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Caldwell County North Carolina  
Wayne L. Rash, Register of Deeds

*Pam Mayberry* ✓✓

AN ORDINANCE PROVIDING FOR THE ZONING  
OF  
VILLAGE OF CEDAR ROCK

Adopted: June 28, 2022

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**ARTICLE I  
AUTHORITY AND ENACTMENT**

In pursuance of authority conferred by Chapter 160D of the General Statutes of North Carolina, and for the purpose of promoting the public health, safety, morals and general welfare; promoting the orderly development of the Village of Cedar Rock; lessening congestion in the roads and streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; providing adequate provisions for transportation, water, sewerage, schools, parks and other public requirements, all in accordance with a well-considered, comprehensive plan, the Council of the Village of Cedar Rock does hereby enact the following Ordinance providing for the zoning of the Village of Cedar Rock, North Carolina.

NOW THEREFORE, the Council of the Village of Cedar Rock, North Carolina, does ordain as follows:

**ARTICLE II  
SHORT TITLE**

This ordinance shall be known as "The Zoning Ordinance of the Village of Cedar Rock, North Carolina," and the map referred to which is identified by the title "Official Zoning Map, Village of Cedar Rock, North Carolina," shall be known as the "Zoning Map". The "Zoning Map" also refers to a "Zoning Atlas" which contains additional maps that illustrate certain sections of the Village at a different scale.

**ARTICLE III  
JURISDICTION**

**Section 30. Territorial Application**

The provisions of this Ordinance shall be applicable within the corporate limits of the Village of Cedar Rock as adopted under General Statute 160D-200, and the land designated by the official zoning map.

**ARTICLE IV  
DEFINITIONS**

For the purpose of interpreting this ordinance, certain words or terms are herein defined. Unless otherwise expressly stated, the following words shall, for the purpose of this ordinance, have the meaning herein indicated.

**Section 40. Interpretation of Commonly Used Terms and Words**

- 40.1 Words used in the present tense include the future tense.
- 40.2 Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- 40.3 The word "person" includes a firm, association, corporation, trust and company, as well as individual.

- 40.4 The words "used for" shall include the meaning "designed for".
- 40.5 The word "structure" shall include the word "building".
- 40.6 The word "lot" shall include the words "plot", "parcel", or "tract".
- 40.7 The word "shall" is always mandatory and not merely direction.

**Section 41. Definitions of Specific Terms and Words**

- 41.1 *Accessory Building.* A building subordinate to the principal building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.
- 41.2 *Accessory Use.* A use customarily incidental, subordinate to the principal use or building, and located on the same lot with such principal use or building.
- 41.3 *Administrative Decision.* Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.
- 41.4 *Alley.* A public way that affords only a secondary means of access to abutting property and not intended for general traffic circulation.
- 41.5 *Basement.* See Cellar.
- 41.6 *Billboard.* (See Section 41.54)
- 41.7 *Buffer Strip.* A buffer strip shall consist of a planted strip at least fifteen (15) feet in width, composed of evergreen trees spaced not more than ten (10) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart, Buffers located on property zoned for industrial uses shall be twenty-five (25) feet in width.  
  
Each application for a zoning permit or certificate of occupancy shall include for those use districts where a buffer is required, information as to the location and type of buffer to be erected. In some instances, a fence or wall may be required by the Planning Board. Once the buffer strip is erected, it shall be properly maintained.
- 41.8 *Building.* Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels.
- 41.9 *Building. Principal,* a building in which is conducted the principal use of the lot on which said building is situated.
- 41.10 *Building Height.* The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof,
- 41.11 *Building Setback Line.* A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, gutters and similar fixtures and the lot line or right of way of the street, whichever is nearer to the building, when measured perpendicularly thereto.

- 41.12 *Business Sign*. A sign that directs attention to goods, commodities, products, services, or entertainment sold or offered upon the premises where the sign is located.
- 41.13 *Cellar*. A story having more than one-half (1/2) of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.
- 41.14 *Conditional zoning*. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.
- 41.15 *Condominium*. A system of separate ownership of individual units in a multiple-unit building.
- 41.16 *Country Club*. A club that provides full country club activities including golf, tennis, swimming, dining and other recreational and social activities for its members and the public.
- 41.17 *Country Club Facilities*. All property used to provide country club services including clubhouse, tennis courts, swimming pool, golf course and storage and accessory buildings.
- 41.18 *Customary Home Occupation*. Any use conducted entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display, no outside storage, no stock-in-trade nor commodity sold on the premises; provided further that no person not a resident on the premises is employed in connection with the activity and the activity is not commercial in nature. Such occupation shall be carried on solely within the main dwelling and shall not occupy more than twenty-five percent (25%) of the total floor space of the dwelling. Short-term rentals (defined below) shall not be considered a customary home occupation.
- 41.19 *Decorative Structure*. A structure designed and built for decorative or landscaping purposes and including, but not limited to, gazebos, arbors, bridges, etc. The structure is not to be used for storage or any other non-decorative purpose.
- 41.20 *Determination*. A written, final, and binding order, requirement, or determination regarding an administrative decision.
- 41.21 *Developer*. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
- 41.22 *Development*. Unless the context clearly indicates otherwise, the term means any of the following:
- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
  - b) The excavation, grading, filling, clearing, or alteration of land.
  - c) The subdivision of land as defined in G.S. 160D-802.
  - d) The initiation or substantial change in the use of land or the intensity of use of land.
- 41.23 *Development Approval*. An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations

adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

- 41.24 *Development Regulation.* A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.
- 41.25 *Dwelling.* Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.
- 41.26 *Dwelling Unit.* A building, or portion thereof, providing complete and permanent living facilities for one (1) family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, mobile home or other structure designed for transient residence.
- 41.27 *Dwelling, Single-Family.* A building designed for and containing one (1) dwelling unit.
- 41.28 *Dwelling, Two Family.* A building designed for and containing two (2) dwelling units.
- 41.29 *Dwelling, Multi-Family.* A building designed for and containing three (3) or more dwelling units.
- 41.30 *Evidentiary Hearing.* A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.
- 41.31 *Family.* One or more blood related persons or three (3) or fewer unrelated persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boarding house or hotel as herein defined.
- 41.32 *Fence.* A structure or partition, erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions, or to separate two contiguous estates.
- 41.33 *Grade.* An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
- 41.34 *Gross Floor Area.* The total area of all buildings including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.
- 41.35 *Legislative Decision.* The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of this Ordinance.
- 41.36 *Legislative Hearing.* A hearing to solicit public comment on a proposed legislative decision.

- 41.37 *Lot*. A parcel of land occupied or capable of being occupied by building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.
- 41.38 *Lot, Corner*. A lot which occupies the interior angle at the intersection of two (2) street line which make an angle of more than forty-five (45) degrees and less than one hundred and thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.
- 41.39 *Lot Coverage*. The percentage of a lot which may be covered with buildings or structures, excluding walks, drives, and other similar uses and recreational facilities which are accessory to a permitted use.
- 41.40 *Lot Depth*. The mean horizontal distance between the front and rear lot lines.
- 41.41 *Lot of Record*. A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Village of Caldwell County, or a lot described by metes and bounds, the description of which has been so recorded.
- 41.42 *Lot Width*. The distance between side lot lines measured at the building setback line.
- 41.43 *Manufactured Home*. A dwelling unit constructed and designed for transportation its own chassis and placement on a temporary or semi-permanent foundation having a measurement of forty (40) feet or more in length and eight (8) feet or more in width. It shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. This term shall also include the term "Mobile Home".
- 41.44 *Manufactured or Mobile Home Park*. Any place or tract of land maintained, offered or used for the parking of two (2) or more manufactured homes for rental or lease and used or intended to be used for living or sleeping quarters.
- 41.45 *Modular Home*. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code, as amended, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home shall consist of two or more sections transported to the site on a truck and erected or joined together on the site.
- 41.46 *Non-conforming*. Any structure, parcel and/or use of land that does not conform to the use regulations, size and/or requirements of this ordinance for the district in which it is located.
- 41.47 *Open Space*. Any front, side or rear yards, courts, usable open space provided about a building in order to meet the requirements of this code.
- 41.48 *Open Storage*. Unroofed storage area, whether fenced or not.
- 41.49 *Parking Lot*. Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operation condition whether for a fee or as a service.
- 41.50 *Parking Space*. A storage space of not less than ten (10) feet by eighteen (18) feet for one (1) automobile, plus the necessary access space. It shall always be located outside the dedicated street or highway right-of-way.

- 41.51 *Planned Unit Development (PUD) or Cluster Subdivision.* A form of development characterized by a unified site design for a number of residential housing units, supportive small-scale services, and common open space. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. Such development shall be based on a plan, which allows flexibility. Planning Unit Development is multiple buildings on one lot. Cluster subdivision allows the clustering of homes to protect open space and reduce impact. Both are approved through a conditional rezoning process.
- 41.52 *Property Owners Association (POA).* A non-profit corporation or group formed by the owners of a Planned Residential Unit Development (PUD) to own, repair, maintain and manage the common areas within the PUD; to enforce the terms and conditions governing the PUD; and to otherwise enhance and promote the use and enjoyment of the common areas of the PUD.
- 41.53 *Sewerage System, Public.* A system serving two (2) or more connections. Plans for public and community sewer systems must be approved by the Division of Environmental Management, North Carolina Department of Economic and Community Development.
- 41.54 *Sewerage System, Individual.* An individual septic tank system of sewage disposal. Individual sewage disposal systems must be installed and maintained in accordance with the Division of Health Services, North Carolina Department of Human Services "Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business or Place of Public Assembly in North Carolina" and the regulations of the County Board of Health.
- 41.55 *Short Term Rentals.* Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.
- 41.56 *Signs.* Any form of publicity, visible from any public highway directing attention to an individual activity, business, service, commodity or product. The publicity can be conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information. The information can be displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports.
- 41.57 *Sign Area.* Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one (1) side of a double-faced sign shall be considered.
- 41.58 *Sign, On-Site.* A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location where such sign is located.
- 41.59 *Sign, Off-Site.* A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained or provided at a location other than the site where the sign is located.



- 41.60 *Site plan.* A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision, with is a legislative action.
- 41.61 *Solar Collector.* Any object that collects and uses solar radiation for a useful purpose, including but not limited to windows, walls, roofs, and collectors.
- 41.62 *Story.* That portion of a building comprised between a floor and the floor next above. The first floor of a two (2) or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.
- 41.63 *Street.* A dedicated and accepted public right-of-way for vehicular traffic that affords the principal means of access abutting properties.
- 41.64 *Structure.* Any building constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.
- 41.65 *Structural Alterations.* Any change on the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any structural change in the roof, or dimensions or the rooms therein.
- 41.66 *Subdivision,* All divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in an existing streets; but the following shall not be included within this definition not be subject to the regulations authorized by this Ordinance:
- a) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of these regulations; and
  - b) The division of land into parcels of ten (10) acres or more where no new street right-of-way dedication is involved; and
  - c) The public acquisition by purchase of strips of land for the widening or opening of streets; and
  - d) The division of a tract of land in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the Village.

- 41.67 *Variance*. The term "variance" shall mean a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.
- 41.68 *Water System Public*. Water supply systems serving ten (10) or more connections are classified as a public water supply by State law. Plans and specifications must be approved by the Sanitary Engineering Section, Division of Health Services, and North Carolina Department of Human Resources.
- 41.69 *Water System, Semi-Public*. Water supply systems serving from two (2) to nine (9) connections, inclusive. This system may be regulated by the County Board of Health, and plans should be approved by the Caldwell County Health Department.
- 41.70 *Water System, Individual*. A drilled or bored well or spring which serves a single place of use. Individual water supply systems should be located, constructed and operated in accordance with the Division of Health Services, North Carolina Department of Human Resources.
- 41.71 *Yard*. An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward.
- 41.72 *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 or highway right-of-way line and the front line of the building, projected to the side lines of the lot.
- 41.73 *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.
- 41.74 *Yard, Side*. An open, unoccupied space on the same lot with a principal building, situated between the side line of the building and the adjacent side line of the lot and extending from the front line of the front yard to the rear line of the rear yard.
- 41.75 *Zoning Administrator*. Village of Cedar Rock official charged with the responsibility of enforcing this ordinance.
- 41.76 *Zoning map amendment or rezoning*. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.
- 41.77 *Zoning Permit*. Permit issued by the Zoning Administrator indicating that a proposed use is in compliance with requirements of this ordinance.

**ARTICLE V  
ESTABLISHMENT OF DISTRICT**

**Section 50. Use District Names**

For the purpose of this ordinance, the zoned area of Village of Cedar Rock is hereby divided into the following zoning districts:

R-CR Residential Low Density District

CC Country Club District

C-OS Conservation Open Space

Those with a conditional district will have "CD" following the underlying zoning classification.

**Section 51. District Boundaries Shown on Zoning Map**

The boundaries of the districts are shown on the map accompanying this ordinance and made a part hereof entitled "Official Zoning Map, Village of Cedar Rock, North Carolina ". The zoning map and all the notations, references and amendments thereto and other information shown thereon are hereby made a part of this ordinance the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is posted at the office of the Town Hall and is available for inspection by the public. The local government (G.S. 160 D-105) may, in paper or a digital format approve the maps.

**Section 52. Due Consideration Given to District Boundaries**

In the creation by this ordinance of the respective districts, careful consideration is given to the peculiar suitability of each district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the Village.

**Section 53. Rules Governing Interpretation of District Boundaries Delineation**

District boundary lines shall be construed to be along or follow property lines, lot lines, and the centerline of streets, alleys, easements, other rights-of-way, and creeks, streams or other water channels. In the absence of specified distances on the map, dimensions or districts shall be determined by scaling the distance on the Official Zoning Map.

**ARTICLE VI  
APPLICATIONS OF REGULATIONS**

**Section 60. 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 hereinafter provided in this ordinance.

**Section 61. Reduction of Lot and Yard Areas Prohibited**

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**Section 62. Relationship of Building to Lot**

Every building hereinafter erected, moved or structurally altered shall be located on a lot and in no case, shall there be more than one (1) principal building and its customary accessory buildings on the lot.

**Section 63. Undefined and Unlisted Land Uses**

Unless noted otherwise, a use that is not defined and listed as a permitted use in the ordinance is not a permitted use by right. Undefined land uses will be reviewed and a recommendation rendered by the Planning Board. The recommendation will be reviewed and the Council shall render a decision.

**ARTICLE VII  
GENERAL PROVISIONS**

**Section 70. Non-Conforming Uses, Structures, and Parcels.**

- 70.1 Any non-conforming uses of land may only be changed to a conforming use more in character with the uses permitted in the District.
- 70.2 When a non-conforming use has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.
- 70.3 A non-conforming use may not be extended or enlarged, nor shall a non-conforming structure be altered unless approved by the Village Council after a public hearing.
- 70.4 A non-conforming parcel of land shall be modified to comply with the requirements of this ordinance prior the issuance of a zoning permit.

**Section 71. Advertising Signs and Structures**

The purpose of this section is to establish minimum regulations controlling the number, size and placement of signs in such a way as to support and complement the land use objectives set forth in the district-specific regulations of the zoning ordinance. The following signs are exempt from the permit and regulation requirements of this section:

- 71.1 Official governmental signs.** Such as traffic or similar regulatory devices, erected and maintained pursuant to any Federal, State, County or Village governmental function.

- 71.2 Identification signs.** Not to exceed two (2) square feet in area bearing only property identification numbers and names, post office box numbers, and names of occupants of the premises, which are not illuminated and are not of a commercial nature.
- 71.3 Instructional signs** displayed strictly for the direction, safety or convenience of the public, such as signs that identify restrooms, parking area exits and entrances, signs warning of danger, and no trespassing signs.
- 71.4 Non-illuminated temporary signs. Such as but not limited to,** political signs and posters when located entirely on private property, and less than six (6) square feet in area, provided all such signs shall be removed within seven (7) days following the election.
- 71.5 Temporary construction or development signs.** Signs denoting the architect, engineer, or contractor and placed on premises where construction, repair or renovation is in progress. Such signs shall not exceed sixteen (16) square feet, are limited to one (1) per lot, may not be erected prior to the issuance of a building permit, and must be removed within seven (7) days of the issuance of a Certificate of Occupancy.
- 71.6 NCDOT Temporary Portable Signs.** Signs utilized by the County of Caldwell or North Carolina Department of Transportation are exempt from the provisions of this section of the sign regulations. With proper authority being given, construction contractors and public utility companies are permitted to erect temporary construction and maintenance signs at the work sites to protect the public, equipment and workmen, provided that such signs conform to the standards of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the United States Department Of Transportation, Federal Highway Administration, 1971, or any subsequent revisions thereof approved by the North Carolina Department of Transportation.
- 71.7 Temporary real estate signs.** Shall not exceeding four (4) square feet may be erected and limited to two (2) per lot and must be removed within seven (7) days of closing.
- 71.8 Miscellaneous temporary signs.** Signs advertising events in the Village shall be removed immediately following the event.

## ARTICLE VIII USE REQUIREMENTS BY DISTRICT

Within the district indicated on the zoning map no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any purpose other than those listed as permitted for the district in this article.

## **Section 80, R-CR Residential District**

This district is composed of certain quiet, low-density residential sections of the community, plus certain open areas where similar residential development appears likely to occur, as indicated by the dimensional requirements hereinafter set forth. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of single-family residences in the districts and which would be detrimental to the quiet residential nature of the areas included within this district.

### **80.1 Permitted Uses**

- a. Single Family Dwellings

### **80.2 Accessory Uses**

- a. Customary Home occupation, as defined in Section 41.18. and with the issuance of a zoning permit.

### **80.3 Special uses** The following special uses are permitted only as authorized by this Ordinance.

### **80.4 Dimensional Requirements**

- a. Minimum lot area: 30,000 sq. ft.
- b. Minimum mean lot width: 125 ft.
- c. Minimum front yard building setback: 50 ft.
- d. Minimum side yard building setback not abutting a street: 20 ft.  
Side yard abutting a street: 50 ft.
- e. Minimum rear yard building setback: 50 ft.
- f. Minimum size dwelling unit (heated living area; excluding basements):  
1,850 sq. ft. for single-story building  
2,500 sq. ft. for multiple-story building (minimum 1,500 sq. ft. on main level)
- g. Maximum height of buildings: 38 ft.
- h. Maximum permissible lot coverage by the residential building shall not exceed 30% of the total lot area.
- i. No residential building or other structure shall be built less than 75 feet from the golf course.

### **80.5 Corner Visibility.** On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of seventy (70) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and height of ten (10) feet above the average center line grade of each street.

### **80.6 Off-Street Parking.** For each residential lot there shall be adequate off-street parking to accommodate at least four (4) vehicles.

- 80.7 New Lots.** No zoning permit for a lot located in a residential subdivision created after the effective date of this ordinance shall be issued for any new residential lots proposed in this District unless the requirements of the Caldwell County Subdivision Regulations are met. Lot size and setback requirements shall be governed by this Ordinance. In addition, new subdivision streets must meet the requirements of the Caldwell County Subdivision Regulations except all streets are to be constructed and paved to the minimum standards as required by the N.C. Department of Transportation's minimum Subdivision Roads Standards and certified by a professional engineer.
- 80.8 Accessory Structures.** Accessory buildings and fences are not permitted in the District; however, solar panels are allowed subject they meet the following criteria and with the issuance of a zoning permit:
- a. Free-standing solar panels are allowed outside of an established setback and only in the rear and side yards. The solar panels shall be no taller than 5' as measured from the grade at the base of the structure to the top of the apex and shall be buffered from adjoining properties with an opaque evergreen hedgerow fully blocking visibility.
  - b. Roof mounted solar panels on flat roofs, on roof slopes not facing a street and building integrated solar panels on roof slopes facing the street that are not noticeable.
- 80.9 Decorative Structures and Swimming Pools.** Decorative structures such as gazebos and in-ground swimming pools with any required fencing and bathhouses may be permitted. Construction plans and specifications for any proposed decorative structure or in-ground swimming pool showing external appearance and a site plan showing the location of the proposed construction on the lot must be presented to the Planning Board and approved by the Village Council. Proposed decorative structure must be designed and constructed in keeping with the character of the residence and the neighborhood and shall be limited in size to no more than eighty (80) square feet and a maximum height of ten (10) feet and shall meet all setback requirements of 80.3.

### **Section 81. CC Country Club District.**

This district is composed of an eighteen-hole (18) golf course, clubhouse, tennis courts, swimming pool and various other storage and accessory buildings used in the operation of the country club. The regulations of this district are intended to preserve this area exclusively for country club purposes.

- 8 1.1 Permitted Uses.** The uses of this district are restricted to full county club activities including golf, tennis, swimming, dining and other recreational and social activities.
- 81.2 Special uses.** The following special uses are permitted only as authorized by this Ordinance.
- 81.3 Construction.** Any new construction of buildings or additions to existing buildings shall be reviewed and approved by the Village Council after a public hearing and shall be in conformity with the use, style, design and purpose of the existing building.

- 81.4 Corner Visibility.** On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of seventy (70) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and height of ten (10) feet above the average center line grade of each street.
- 81.5 Off-Street Parking.** The country club shall provide adequate off-street parking to accommodate all club activities and comply with the NC Building Code and ADA requirements.
- 81.6 Accessory Structures.** Solar panels are allowed subject they meet the following criteria and with the issuance of a zoning permit:
- a. Free-standing solar panels located outside of an established setback and only in the rear and side yards. The solar panels shall be no taller than 5' as measured from the grade at the base of the structure to the top of the apex and shall be buffered from adjoining properties with an evergreen hedgerow.
  - b. Roof mounted solar panels on flat roofs, on roof slopes not facing a street and building integrated solar panels on roof slopes facing the street that are not noticeable.

#### **Section 82. C – OS Conservation Open Space District.**

This district is made of conservation easements with voluntary legal agreements designed to ensure the long-term viability and protection of the natural resources within a surveyed and recorded boundary. The purpose of this district is to have activity with very limited impact take place within the designated area, such as passive recreation as allowed through the existing conservation agreement.

### **ARTICLE IX EXCEPTIONS AND MODIFICATIONS**

#### **Section 90. Lot of Record**

When the owner of a lot of official record in any residential district at the time of the adoption of the initial zoning Ordinance, the same having been repealed by the adoption of this Ordinance, or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a residential building site.

#### **Section 91. Visibility at Intersections**

On a corner in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than two (2) feet in height measured from the center line of the street or road shall be placed or maintain within the triangular area formed by the intersecting street or road right-of-way lines and a straight line connecting points on said street or road right-of-way lines each of which is twenty-five (25) feet distant from the point of intersection.



**Section 92. Residential – Planned Unit Development or Cluster Subdivisions**

The residential planned unit development or cluster subdivision concept offers developers the possibility of more efficient and flexible methods for developing property, and provides residents of the project with larger open spaces for recreation and other activities properly related to residential use.

**Conditions of Approval:**

The Village Council may approve this form of development in the R-CR district as conditional zoning district (R-CR CD) as provided the following below conditions be met. There is nothing limiting for other conditions to be added to the request should the applicant agree in writing to the conditions associated with the conditional rezoning request to obtain approval.

- 92.1 Such development is an integrated plan for the primary purpose of residential use and if applicable, other small-scale support uses.
- 92.2 The site for the total development for a planned unit development is at least one (1) acre and at least two (2) buildings are included in the plan. Total site development for a cluster subdivision is a minimum of ten (10) acres and 30% designated open space to be reserved in perpetuity. Open space calculations do not including stormwater devices.
- 92.3 That the total parcel of land is under single ownership or control, and there is reasonable assurance that the development can be successfully completed and maintained, including care and maintenance of all common space, recreation space, and other common areas. There shall be rules, regulations and restrictions governing any Property Owner's Association (POA).
- 92.4 The maximum residential density shall be determined by the amount of required open space, infrastructure –streets, stormwater devices, etc..., utility and other easements, and environmental impacts, such as floodplain and wetlands.
- 92.5 Off-street parking shall be provided at a ratio of two (2) spaces per dwelling unit. Commercial shall provide parking at the rate required by NC Building Code and ADA.
- 92.6 All streets shall be constructed, paved and certified by a professional engineer to the standards of the North Carolina Department of Transportation. All parking areas and other paved surfaces shall meet the NC Building Code and ADA requirements and be maintained by the POA.
- 92.7 The preliminary plan for the proposed development shall be submitted to the Planning Board for review and a recommendation made to the Village Council. The Planning Board may require design changes, which may include, but shall not be limited to, provisions for drainage, landscaping, buffer areas, lighting, parking, streets and access ways. The applicant must resubmit the plan within (30) thirty days, if changes are required. Upon review, the Planning Board shall make a recommendation to the Village Council. The Village Council shall make a decision to approve – as is, approve with conditions - the applicant agrees to, or deny the applicant's Conditional rezoning request.

92. 8 In addition to the requirements hereinabove set forth in subsections 92.1 through 92. 7, the procedure for final approval shall be as required in Section 112.4 for Conditional Rezoning request approvals.

**ARTICLE X  
ADMINISTRATION AND ENFORCEMENT**

**Section 100. Planning Board (Administrative Action).**

Decisions made in implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS 160-D and within this ordinance. These decisions are known as ministerial or administration decisions.

- 100.1 Zoning Authority.** The Village Council may appoint the Planning Board or contract with an appropriate official to enforce this ordinance. This assistance of other persons may be provided at the direction of the Village Council.
- 100.2 Zoning Enforcement.** If the Planning Board or appropriate official finds that any of the provisions of this ordinance are being violated, they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. They shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.
- 100.3 Appeal of Decision.** If a ruling of the Planning Board or appropriate official is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment. In the case of an ordinance interpretation and/or appeal of permit decision, the Village Council will take the position of the Board of Adjustment hearing the testimony in a quasi-judicial format. The Council will render a decision based on fact-based evidence.
- 100.4 Conflict of Interest.** The Planning Board or appropriate official shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship (G.S. 160D-109).
- 100.5 Inspection.** The Planning Board or appropriate official may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction

of the Village of Cedar Rock at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

- 100.6 Written Determination.** Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Planning Board or appropriate official shall provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a));

### **Section 101. Certificate of Zoning Compliance Required**

- 101.1 Zoning Permit.** No building, sign or other structures shall be erected, moved, added to or structurally altered until the Planning Board or appropriate official has issued a certificate of zoning compliance. No certificate of zoning compliance shall be issued except in conformity with the provisions of this ordinance after written order from the Planning Board or official.

- 101.2 Written Determination.** Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Planning Board or official shall provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a));

### **Section 102. Application for Zoning Permit**

- 102.1 Zoning Permit Application.** All applications for a certificate of zoning compliance shall be accompanied by two (2) sets of plans showing the dimensions and shape of the parcel to be built upon; the exact sizes, uses and locations on the parcel of buildings already existing, if any, and the location and dimensions of the proposed building or alterations including an erosion control plan, if applicable. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this ordinance. A fee set by the Village Council shall be charged for the processing of each such application.

- 102.2 Vesting.** Zoning permits expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law. A site-specific plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years. A multi-phase development shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multi-phase development must contain 100 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is

a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).

**102.3 Revocation of Development Approvals.** Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by an official or by planning board may be appealed to the Board of Adjustment pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to 160D-403, the provisions of G.S. 160D-405(f) regarding stays shall be applicable.

### **Section 103. Construction Permits**

All construction permits, health department approvals, certificates of occupancy and other legally required approvals will be administered by the appropriate State or County agencies and such agency will issue and enforce these as required.

### **Section 104. Remedies Available**

In any 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 Planning Board or any other appropriate Village 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 proceeding to prevent such violation.

## **ARTICLE XI**

### **PLANNING BOARD**

#### **Section 110. Establishment of Planning Board**

A Planning Board is hereby established. Said Board shall consist of seven (7) members. The Village Council shall appoint members of the Board. Six (6) of the members shall be residents of the Village who are not members of the Village Council. Their initial terms of office shall be for three (3) years, and thereafter, as follows: One (1) member appointed for a term of one (1) year; two (2) members

appointed for terms of two (2) years; and two (2) members appointed for term of three (3) years. Upon completion of the initial term of office for each member, all additional appointments to vacancies on the Board shall be for three (3) year terms. The Village Council shall also point one (1) member from Village Council to serve on the Planning Board as an ex officio member.

**Section 111. Proceedings of the Planning Board**

- 111.1 Members.** The Planning Board shall appoint a secretary and such other subordinates as may be authorized by the Village Council. Meetings of the Board shall be held at the call of the chairperson and such other times as the Board may determine. Such chairperson, or in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The Board shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and keep records of its examinations and other official action.
  
- 111.2 Meeting Minutes.** The Planning Board shall keep minutes of its proceedings (G.S. 160D-308). Additionally, all Planning Board members, before entering their duties, must take an oath of office (G.S. 160D-309).
  
- 111.3 Conflict of Interest.** Members of the Planning Board shall not vote on advisory or legislative decisions regarding a development regulation where the outcome of the matter being considered is likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship (G.S. 160D-109).

**Section 112. Powers and Duties of the Planning Board (Legislative proceedings)**

- 112.1 Authority.** All applications for land use request – zoning permits, rezoning request and text amendments are to be referred to the Planning Board for its review and recommendation to the Village Council (G.S. 160D-604(c), (e)), unless otherwise specified below. Procedures are determined as hereinafter set forth.
  
- 112.2 Zoning Permits.**
  - a) Zoning application.** The application shall have a site plan, if determined applicable to the request. A zoning permit shall be complete and submitted for the Planning Board to review.
  
  - b) Issuance of Permit.** The Planning Board is to determine if the request meets the requirements of the ordinance. If the request meets the requirements, the permit shall be issued.
  
- 112.3 Text Amendment.** All petitions shall include:
  - a) Fee.** A fee shall be paid by the applicant to cover the cost of processing and advertising as required by the Village fee schedule.

- b) **Application.** An application shall be submitted stating the section/s that the applicant wishes to modify, along with proposed language and reason for the request. The Planning Board will provide a recommendation to Village Council.
- c) **Recommendation.** The Planning Board shall hear the application and a recommendation shall be provided to the Village Council.
- d) **Newspaper Notice.** A legal ad shall be ran in the paper stating their will be a public hearing before the Village Council on the following section/s of the ordinance. The ad shall list the date and time of the meeting and other applicable information. The ad shall be ran in the paper two consecutive weeks, one week not sooner than 10 days and not more than 25 days prior the hearing.
- e) **Planning Board Report.** The Planning Board Chairman or Vice-Chairman shall present all recommendations to the Village Council along with a written recommendations either endorsing or denying the proposed amendment. The written recommendation shall include a statement of reasonableness and plan consistency.
- f) **Determination.** Village Council shall determine if the request is consistent with the Land Use Plan and if it is reasonable and in the best interest of the Village.

**112.4 Zoning Map Amendment (Rezoning – Standard and Conditional).** Procedures are determined as hereinafter set forth.

- a) **Application.** The application shall include a legal description of the property involved and the names and addresses of the current owners of the petitioned property and the names and addresses of the abutting property owners. The application shall clearly state the zoning district requested for change. Should said application be a conditional rezoning request, the applicant shall clearly state the conditions that are being requested.
- b) **Fee.** A fee shall be paid by the applicant to cover the cost of processing and advertising as required by the Village fee schedule.
- c) **Mailing Notice.** The owner of affected parcels of land, and the owners of all parcels of land abutting that parcel of land, shall be mailed a letter by the Village, giving notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

- d) **Property Posting.** The Village shall prominently post a notice of the public hearing on the site proposed for rezoning amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within twenty-five days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).
- e) **Newspaper Notification.** A legal ad shall be ran in the paper stating their will be a public hearing before the Village Council on said rezoning request. The ad shall list the date and time of the meeting and other applicable information. The ad shall be ran in the paper two consecutive weeks, one week not sooner than 10 days and not more than 25 days prior the hearing.
- f) **Resubmit Post Denial.** Any proposed zoning map amendment that has been denied by the Village Council may be resubmitted to the Planning Board only after a waiting period of no less than six (6) months from the date of denial.
- g) **Planning Board Report.** The Planning Board Chairperson or Vice-Chairperson, along with a written recommendations either endorsing or denying the proposed change or amendment. The written recommendation shall include a statement of reasonableness and plan consistency.
- h) **Decision.** Village Council shall form a Land Use plan consistency statement and provide a statement as to whether the request is reasonable and in the best interest of the Village and move to take action on the request.

**112.5 Plan consistency.** When adopting or rejecting any zoning text or map amendment, the Village Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Village Council, that at the time of action on the amendment, the Village Council was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted land use plan. If amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale

rezoning” under G.S. 160D-6-2(b), the Village Council statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the action taken.

## ARTICLE XII BOARD OF ADJUSTMENT

### Section 120. Powers and Duties of the Board of Adjustment – Village Council (Quasi-judicial proceedings)

- 120.1 Authority.** A Board of Adjustment is hereby created as provided in Section G.S. 160D-1-9(d) of the General Statutes of North Carolina. Said Board shall consist of the members of the Village Council.
- 120.2 Type of Cases.** The Board of Adjustment shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, variances, or any other quasi-judicial decision (G.S. 160D-406).
- 120.3 Conflict of Interest.** Members of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons’ constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a board member’s, participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).
- 120.4 Presentation of Evidence.**
- a) **Standing.** The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair’s rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D. Objections based on jurisdictional issues may be raised for the first time on judicial review.
  - b) **Oaths.** The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in



any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

- c) **Subpoenas.** The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request the issuance of a subpoena, the applicant, local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

#### 120.5 Board Decisions.

- a) **Evidence Based Decision.** The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board/commission shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board.
- b) **Required Vote.** The concurring vote of four-fifths (4/5ths) of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered member of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

- c) **Effects of Grant of Variance or Reversal or Modification of Administrative Decision.** After the Board of Adjustment approves a variance, or reverses or modifies an order, decision, determination, or interpretation of an administrative official, the appellant or petitioner shall be responsible for obtaining a building permit and/or certificate of occupancy, as applicable, in order to proceed with the development of the subject property. All orders, decisions, determinations, and interpretations made by administrative officials under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Board of Adjustment.

**120.6 Special Use Permits.** The Board of Adjustment shall grant no special use permit unless and until:

- a) **Application.** The applicant stating the reason for the special use permit with an attached site plan and fee paid files a complete petition. Village Clerk verifies the application completeness.
- b) **Mailing Notice.** The Village shall mail notice to the applicant, the owner/s, and adjacent property owners by first class mail. The letter shall include the date, time, location of the meeting and specific information about the request. The public hearing shall be conducted as a quasi-judicial hearing and the applicant and Village residents may appear in person or by agent or attorney.
- c) **Property Posting.** The Village shall prominently post a notice of the public hearing on the site proposed for Special Use Permit or on an adjacent public street or highway right-of-way. The notice shall be posted not more than twenty-five days and not less than 10 days prior the hearing. When multiple parcels are included within a proposed Special Use Permit, a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).
- d) **Conditions.** The Board of Adjustment finds that in the particular case in question the use for which the special use permit is sought meets the criteria specified within in the ordinance and the request will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the area. The Board of Adjustment may designate such conditions in connection with the granting of the special use permit as will, in its opinion; assure that the proposed use will conform to the requirements of this ordinance.

- e) **Documentation of Decision.** The board clerk shall provide a documented decision to include the resolution of any contested facts and must apply the applicable standards to the facts of the case. Upon Board Chair signature, the document is filed with the board clerk. The decision is delivered to the applicant by personal delivery, electronic mail or by first class mail. The official delivering the decision shall certify that proper notice of the decision was made. Upon applicant receiving written documentation, should the applicant disagree with the board's decision a period of 30 days from the date the written notice was received is open to file an appeal with Superior Court in the nature of certiorari.

**120.7 Variances.** Any person or entity applying for a variance shall include a site plan showing the requested variance and pay fee established on the Village fee schedule. The applicant shall make written application to the Board of Adjustment indicating the following.

**Finding of Facts.**

- a) That special conditions and circumstances exist that are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
- b) That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- c) That said circumstances do not result from the actions of the applicant;
- d) That granting the variances requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district;
- e) That no non-conforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.

**120.8 Variance Hearing.** The Board of Adjustment shall hearing finds of fact from the applicant and opposing parties to determine if said variances based on the terms of this Ordinance, will not be contrary to the public interest where owing to special conditions the literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance shall not be approved by the Board of Adjustment unless and until:

- a) **Mailing Notice.** The Village shall mail notice to the applicant, the owner and adjacent property owners by first class mail. The letter shall include the date, time, and location of the meeting and specific information about the request. The public hearing shall be conducted as a quasi-judicial hearing and the applicant and Village residents may appear in person or by agent or attorney; and,

- b) **Property Posting.** The Village shall post signs on the property that is involved in the variance request. The notice shall be posted not more than twenty-five (25) days and not less than ten (10) days prior to the hearing.
- c) **Findings of Fact.** The Board of Adjustment shall make findings as to whether the requirements of Subsection 113.7 (a) through (e) have been met for a variance. All findings have to have a positive affirmation to pass the request.
- d) **Minimum Requirement.** The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance or denial of the variance. If a variance is granted it shall be the minimum one that will make possible the reasonable use of the land, building, or structure.
- e) **Consistency.** The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- f) **Conditions.** In granting any variance, the Board of Adjustment 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 Section 132 of this ordinance.
- g) **No Use Variances.** Under no circumstance shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or implication prohibited by the terms of this ordinance in said district.
- h) **Documentation of Decision.** The board clerk shall provide a documented decision to include the resolution of any contested facts and must apply the applicable standards to the facts of the case. Upon Board Chair signature, the document is filed with the board clerk. The decision is delivered to the applicant by personal delivery, electronic mail or by first class mail. The official delivering the decision shall certify that proper notice of the decision was made. Upon applicant receiving written documentation, should the applicant disagree with the board's decision a period of 30 days from the date the written notice was received is open to file an appeal with Superior Court in the nature of certiorari.

**120.9. Administrative Decision Appeal.** It is the intention of this ordinance that all questions arising in connection with the enforcement of this ordinance shall be presented first to

the Planning Board; and that such questions shall be presented to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law.

Timely appeals of a notice of violation or other administrative decision shall stay enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with N.C.G.S. § 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom.

**120.10. Administrative Appeal Hearing.** Any person who has standing under G.S. § 160D-1-2 or within the Village may appeal a decision to the Board of Adjustment. The Board of Adjustment shall hear no appeal unless and until:

- a) **Administrative Written Determination.** Prior submittal of an appeal application an official final bidding order, requirement or determination in the form of a written ordinance interpretation, permit denial or notice of violation shall be issued.
- b) **Appeal Application.** An appeal is taken by filing a notice of appeal with the Village Clerk. The notice of appeal shall state the grounds for the appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the administrative determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-4-3(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (G.S. 160D-405(d)).
- c) **Mailing Notice.** The Village shall mail notice to the applicant, the owner/s, and adjacent property owners by first class mail. The letter shall include the date, time, location of the meeting and specific information about the request. The public hearing shall be conducted as a quasi-judicial hearing and the applicant and Village residents may appear in person or by agent or attorney.
- d) **Property Posting.** The Village shall prominently post a notice of the public hearing on the appeal site or on an adjacent public street or highway right-of-way. The notice shall be posted not more than twenty-five days and not less than 10 days prior the hearing. When multiple parcels are included within an appeal, a posting on each individual parcel is not required, but the Village shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).

- e) **Continuation of Hearing.** The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
  
- f) **Presentation of evidence.** The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.
  
- g) **Written Decision.** The board clerk shall provide a documented decision to include the resolution of any contested facts and must apply the applicable standards to the facts of the case. Upon Board Chair signature, the document is filed with the board clerk. The decision is delivered to the applicant by personal delivery, electronic mail or by first class mail. The official delivering the decision shall certify that proper notice of the decision was made. An appeal from the decision of the Board of Adjustment may be made by an aggrieved party and shall be made to Superior Court in the nature of certiorari. Any such petition shall be filed with the Superior Court no later than 30 days after the applicant receives the written copy of the decision of the Board of Adjustment.

**ARTICLE XIII  
LEGAL PROVISIONS**

**Section 130. Interpretation, Purpose and Conflict**

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provision of this ordinance shall govern, provided that nothing in the ordinance shall be construed to amend or repeal any other existing ordinance of the Village.

### **Section 131. Severability**

This Ordinance and the various parts, sections, divisions and clauses thereof are hereby declared to be severable. Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

### **Section 132. Remedies and Civil Penalties**

**132.1 Violation.** In addition to those remedies provided in North Carolina General Statutes 14-4 and 160A, as amended and otherwise as law provided, whenever, by the provisions of this Ordinance, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land and water, or on the erection or removal or alteration of a structure, a failure to comply with such provisions shall constitute a violation of this Ordinance.

**132.2 Liability.** The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance shall be held responsible for the violation and be subject to the penalties and remedies provided herein.

**132.3 Procedures upon Discovery of Violation.** Upon the determination that any provision of this Ordinance is being violated, the Planning Board or designated official shall send, within five (5) working days, a written notice by registered mail to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Board discretion.

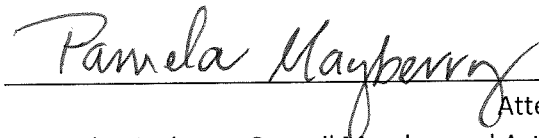
The final written notice, which may also be the initial notice, shall state the action the Planning Board or designated official intends to take, if the violation is not corrected, and shall advise that the Planning Board may seek enforcement remedy without prior written notice.

**132.4 Civil Penalties.** Violation of any provision of this Ordinance shall subject the offender to a civil penalty for fifty dollars (\$50.00), to be recovered by the Village in a civil action in the nature of debt if the offender does not pay the penalty within a period of seventy-two (72) hours after being cited. Citation shall be in writing, signed by the Planning Board or designated official, and shall be delivered or mailed to the offender either at their residence or at their place of business or at the place where the violation occurred. Each day that a violation continues to exist after being cited shall constitute a separate and distinct offense without multiple citations being issued.

Adopted this the 28th day of June, 2022  
Signed this the 28th day of June, 2022



Bob Floyd Jr., Mayor  
Village of Cedar Rock



Attest:  
Pamela Mayberry, Council Member and Acting  
Clerk to the Village of Cedar Rock

Recommended by Planning Board on 21st of June 2022.