

ARTICLE 3 – GENERAL REGULATIONS

Table of Contents

ARTICLE 3 – GENERAL REGULATIONS.....	1
3.1 GENERAL	1
3.2 APPLICABILITY TO EXTRATERRITORIAL AREAS.	2
3.3 ZONING MAP.	2
3.4 INTERPRETATION BY ZONING ADMINISTRATOR.	3
3.5 TYPES OF ZONING MAP INTERPRETATION.	4
3.6 RELATIONSHIP OF ZONING MAP TO COMPREHENSIVE LAND USE PLAN.	5
3.7 NORTH CAROLINA STATE BUILDING CODES.	5
3.8 STREET ACCESS.....	5
3.9 MINIMUM REQUIREMENTS FOR NEWLY CREATED LOTS.	5
3.10 MINIMUM STREET REQUIREMENTS.	6
3.11 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING.	7
3.12 RELATIONSHIP OF BUILDING TO LOT.....	7
3.13 SUBSTANDARD LOT OF RECORD.....	7
3.14 ADJOINING AND VACANT LOTS OF RECORD.....	7
3.15 ADDITIONAL ENVIRONMENTAL PROVISIONS.....	7
3.16 CURB CUTS GIVING ACCESS TO PUBLIC RIGHTS-OF-WAY.....	7
3.17 PROJECTION INTO PUBLIC RIGHTS-OF-WAY.....	8
3.18 HEIGHT LIMIT EXCEPTIONS.	8
3.19 CORNER VISIBILITY.....	8
3.20 No Minimum Square Footage for One- and Two-Family Dwellings.	8
3.21 Record Retention.	8

3.1 GENERAL.

3.1.1. Regulations contained in this Article shall apply uniformly jurisdiction wide.

- A. Subject to Article 18 of this Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.
- B. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

3.2 APPLICABILITY TO EXTRATERRITORIAL AREAS.

3.2.1. The provisions of the Ordinance are applicable to any Extraterritorial Jurisdiction.

3.3 ZONING MAP.

3.3.1. Zoning district boundaries adopted by this Ordinance shall be drawn on a map that is adopted and included by reference as part of this Ordinance. The Zoning Map shall be maintained for public inspection in the office of the Town Clerk. The map may be in paper or a digital format approved by the Town.

Statutory Authority – NCGS § 160D-105(b)

3.3.2. The Zoning Administrator or his representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Board of Commissioners that a zoning change has been made, the Zoning Administrator shall make the necessary changes on the Official Zoning Map within seven (7) calendar days of notification.

3.3.3. *Identification of Official Zoning Map.* The Zoning Map shall be identified by the signature of the Chairman and attested by the Town Clerk and bearing the seal of the Town under the following words: “This is to certify that this is the Official Zoning Map of the Zoning Ordinance, Town of Fairmont, North Carolina,” together with the date of the adoption of this Ordinance and most recent revision date.

- A. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other items portrayed on the Zoning Map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Town Board of Commissioners, with an entry on the official zoning map denoting the date of amendment, description of amendment, and signed by the Town Clerk. No amendment to this Ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.
- B. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance.
- C. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the Town Clerk, shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in the Town.
- D. In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Town Board of Commissioners may by resolution adopt a new official zoning map which shall supersede the prior zoning map. The new official zoning map may correct drafting errors or other errors or omissions in the prior official zoning map, but no correction shall have the effect of amending the original official zoning

map, or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Chairman attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced), as part of the Zoning Ordinance, Town of Fairmont, North Carolina."

- E. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. In the case of GIS data, each version of the zoning map produced shall be archived.

3.3.4. Incorporation by Reference. Development regulations adopted pursuant to this Ordinance may incorporate by reference the most recently adopted versions of flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies.

- A. When zoning district boundaries are based on these maps, the Town's zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated state or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection.

Statutory Authority – NCGS § 160D-105(b)

3.4 INTERPRETATION BY ZONING ADMINISTRATOR.

3.4.1. In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of the Zoning Ordinance, the Zoning Administrator shall be responsible for interpretation and shall look to the Ordinance for guidance.

3.4.2. Responsibility for interpretation by the Zoning Administrator shall be limited to standards, regulations and requirements of the Zoning Ordinance. The Zoning Administrator shall not interpret any technical codes adopted by reference in the Zoning Ordinance, and shall not override the responsibilities given to any commission, board, building inspector, or Town officials named in other sections or articles of the Zoning Ordinance.

3.4.3. Minor Deviations. In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, the following maximum minor deviations may be allowed by the Zoning Official:

- A. Size.
- B. Minimum lot area, 10 percent, so long as all environmental health requirements are met.
- C. Minimum lot depth, 10 feet.
- D. Minimum lot width, 5 feet.
- E. Minimum rear yard, 5 feet.
- F. Minimum side yard, 1 foot.

- 1) Number per parcel. Only one minor deviation of dimensional requirements shall be allowed per land parcel.
- 2) Deviation from street frontage requirements. A minor deviation from street frontage requirements is defined as the approval of not more than one new lot that has less than or no street frontage as required in Section 9.4. A minor deviation may be approved in accordance with all of the following criteria:
 - a) The request does not involve a flag lot. A flag lot is described as a lot accessed by a narrow strip of property connecting the street with the proposed lot;
 - b) The request is associated with written permission from the property owner across whose property access is provided. Such written permission must contain provisions for maintenance and specify responsibility;
 - c) A reflective address sign is permanently posted and obviously visible at the access point from the street;
 - d) Not more than three dwellings use the same access easement, each having a clearly visible reflective address sign;
 - e) No Town of Fairmont Ordinance violations exist on the parent parcel or proposed parcel;
 - f) The parent parcel and resultant lot may not be further subdivided via the minor deviation process;
 - g) The proposed access will have or has adequate width, drainage, and is free from obstruction that might impede emergency responses.
 - h) The approval signature is in accordance with Town of Fairmont Subdivision Ordinance.
 - i) Should the applicant not meet one or more of the criteria for a minor deviation, the applicant may appeal to the Board of Adjustment for a variance to the criteria required for approval of a minor deviation. Should the applicant disagree with the determination of the Planning Director, the applicant may appeal the decision or interpretation of the ordinance to the Board of Adjustment. In the event there is no Planning Director, the appeals shall be directly to the Board of Zoning Adjustment.

3.5 TYPES OF ZONING MAP INTERPRETATION.

3.5.1. Where uncertainty exists with respect to the boundaries of any districts shown on the Zoning Map, the following rules shall apply:

- A. Use of Property Lines. Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, water courses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.
- B. Vacated or Abandoned Streets. Where any street or alley is hereafter officially vacated or abandoned, the zoning regulations applicable to each parcel of abutting property shall apply to the centerline of such abandoned street or alley.
- C. Split Zoned Parcels. If a district boundary divides a parcel, the requirement for the district in which the greater portion of the parcel lies shall be extended to the remainder of the parcel,

provided that such extension shall not include any part of such parcel which lies more than one hundred and fifty (150) feet beyond the existing district boundary, and further provided that the remaining parcel shall not be less than the minimum required lot area for the district in which it is located. Following adoption of this Ordinance, split zoning of parcels will not be permitted.

- D. Flood Hazard Boundaries. Interpretations of the location of floodway and floodplain boundary lines shall be made by the Zoning Administrator.
- E. Board of Adjustment. In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

3.6 RELATIONSHIP OF ZONING MAP TO COMPREHENSIVE LAND USE PLAN.

3.6.1. It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the elected board for the Town, as reflected in the Town of Fairmont Comprehensive Land Use Plan and other planning documents. **Statutory Authority – NCGS § 160D-701**

3.7 NORTH CAROLINA STATE BUILDING CODES.

3.7.1. Town of Fairmont hereby adopts by reference the North Carolina State Building Code with appendices. This shall serve as the basis for regulation of building construction and repair. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations.

3.8 STREET ACCESS.

3.8.1. No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space which has access to a street used in common with other lots.

3.9 MINIMUM REQUIREMENTS FOR NEWLY CREATED LOTS.

3.9.1. The minimum street frontage requirements for newly created lots shall be as shown here:

	Minimum Street Frontage
Lots with both public water and sewer	60 feet
Lots with either public water or sewer	80 feet
Lots without both public water and sewer	100 feet
Lots abutting the turning circle of a cul-de-sac	Not less than 35 feet
	Minimum Lot Depth
Any newly created lot	Depth of two times minimum lot frontage

	Minimum Lot Area
Any newly created lot	Based on the above dimensions
Lots abutting the turning circle of a cul-de-sac	The equivalent area for lots with typical frontage as specified

3.10 MINIMUM STREET REQUIREMENTS.

3.10.1. In addition to requirements set within the "street" definition provided by Town of Fairmont Zoning Ordinance Article 2.7, streets shall be designated as public or private and designed and completed in accordance with Article 15.89, which are incorporated into and made a part of this ordinance.

- A. All streets, private or those streets proposed to be dedicated to the state roads system, in a subdivision shall be designed and paved as prescribed by, and in accordance with specifications and standards required by the North Carolina Department of Transportation.
- B. All subdivision streets shall be maintained by the developer to minimum standards of the Department of Transportation as required for acceptance of subdivision streets to the State Maintained System.
- C. The developer shall petition the Department of Transportation through the Board of Commissioners for all subdivision streets to be accepted to the State maintained system immediately when such streets meet the minimum acceptance standards of the Department of Transportation.
- D. A street may be referred to as a road, subdivision road, or as in Town of Fairmont Zoning Ordinance Section 15.8, as a thoroughfare.
- E. When access within an easement or by a driveway is designed and built in accordance with street design standards specified by Town of Fairmont Ordinances and North Carolina Department of Transportation "Subdivision Roads - Minimum Construction Standards", then the access within an easement or by a driveway may be considered a public or private street or road and shall be considered to have a level of service suitable to satisfy the street frontage requirements for new lots. Otherwise the level of service for access within an easement or by a driveway shall be considered equivalent to a privately maintained residential driveway and not suited for the creation of new lots. Access within easements and by driveways that do not meet the street design and construction requirements shall not satisfy the street frontage requirements. New lots having access within an easement or by a driveway, that do not meet the street frontage requirements may be considered for approval by the Town of Fairmont Board of Zoning Adjustment in accordance with Town of Fairmont Zoning Ordinance Section 6.4 Variances.

3.11 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING.

3.11.1. The minimum yards or other open spaces required by this Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.

3.12 RELATIONSHIP OF BUILDING TO LOT.

3.12.1. Every building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than 1 principal building and its customary accessory buildings on any lot, except in the case of a specially designed complex of institutional, residential, commercial or industrial buildings in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, industrial park, and so forth, as permitted by § 154.029.

(Ord. 05/31/1977, 154.005)

3.13 SUBSTANDARD LOT OF RECORD.

3.13.1. Where the owner of a lot at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a building site in the district in which it is located provided that the lot width and lot area are not more than twenty (20) percent below the minimum specified in this Ordinance.

3.14 ADJOINING AND VACANT LOTS OF RECORD.

3.14.1. Notwithstanding the foregoing, whenever 2 or more adjoining vacant lots of record are in single ownership at any time after the adoption of this chapter and the lots individually have less area or width than the minimum requirements of the district in which the lots are located, the lots shall be considered as a single lot or several lots which meet the minimum requirements of this chapter for the district in which the lots are located. **(Ord. 05/31/1977, 154.025)**

3.15 ADDITIONAL ENVIRONMENTAL PROVISIONS.

3.15.1. In addition to the requirements of this Ordinance, all effluents and emissions into the air or surface or groundwater from new development permitted by this Ordinance including any land-disturbing activity must be in conformity with all applicable Federal, State, and Town Health and Environmental Quality regulations. Land development must also comply with all other applicable regulations, which also include flood plain, and water shed regulations. All applicable Health Department regulations shall apply.

3.16 CURB CUTS GIVING ACCESS TO PUBLIC RIGHTS-OF-WAY.

3.16.1. Construction of curb cuts for purposes of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the Town which has jurisdiction over the maintenance of public streets and the North Carolina Department of Transportation where said curbs affect access to State Highways. Provision for all access work done on highway right-of-way is subject to approval by the Department of Transportation.

3.17 PROJECTION INTO PUBLIC RIGHTS-OF-WAY.

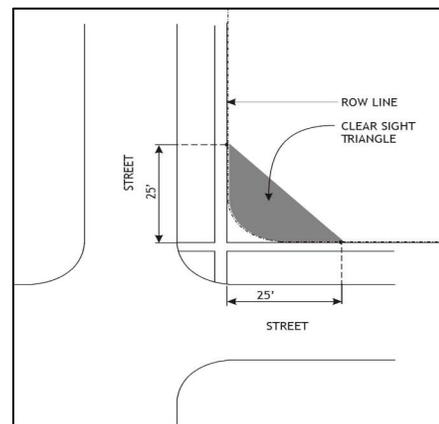
3.17.1. No private sign, structure, or other items shall project beyond an imaginary line drawn ten (10) feet from and parallel to the outer edge of the public right-of-way. Any projection into a public right-of-way, new or existing, shall be removed.

3.18 HEIGHT LIMIT EXCEPTIONS.

3.18.1. The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials and similar structures, except as otherwise provided in the vicinity of airports. **(Ord. 05/31/1977, 154.027)**

3.19 CORNER VISIBILITY.

3.19.1. On any corner lot, a sight triangle shall be established. The sight triangle shall be formed by extending lines from the intersections of two streets (measured from the edge of the right-of-way) to points 25 feet from the corner of the rights-of-way of the intersecting streets and then connecting the two points.



3.20 No Minimum Square Footage for One- and Two-Family Dwellings.

3.20.1. This Ordinance shall not set forward a minimum square footage of any structure subject to regulation under the North Carolina Code for One- and Two-Family Dwellings.

Statutory Reference - NCGS § 160A-381; S.L. 2019-174

3.21 Record Retention.

3.21.1. A record of all decisions, permits, minutes, and other documents described in this Ordinance shall be kept on file as provided in the latest editions of the Municipal Records Retention and Disposition Schedule issued by the NC Department of Cultural Resources, Division of Archives and Records. Specific standards describing the documents required by this Ordinance include *Standard-5 Building Inspections Records* and *Standard-13 Planning and Zoning Records*.

Statutory Reference - NCGS §121-5 (c) and §132-8.