsored by non-profit organizations.

- (13) Political Signs.
- (14) Construction site identification signs.
- (15) Signs painted on or displayed in windows.

Section 807. Signs Exempt from Permit Requirements.

The following on premise signs shall not require a permit and shall not be counted as part of the allowable sign area. However, such signs shall conform to the requirements set forth below as well as other applicable requirements of this ordinance.

- (1) Private Information Signs: Signs containing information to direct pedestrian or vehicular traffic or informing the public of private regulations shall be located on the premises for which directions or information are indicated. Such signs , shall not exceed three square feet per face, two faces per sign, and shall not exceed three feet in height if free-standing or six feet in height if attached to the principal or an accessory structure. These signs may be indirectly or directly illuminated.
- (2) Copy Changes and Maintenance: No permit is required for copy changes made to a changeable copy sign, menu board or marquee sign. No permit is required for maintenance carried out in accordance with the provisions in Section 1010 and where no structural changes are made.
- (3) Residential Identification Signs: Signs which provide the name and/or address of an individual residence, either attached or detached, indirectly or non-illuminated, provided no sign shall exceed two square feet in size per sign face.
- (4) In any residential district: One real estate sign, not exceeding four square feet per sign face area shall be permitted per street frontage. Real estate signs for property over three acres shall comply with the standards for business, commercial or industrial real estate signs.
- (5) In any business, commercial or industrial district a real estate sign shall be permitted on the premises for sale, rent or lease. Such sign shall be non- illuminated, not exceed 32 square feet in area per sign face and, if freestanding, shall not exceed eight feet in height.
- (6) Temporary Signs: Signs related to special events such as special sales, grand openings, and going out of business. Such signs shall be located on the premises where the event occurs and shall be removed when the event concludes. Total square footage of such signs shall not exceed 50% of the allowed sign area for the property as indicated in Section 809.
- (7) Off-Premise Directional Signs: Such signs shall not exceed

four square feet in area and six feet in height and shall not be illuminated.

Section 808. Signs Prohibited.

The following are prohibited within the jurisdiction of this ordinance:

- (1) Any non-governmental sign that resembles a public safety warning or traffic sign.
- (2) Signs, whether temporary or permanent, within any public street or highway right-of-way, with the exception of governmental signage.
- (3) Flashing signs.
- (4) Signs located on or attached to the roof of a structure.
- (5) Portable signs.
- (6) Any sign or sign structure which does not conform to the building codes or creates in any way an unsafe distraction for motor vehicle operators, or obstructs the view of motor vehicle operators entering a public roadway.
- (7) Abandoned signs not in conformance with the height, size or location requirements of this ordinance.
- (8) Off-premise advertising signs.

Section 809. On-Premise Signs.

The following on-premise signs are regulated by this ordinance and require a permit.

- (1) All residential districts:
  - (a) Residential developments (subdivisions, planned unit developments, mobile home parks) and all permitted non residential uses shall be allowed one attached sign not to exceed 12 square feet in area and one free-standing sign per street frontage not to exceed 32 square feet in area and eight feet in height . A free-standing sign shall have a setback of no less than 10 feet from the street right-of-way or 15 feet from the traveled portion of a street where the right-of-way does not exist or cannot be determined. Such signs may be illuminated.
  - (b) On plots containing permitted public utility buildings or home occupations or uses, other than accessory, one attached non-illuminated sign not exceeding six square feet in area.
- (2) C-1, C-2, C-3 districts:
  - (a) As this subsection is applied to multiple tenant

developments, only one free-standing sign shall be permitted per street frontage. This sign may be illuminated. Said sign shall not exceed 150 square feet in area, shall be a maximum of 25 feet in height, except in the C-2 district where the maximum height shall be 75 feet, and shall be located no closer than 10 feet to the street right-of-way or 15 feet to the traveled portion of a street where the right-of-way does not exist or cannot be determined. In addition, each establishment in the development shall be permitted illuminated attached signage at the place of occupancy not to exceed one and one-half square feet per lineal foot of business frontage.

- (b) Any establishment not operating in a multiple tenant development shall be allowed one illuminated free standing sign per street frontage not to exceed 100 square feet in area and 25 feet in height, except in the C-2 district where the maximum height shall be 75 feet, and shall be located no closer than 10 feet to the street right-of-way or 15 feet to the traveled portion of a street where the right-of-way does not exist or cannot be determined. Illuminated attached signage shall also be allowed and shall not exceed one and one-half square feet per lineal foot of building frontage.

Section 810. Sign Maintenance.

- (1) Maintenance Provisions. All signs, supports, braces, poles, wires and other appurtenances of signs or sign structures shall be kept in good repair, maintained in safe condition, and shall conform to the following standards:
  - (a) A sign shall be in a state of disrepair when more than twenty percent (20%) of its total surface area is covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions. Any sign in a state of disrepair shall be considered in violation of this ordinance.
  - (b) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which causes the sign to stand more than 15 degrees from the perpendicular.
  - (c) No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the street or highway from which it is intended to be viewed.
  - (d) No illuminated sign shall be allowed to stand with only partial illumination operational.
  - (e) If illuminated, signs shall be illuminated only by the following means:
    - (1) By a steady stationary light of reasonable

intensity, shielded and directed solely at the sign.

- (2) Light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or auto drivers or so as to create a nuisance.
- (3) Electrical requirements pertaining to signs shall be as prescribed in local codes.

Any sign which violates the maintenance provisions listed above shall be in violation of this ordinance and shall be repaired or removed as required by the applicable sections of this ordinance.

- (2) Unlawful Cutting of Trees or Shrubs. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located within a public right-of-way of any road or highway, except as required by the North Carolina Department of Transportation.

#### Section 811. Non-Commercial Messages.

Notwithstanding any other provisions of this article, any sign, display or device allowed under this article may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, lighting, height and other requirements of the district in which it is located.

#### Section 812. Permits, Fees, Nonconforming Signs, and Enforcement.

- (1) Permits. All new signs, except as otherwise provided in Section 1007 of this ordinance, shall require a sign permit prior to being located or erected on any property within the jurisdiction of this ordinance. Sign permits shall be issued by the zoning administrator. If a sign permit is denied, the decision may be appealed to the board of adjustment as provided in this ordinance.
- (2) Permit Fees. The town board may establish a fee schedule for all sign permits issued in accordance with this ordinance.
- (3) Non-conforming Signs.
  - (a) Signs that are erected and were in place prior to the adoption of this ordinance but which do not conform to the provisions of this ordinance are declared non-conforming signs. Signs that were erected and that are in place and which conformed to the provisions of this ordinance at the time erected, but which do not conform to an amendment of this ordinance enacted subsequent to the erection of said signs also are declared non-conforming signs. Any sign erected after

the passage of this ordinance must meet all the criteria within this ordinance.

- (b) All non-conforming signs shall be maintained in accordance with Section 1010 but shall not be: 1) changed, replaced or relocated except in conformance with the provisions of this ordinance, provided that copy may be changed on an existing sign; 2) expanded or modified in any way which increases the sign's degree of nonconformity; 3) reestablished after damage or destruction in excess of 50% of the appraised tax value at the time of the damage or destruction.
  - (c) Non-conforming portable and temporary signs shall be removed within 180 days of the effective date of this ordinance.
- (4) Enforcement. Violation of the provisions of these sign regulations shall be enforceable as set forth below in addition to the enforcement provisions as set forth in this ordinance.
- (a) Notice of Violation. The zoning administrator shall have the authority to issue a notice of violation for all violations of the sign ordinance. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the zoning administrator, a copy of the notice of violation shall be delivered to the sign owner by hand delivery or by certified mail. In all other cases, a copy of the notice of violation shall be posted on the sign and a copy shall be delivered by hand delivery or certified mail to the property owner as shown on the Madison County tax records. In addition, service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure.
  - (b) Time to Remedy Violation. The sign owner and/or the property owner shall have 15 days to remedy all violations set forth in the notice of violation. The 15 day period shall commence upon the earlier of the posting of the notice of violation on the sign or the delivery of a copy of the notice of violation to the sign owner or property owner.
  - (c) Extension of Time for Compliance. The zoning administrator shall have the authority to grant a single 30 day extension of time within which the sign owner must comply with the notice of violation. The single extension of time may be issued based upon a written request for extension of time which sets forth valid reasons for not complying within the original 15 day period.
  - (d) Remedies for Failure to Comply. Pursuant to N.C. General Statutes, Section 160A-175(f), the Zoning Administrator may choose from the remedies set forth below to enforce the ordinance when there is a failure

to comply with the notice of violation. Those remedies are as follows:

- (1) In addition to or in lieu of the other remedies set forth in this section, the zoning administrator may issue a citation setting forth a civil penalty of fifty dollars (\$50.00). In the case of a continuing violation, each 24 hour period during which the violation continues to exist shall constitute a separate violation. The citation shall be served upon the person(s) described in subsection (a) by the means set forth therein. In the event the offender does not pay the penalty within 10 days of service of the citation, the civil penalty shall be collected by the town in a civil action in the nature of debt, which shall not constitute a misdemeanor, and in so providing, the town board hereby chooses to exercise the option provided by G.S. 160A-175(b).
  - (2) In addition to or in lieu of the other remedies set forth in the section, the zoning administrator shall have the authority to issue a remove order for any sign not repaired or brought into compliance within the time required by the foregoing provisions. Remove orders shall be issued to and served upon the person(s) described in subsection (a) by the means set forth therein. The sign owner or the land owner shall be allowed a period of 30 days after the service of the remove order within which to remove the sign at his own expense. The remove order shall describe specifically the location of the sign to be removed and all of the reasons for issuance of the remove order, including specific reference to the provisions of the ordinance which have been violated.
  - (3) In addition to or in lieu of the other remedies set forth in this section, the zoning administrator may seek injunctive relief in the appropriate court.
- (e) Removal and Recovery of Expense. If a sign owner or property owner fails to comply with the requirements of a remove order, the zoning administrator may cause such sign to be removed. The sign owner and property owner shall be jointly and severally liable for the expense of removal. Notice of the cost of removal shall be served upon the person(s) described in subsection (a) by the means set forth therein. If said sum is not paid within 30 days thereafter, said sum shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of North Carolina General Statute, Section 14-4.

- (f) Removal of Dangerous Signs. Pursuant to N.C. General Statutes, Section 160A-193, the zoning administrator shall have the authority to summarily remove, abate, or remedy a sign which is dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by the sign owner, or if the sign owner cannot be determined, by the land owner, and if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes.

ARTICLE IX  
MANUFACTURED HOME PARKS

A manufactured home park shall include any premises where two or more manufactured homes are parked for living and sleeping purposes, or any premises used or set apart for the purpose of supplying to the public parking space for two or more manufactured homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use as part of such manufactured home park.

(1) Land Development Standards

- (a) There shall be no more than eight manufactured homes per acre.
- (b) No manufactured homes or other structures within a manufactured home park shall be closer to each other than 20 feet, except that storage or other auxiliary structures for the exclusive use of a manufactured home may be closer to that manufactured home than 20 feet.
- (c) There shall be at least two off-street parking spaces for each manufactured home. These spaces shall be provided either on the same site as the manufactured home served, or in a designated parking area serving several or all manufactured homes within the park. Parking spaces shall consist of not less than four inches of crushed stone or other suitable material on a well compacted sub-base.
- (d) No manufactured home or other structure shall be located closer than 20 feet to the exterior boundary of the manufactured home park or highway right-of-way.
- (e) A densely planted buffer strip, consisting of evergreen trees or shrubs shall be located along all sides of the manufactured home park, but shall not extend beyond the established setback line along any street. Such buffer strip shall not be less than four feet in width and shall be composed of trees or shrubs of a type which at maturity shall not be less than six feet in height. This planting requirement may be modified by the Board of Adjustment where adequate buffering exists in the form of vegetation and/or terrain.
- (f) The manufactured home park owner is responsible for making arrangements for the collection of all garbage and trash and shall be in accordance with town policies related to the collection and disposal of solid waste.
- (g) All manufactured homes shall be underpinned.
- (h) All streets within a manufactured home park shall be

at least 20 feet in width for two-way traffic, or 12 feet in width for one-way traffic. All streets shall have unobstructed access to a public street or highway and shall be paved surfaces, or properly compacted gravel of at least four inches in depth, well marked and lighted by the manufactured home park owner, with a maximum grade of 15% for streets within the property.

- (i) All manufactured home parks shall be served by the public water system. The water distribution system within the park shall meet all requirements of Article D-9 of Appendix D, entitled "Plumbing Installation Standards for Mobile Homes and Travel Trailers and Parks" of the North Carolina Plumbing Code.
- (j) All manufactured home parks served by a public sewage collection and treatment system shall meet the requirements of Article D-8 of Appendix D of the North Carolina Plumbing Code. Any manufactured home park not served by the public sewage system must be approved by the county health department.
- (k) Anchors or tie-downs, such as cast-in-place concrete "dead men" eyelets imbedded in concrete screw augers, or arrow head anchors, shall be placed at each corner of the manufactured home stand and at intervals and of such strength as required to conform to the requirements of the State of North Carolina regulations for Mobile Homes and Modular Housing.
- (l) The manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, wind, or other force activity on the structure.

ARTICLE X  
ADMINISTRATION, ENFORCEMENT, APPEALS

Section 1000. The General Process and the Duties of the Zoning Administrator, Board of Adjustment, Planning Board, Town Board, and Courts on Matters of Administration.

All questions arising in connection with this ordinance shall be presented first to the zoning administrator, who shall be responsible for the day to day administration of this ordinance. The board of adjustment shall have the authority to rule on matters of interpretation of this ordinance, consider appeals from decisions of the zoning administrator, issue conditional use permits, and grant variances. Any appeal from a decision of the board of adjustment shall be to the courts as provided by law. The duties of the Marshall Town Board in connection with the ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in this ordinance. The duties of the town board in connection with this ordinance shall be the duty of considering and passing upon the initial ordinance and any proposed amendments or repeal of this ordinance as provided by law. The town planning board shall serve in an advisory capacity to the town board and shall provide recommendations to the board including recommendations pertaining to zoning amendments and other matters as designated in G.S. 160A-361.

Section 1001. Zoning Administrator.

The Town of Marshall shall appoint a zoning administrator. It shall be the duty of the zoning administrator to administer and enforce the provisions of this ordinance.

- (1) Duties. The zoning administrator shall issue certificates of zoning compliance and certificates of occupancy as prescribed herein. The zoning administrator shall serve as clerk to the board of adjustment, and all applications for variances and conditional use permits shall first be presented to the zoning administrator, who in turn shall refer the applications to the board of adjustment.

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 violation, 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 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 1002. Certificate of Zoning Compliance Required.

No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a certificate of zoning compliance shall have been issued by the zoning administrator. No certificate of zoning compliance shall be issued except in conformity with the provisions of this ordinance. Upon approval of a conditional use permit or variance by the board of adjustment, the zoning administrator shall issue a certificate of zoning compliance.

- (1) Applications for Zoning Compliance Certificate. All applications for zoning compliance certificates shall be accompanied by plans in duplicate and drawn to scale showing the actual dimensions of the lot to be built upon, accurate dimensions and the use of the proposed building, the location on the lot of the building or structure proposed to be erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions of this ordinance. Prior to issuance of a certificate of zoning compliance, the zoning administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

Section 1003. Building Permit Required.

Upon receiving a certificate of zoning compliance, a building permit shall be obtained from the Madison County Building Inspections Office for the construction or alteration of any building or structure.

Section 1004. 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.

In conjunction with the final building inspection, the zoning administrator shall certify that all requirements of this ordinance have been met. The applicant shall call for such certification coincident with the final building inspection or within 10 days following completion. A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a certificate of zoning compliance and shall be issued within 10 days after the erection or structural alterations or change in use of the building, or part, shall have been completed in conformity with the provisions 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 1005. Compliance.

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance, the zoning administrator or any other appropriate town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceedings to prevent such violation.

Section 1006. Appeal from the Zoning Administrator.

All questions arising in connection with this ordinance shall be presented first to the zoning administrator, and such questions shall be presented to the board of adjustment only on appeal from a ruling of the zoning administrator. Any order, requirement, decision or determination made by the zoning administrator may be appealed to the board of adjustment pursuant to the procedures found in this ordinance.

ARTICLE XI  
BOARD OF ADJUSTMENT

Section 1100. Establishment of Zoning Board of Adjustment.

There shall be and hereby is created a zoning board of adjustment consisting of five members to be appointed by the town board. Members of the zoning board shall serve a term of three years, provided that upon initial appointment the terms of office may be staggered. In filling vacancies created by resignation or other causes, a new member may be appointed to fill the unexpired term of the member so vacating. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member while attending any regular or special meeting of the zoning board and serving in the absence of any regular members shall have and may exercise all the powers and duties of a regular member.

Section 1101. Selection of Alternate Members.

The town board shall also appoint two alternate members to serve on the zoning board of adjustment in the absence, for any cause, of any regular member. Such alternate members shall be appointed for three year terms. Such alternate members while attending any regular or special meeting of the zoning 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 1102. Powers and Duties of the Zoning Board of Adjustment.

The powers and duties of the zoning board shall be as follows:

- (1) Administrative Review. To hear and decide appeals from any decision or determination made by the zoning administrator in the enforcement of this ordinance. No appeal shall be heard by the board unless notice thereof is filed within 30 days after the interested party or parties receive the decision or determination by the zoning administrator. Both appeals and applications shall be filed with the zoning administrator, who shall act as clerk for the board in receiving this notice. All appeals and applications shall be made upon the form specified for that purpose, and all information required on the form shall be complete before an appeal or application shall be considered as having been filed. Once appeals and applications have been filed with the zoning administrator, the zoning administrator shall immediately notify the chairman of the zoning board that such appeals or applications have been received.

- (2) Variances. Upon application, the zoning board may authorize 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 this ordinance will, in an individual case, result in practical difficulty or unnecessary hardship. The variance may be permitted as long as the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary

hardship upon a finding by the zoning board 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) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
- (c) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- (d) 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.
- (e) The special circumstances are not the result of the actions of the applicant.
- (f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
- (g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.
- (h) A non-conforming use of neighboring land, structures or buildings in the same district, and permitted uses of land, structures or buildings in other districts, will not be considered grounds for the issuance of a variance.

In granting a variance, the zoning board shall make findings that the requirements of this section have been met. The zoning board shall make a finding, and a written notice of the decision shall be prepared. In granting any variance, the zoning board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XVII of this ordinance.

Section 1103. Appeals from Zoning Board of Adjustment.

Appeals from the zoning board may be taken to the courts pursuant to 160A-388 of the General Statutes.

Section 1104. Fees for Variances and Appeals.

The fee for a request for a variance or for an appeal to the zoning board shall be shall be determined by the town board, payable to the Town of Marshall.

ARTICLE XII  
GENERAL PROVISIONS

Section 1200. Zoning Affects Every Building and Use.

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

Section 1201. Non-conforming Uses.

Any parcel of land ,use of land, building or structure existing at the time of the adoption of this ordinance, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located, may be continued and maintained subject to the following provisions:

- (1) Non-conforming Vacant Lots. This category of nonconformance consists of vacant lots for which plats or deeds have been recorded in the Register of Deeds office of Madison County, which at the time of the adoption of this ordinance, or any amendment thereto, fail to comply with the minimum area or width requirements of the districts in which they are located. Any such non-conforming lot may be used for any of the uses permitted in the district in which it is located provided that:
  - (a) Where the lot area is not more than twenty (20%) percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the zoning administrator is authorized to issue a certificate of zoning compliance.
  - (b) Where the lot area is more than twenty (20%) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the board of adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.
- (2) Non-conforming Occupied Lots. This category of non-conformance consists of lots occupied by buildings or structures at the time of the adoption of this ordinance, or any amendment thereto, and/or used for any uses permitted in the districts in which they are located, that fail to comply with the minimum requirements for area, width, yard and/or setbacks for the district in which they are located. These lots may continue to be used for any of the uses permitted in the district in which they are located. However, the nonconformity shall not be increased.
- (3) Non-conforming Open Uses of Land. This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of

the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established non-conforming open use of land may be continued except as follows:

- (a) When a nonconforming use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
  - (b) A nonconforming open use of land shall be changed only to conforming uses.
  - (c) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
  - (d) When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- (4) Nonconforming Uses of Structures. This category of nonconformance consists of buildings or structures used at the time of enactment of this ordinance, or any amendment thereto, for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:
- (a) A nonconforming use shall not be changed to another nonconforming use.
  - (b) When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
  - (c) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
 

Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.

Maintenance and repair necessary to keep the structure in sound condition are permissible.

Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.
  - (d) When any nonconforming use of a building or structure is discontinued for a period in excess of one hundred eighty (180) days, the building or structure shall not

thereafter be used except in conformance with the regulations of the district in which it is located.

(5) **Reconstruction of Damaged Buildings or Structures.** Any nonconforming structure, or any structure containing a nonconforming use, which has been damaged by fire, wind, flood or other causes, shall not be rebuilt, altered or repaired after damage exceeding sixty (60) percent of its value immediately prior to damage **with the exception of single family homes or mobile homes used for residential purposes which may be rebuilt or replaced provided the provisions of the flood Damage Prevention Ordinance and other Town of Marshall Ordinances are met. (amended January 16, 2007)**

Section 1202. Off-Street Automobile Parking and Storage

NOT ADOPTED - SECTION RESERVED FOR FUTURE USE

Section 1204. Corner Visibility.

On any corner lot there shall be no planting, fence, structure, or other obstruction to visibility within the range of three to seven feet above the curb level, within 15 feet of the intersection of the street right-of-way.

Section 1205. Required Yards Not to be Used by Another Building.

The minimum yards or other open spaces required by this ordinance for each and every building hereafter erected, moved or structurally altered shall not be encroached upon or considered to meet the yard or open space requirements of any other building except as provided in subsection 802(1) of this ordinance

Section 1206. One Main Building on a Lot.

Every building hereafter erected or moved shall be located on a lot, and in no case shall there be more than one principal residential building and its accessory buildings on a lot except as provided in Section 802 of this ordinance.

Section 1207. Reduction of Lot and Yard Area.

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 herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

Section 1208. Street Access.

No building or use of land for other than agricultural purposes shall be established on a lot which does not abut a public street except as provided in subsection 802(1).

Section 1209. Corner Lots.

On corner lots, the side yard on that side of the lot abutting the side street shall not be less than 15 feet. Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on such side streets.

ARTICLE XIII  
EXCEPTIONS

Section 1300. Lot of Record.

Where the owner of a lot consisting of one or more lots of official record in any district at the time of the adoption of this ordinance, or his successor in title thereto, does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance, such lot may be used as a building site provided, however, that the other requirements of this ordinance are met.

Section 1301. Front Yard Setbacks for Dwellings.

The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the same block and use district and fronting on the same street as such lot is less than the minimum required front yard depth. In such cases, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of 10 feet from the street right-of-way line, whichever is greater. For the purposes of computing such average, an adjacent vacant lot shall be considered as having the minimum required front open space specified for that zoning district.

ARTICLE XIV  
AMENDMENTS

Section 1400. Amendments.

This zoning ordinance, including the zoning map, may be amended by the Marshall Town Board of Aldermen in accordance with the provisions of this article.

Section 1401. Initiation of Amendments.

Proposed changes or amendments may be initiated by the Marshall Town Board of Aldermen, the planning board, the board of adjustment, or one or more owners of property within the area proposed to be changed or affected. All proposed amendments shall be referred to the planning board for its review and recommendation to the town board.

Section 1402. Application.

Before any action on a proposed change or amendment, an application shall be submitted to the office of the zoning administrator at least 10 days prior to the planning board's meeting at which the application is to be considered. The application shall contain the name and address of the owner of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district. All applications requesting a

change in the zoning map shall include a description of the property in question.

Section 1403. Application Fee.

A fee as determined by the Marshall Town Board of Aldermen, shall be paid to the Town of Marshall for each application for an amendment to cover costs of advertising and other administrative expenses.

Section 1404. Planning Board Action.

Before taking any action on a proposed amendment to the ordinance, the town board shall consider the planning board's recommendations on each proposed amendment. The planning board shall have 35 days after the first consideration of the application within which to submit its recommendations to the town board. Failure of the planning board to submit recommendations within the 35 day period shall constitute a favorable recommendation.

Section 1405. Public Hearing.

Before enacting any amendment to this ordinance, the town board shall hold a public hearing. A notice of such public hearing shall be given in accordance with Article 19 in Chapter 160A of the North Carolina General Statutes.

Section 1406. Decision.

The town board shall make a decision on the proposed amendment within 60 days after the public hearing.

ARTICLE XV  
VIOLATIONS, PENALTIES AND REMEDIES

Section 1500. Violations.

Whenever, by the provisions of this ordinance, the performance of any act is prohibited, or whenever any regulation, dimension, or limitation is imposed on the use of any land, or on the erection or alterations, or the use or change of use of a structure, or the uses within such structure, a failure to comply with such provisions of this ordinance shall constitute a separate violation and a separate offense.

Section 1501. Penalties.

Any person, firm, or corporation who violates the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor, and shall be fined not exceeding fifty dollars (\$50.00) and/or imprisoned for a period of time not exceeding thirty (30) days. Each day of violation shall be considered a separate offense.

Section 1502. Remedies.

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of this ordinance, the zoning administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct of business or use in or about the premises.

ARTICLE XVI  
LEGAL STATUS PROVISIONS AND EFFECTIVE DATE

Section 1600. Severability.

It is the legislative intent of the town board in adopting this ordinance that all provisions and sections thereof shall be liberally construed to protect and preserve the health, safety and general welfare of the inhabitants of the Town of Marshall, and, further, that should any provision, portion, section or subsection of this ordinance be held to be invalid by a court of competent jurisdiction, such ruling shall not be construed as affecting the validity of any of the remaining provisions, portions, sections or subsections, it being the intent of the town board that this ordinance shall stand, notwithstanding the invalidity of any provision, or section or part thereof.

Section 1601. Conflict with Other Laws.

When provisions of this ordinance require a greater width or size of yards, or require a lower height of a building, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, provisions of this ordinance shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, or require a lower height of a building, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the provisions made by this ordinance, the provisions of that statute or local ordinance or regulation shall govern.

Section 1602. Effective Date.

This ordinance shall take effect and be in force on \_\_\_\_\_, 19\_\_\_\_.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

MARSHALL TOWN BOARD OF ALDERMEN

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Town Clerk