



MOUNTAIN RIDGE PROTECTION ORDINANCE COUNTY OF MADISON, N.C.

An ordinance of the County of Madison, North Carolina, regulating the height of tall buildings or structures on mountain ridges, providing for the method of administration and enforcement, defining certain terms used herein, and providing for the imposition of penalties for violation of provisions of this ordinance.

ARTICLE I

TITLE

This ordinance shall be known and may be cited as "The Mountain Ridge Protection Ordinance of the County of Madison, North Carolina.

ARTICLE II

PURPOSE

The Board of Commissioners finds that the construction of tall buildings or structures on mountain ridges may cause unusual problems and hazards to the residents of and visitors to the mountains. The purpose of this ordinance therefore is to regulate the construction of tall buildings or structures on mountain ridges to ensure that: adequate water supply is available to such building or structure; the disposing of sewage will not infringe on the ground water rights and endanger the health of those persons living at lower elevations; adequate fire protection can be made available; such buildings or structures will not be a hazard to air navigation and to persons on the ground; and such tall buildings will not detract from the natural beauty of the mountains.

No permit shall be issued or project allowed pursuant to this ordinance unless the project has:

- 1. Complies with applicable State and local sedimentation control regulations and requirements; and**
- 2. Gives adequate consideration to protecting the natural beauty of the mountains by not unnecessarily interfering with their beauty.**

ARTICLE III

AUTHORITY AND ENACTMENT

The pursuance of the authority conferred by Article 14 of Chapter 113A of this North Carolina General Statutes, the Board of Commissioners of the County of Madison, North Carolina, hereby ordains and enacts into law these article and sections.

ARTICLE IV

JURISDICTION

The provisions of this ordinance shall apply to the construction of tall buildings or structures, as defined in this ordinance, on protected mountain ridges, as defined in this ordinance, within Madison County. This ordinance may also apply to any or all areas lying within the territorial jurisdiction of any municipality within Madison County if the municipality by resolution requests such application. Protected mountain ridges are further identified by the map entitled "Madison County Protected Ridges" and is on file in the office of the Madison County Zoning Office.

ARTICLE V

INTERPRETATION AND DEFINITIONS

Section 500. Word Interpretation.

Except as specifically defined herein, all words used in this ordinance shall have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein are defined as follows and in Section 501:

500.01 The word "County" shall mean the County of Madison, N.C.

500.02 The words "County Commissioners shall mean the County Commissioners of the County of Madison, N.C.

500.03 The words "Planning Board" shall refer to the Madison County Planning Board.

500.04 The word "ordinance" shall mean the Mountain Ridge Protection Ordinance of the county of Madison, N.C.

500.05 The word "may" is permissive.

500.06 The word "shall" is mandatory.

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

500.08 Words used in the singular shall include the plural, and words used in the plural shall include the singular.

500.09 Where this ordinance references a local adopted subdivision ordinance or zoning ordinance, all applicable definitions in said ordinance shall apply to this ordinance.

Section 501. Definitions.

501.01 Building. Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The word "building" shall be construed as if followed by the words "or part thereof."

501.02 Construction. Any new construction, reconstruction, alteration or expansion.

501.03 Crest. The uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

501.04 Enforcement Officer. The Madison County Building Inspector will serve as the enforcement officer for this ordinance.

501.05 Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

501.06 Protected mountain ridges. All mountain ridges whose elevation is at least three thousand (3,000) feet and whose elevation is five hundred (500) or more feet above the elevation of an adjacent valley floor.

501.07 Resident. Any person, as defined in this section, residing, doing business or maintaining an office within Madison County.

501.08 Ridge. The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a

mountain, and includes all land within one hundred (100) feet below the elevation of any portion of such line or surface along the crest.

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

501.10 Tall buildings or structures. Any building, structure or unit within a multi-unit building, with a vertical height of more than forty (40) feet measured from the top of the foundation of said building, structure or unit; provided however, that where the crest or the natural finished grade of the high side slope of a ridge exceeds three (3) feet, then such measurement in excess of three (3) feet shall be included in the 40-foot limitation described herein; provided, further, that no such building, structure or unit shall protrude at its uppermost point above the crest of the ridge by more than thirty-five (35) feet. Tall buildings or structures do not include:

1. Water, radio, telephone or television towers or any equipment for Transmission of electricity or communications or both.
2. Structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flag poles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills.
3. Building and structures designated as National Historic Landmarks or listed in the National Register of Historic Places.

Section 503 Regulation and Setbacks

1. **Lot size:** All lots that fall within the boundaries of a protected ridge as on the Madison County Protected Ridges map shall be a minimum of 2 acres. (Lot size shall apply to new lots created after , 2010)
2. **Clearing:** When located on a Protected Ridge no one shall disturb or clear more than 25% of the lot. If someone wishes to clear more than 25% of the total lot a variance may be sought from the Madison County Board of Adjustment.
3. **Setbacks:** When located on a Protected Ridge all structures shall be setback 50' from the center of said Ridge.
4. **Height:** All buildings shall be a maximum of 35' from the peak of the Protected Ridge shown on proposed application. This shall be lot specific to each building.

ARTICLE VI AMINISTRATION AND ENFORCEMENT

Section 600. Permits

No tall building or structure shall be constructed, altered, reconstructed, or expanded on any protected mountain ridge until a permit for such construction, alteration, reconstruction or expansion has been obtained as provided in this Article. No permit shall be issued that would not be in compliance with the provisions of this ordinance.

Section 601. Application for Permit – Residential .

All application for permits shall be submitted to the Madison County Zoning Office and shall be accompanied by a development plan containing, where applicable, the following information:

- 1. Boundary lines of the property containing the proposed Construction.**
- 2. Existing site conditions, including water courses, any unique natural or man-made features such as vegetation and ground cover.**
- 3. Location and use of all existing and proposed buildings or structures. This shall include all requirements of section 503.**
- 4. Location of proposed water and sewer layouts.**
- 5. Location of existing and proposed easements and rights-of-way.**
- 6. The proposed treatment of the perimeter of the development including materials and/or techniques such as screens, fences and walls.**
- 7. Information on adjacent land areas, including land use, zoning classifications, public facilities and any unique natural features.**
- 8. Existing and proposed road access to and within the property showing road location.**
- 9. A front and side elevation profile, drawn to scale, of all existing and purposed buildings.**

Section 602. Application for Permit – Commercial or Development.

All application for permits shall be submitted to the Madison County Zoning Office and shall be accompanied by a development plan containing, where applicable, the following information. When application is contained within a proposed development the following may be included on the site plan and application:

- 1. Title block containing the name of the development, name of owner, name of developer, scale and north arrow.**
- 2. Existing site conditions, including contours, water courses, any unique natural or man-made features such as vegetation and ground cover.**
- 3. Exact boundary lines of the property containing the proposed construction.**
- 4. Location and use of all existing and proposed buildings or structures.**
- 5. Plans of proposed water and sewer layouts (excluding individual wells and septic systems) shall show the location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains, and the connection of the proposed system with existing systems.**
- 6. Location of existing and proposed easements and rights-of-way.**
- 7. The proposed treatment of the perimeter of the development including materials and/or techniques such as screens, fences and walls.**
- 8. Information on adjacent land areas, including land use, zoning classifications, public facilities and any unique natural features.**
- 9. Existing and proposed road access to and within the development showing rights-of-way and pavement widths. Notation of the proposed ownership of the street system (public or private).**
- 10. A front and side elevation profile, drawn to scale, of all existing and purposed buildings.**
- 11. If the proposed water and/or sewer system is to connect onto an existing system, a letter of approval from the owner of said existing system for such connection shall be submitted. In addition, a letter of approval from the appropriate regulatory agency should be submitted indicating that the proposed connection will not cause any problems related to overloads, discharges, shortages, etc. on said existing system.**
- 12. If individual wells and/or septic tanks are to be utilized, a written**

statement from the Madison County Health Department indicating approval of wells and/or septic tanks for use in the development shall be submitted.

13. If an on-site package water and/or sewer treatment system is to be utilized, a letter of approval from the N.C. Department of Environment and Natural Resources should be submitted.
14. Documentation of an approved Sedimentation and Erosion Control Plan should be submitted where required.
15. A letter from the applicant indicating the land in the proposed development is under single ownership or management by the applicant or proper assurances should be provided indicating that the development can be successfully completed by the applicant.

Section 602. Application Approval.

The enforcement officer shall review the application for compliance with the provisions of Section 503, 601, and 602. After such review the enforcement officer will determine whether or not the application should be forwarded to the Madison County Planning Board. All cases of Commercial or Development applications shall be reviewed by the Madison County Planning Board. Any application not containing all information required by Section 601 or 602 shall be returned to the applicant for correction and resubmission. After all information has been received it shall be determined whether or not to approve or deny such application.

602.02 The Planning Board after receiving the application from the Zoning Enforcement Officer shall review it at their next regularly scheduled meeting. Once the Planning Board has reviewed the application it shall approve, approve conditionally or disapprove. The planning board is also given the authority to place any certain additional conditions on the application that it feels are necessary.

Section 603. Issuance of Permit.

Upon approval by either the Madison County Planning Board or the Madison County Zoning Enforcement Officer a permit for construction shall be issued. A copy of the approved permit shall be filed with the Register of Deeds of Madison County. The issuance of the permit shall be subject to any conditions imposed by the Planning Board as authorized in subsection 602.02 and as stated in the letter approving the application. All conditions specified at the issuance of the permit shall appear on the face of the permit. If no construction has begun within six (6) months after the date of issuance of the permit, the permit shall expire. Construction shall be deemed to have begun when any grading or excavation has

commenced. If a permit expires, it shall not be reissued except under the provisions outlined in this ordinance for all permits.

Section 604. Application to Existing Buildings.

The provisions of this ordinance shall apply to buildings that existed upon the effective date of this ordinance as follows:

604.01 No reconstruction, alteration or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with this ordinance upon its effective date.

604.02 No reconstruction, alteration or expansion may cause or create a violation by an existing building or structure that did not comply with this ordinance upon its effective date.

**ARTICLE VII
VIOLATION, PENALTIES AND REMEDIES**

Section 700. Violations.

Whenever, by the provisions of this ordinance, the performance of any act is prohibited, or whenever any regulation, dimension or limitation is imposed on the construction, reconstruction, alteration or expansion of any building or structure, a failure to comply with such provisions of this ordinance shall constitute a separate violation and a separate offense.

Section 701. Penalties.

Any person adjudged in violation of this ordinance shall be guilty of a misdemeanor and shall be punished as provided in G.S. 14-4. In addition, any person injured by a violation of this ordinance or any person who resides in the county in which a violation occurred may bring a civil action against the person alleged to be in violation in accordance with G.S. 113A-211(b).

Section 702. Remedies.

If a building or structure is constructed, reconstructed altered or expanded in violation of this ordinance, the enforcement officer, in addition to other remedies, may institute any appropriate action or proceedings pursuant to G.S. 153A-123 and G.S. 113A-211 to prevent the unlawful construction, reconstruction, alteration or expansion, to restrain, correct or abate the violation, or to prevent occupancy of this building.

**ARTICLE VIII
LEGAL STATUS PROVISIONS AND EFFECTIVE DATE**

Section 800. Severability.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision 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 801. Conflict with Other Laws.

In interpreting and applying the provisions of this ordinance, said provisions shall be held to be the minimum requirements for promoting the intent of this ordinance. This ordinance is not intended to interfere with or abrogate or annul other rules, regulations or ordinances of the County. However, if the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances of the County of Madison, the more restrictive or that imposing the higher standards shall govern.

Section 802. Effective Date

This original adoption of this ordinance was January 1, 1984 and was subsequently readopted with revisions on May 10, 2010.