

CHAPTER 157: MANUFACTURED HOME PARK

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§ 157.01 AUTHORITY AND PURPOSE.

This chapter is enacted pursuant to the general police powers granted to Haywood County by G.S. §153A-121. The purpose of this chapter is to protect the health, safety, and general welfare of citizens of the county, particularly those who are residents of manufactured home parks.

§ 157.02 DEFINITIONS.

The following words, terms and phrases, shall have the specific meaning ascribed to them herein. All other words, terms and phrases shall have their ordinary meaning of common usage in the English language.

ALL-WEATHER SURFACE ROAD. A roadbed that supports routine vehicular traffic and has a minimum thickness of six inches (6”) of compacted crushed rock or stone, including dust.

APPLICANT. Any person, whether the person financially responsible for the development activity or his/her duly appointed agent, who submits a formal application, to the Planning Board or to the ordinance administrator, for a permit to conduct development activities controlled by this chapter, or who files a motion to appeal a decision by the Board or the ordinance administrator as contained in this chapter.

APPROVED MANUFACTURED HOME PARK PLAN. A written course of action including maps, drawings, calculations, designs, or assumptions, found by the Planning Board or the ordinance administrator to satisfy all requirements of this chapter which details the timing and proper installation of measures, devices, appurtenances, buffers, items of infrastructure, and other items which have a reasonable probability, if implemented, of succeeding in satisfying the spirit and intent of this chapter.

COMMUNITY SANITARY SEWER SYSTEM. A sanitary sewer system subject to the rules and regulations of the NC Department of Environment and Natural Resources.

COMMUNITY WATER SYSTEM. A water system subject to the rules and regulations of the NC Department of Environment and Natural Resources.

CONTINUING VIOLATION. Those violations of this chapter or an approved development plan which are occurring after the date of compliance as set forth in a notice of violation served upon the person responsible for any activity subject to the requirements and conditions of this chapter.

CUL-DE-SAC. Local roads with one (1) end open for vehicular access and the other end terminating in a vehicular turnaround. The length of the cul-de-sac road shall be measured along the center line from its intersection with the center line of the road from which it runs to the center of the cul-de-sac turnaround.

DEVELOP. To convert land to a new purpose so as to use its resources, or to use the land for residential, commercial or industrial purposes.

DEVELOPER. Any person, corporation, partnership, or other legal entity engaged in development, or proposed development, of a manufactured home park.

DEVELOPMENT. A tract containing improvements as defined as follows, or the act of improving a tract of land involving land-disturbing activity; or the improvement of a tract of land for any purposes other than agriculture, forestry, or mining. However, development on land owned or managed by the federal government or the state or its political subdivisions is not included within this definition and is not subject to the provisions of this chapter.

DRIVEWAY. Begins at the property line of a lot abutting a public road, private road, easement, or private right-of-way, and leads to a building, use, or structure on that lot. A *DRIVEWAY* only serves a single building, use, or structure.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

FAMILY. Any degree of lineal kinship or three degrees of collateral kinship described under G.S. §104A-1. By way of example, such degrees of kinship would include children, grandchildren, great-grandchildren, parents, grandparents, brothers and sisters, uncles and aunts, and nieces and nephews.

MAJOR MANUFACTURED HOME PARK. A proposed manufactured home park where eleven (11) or more spaces will result after the park is complete.

MANUFACTURED HOME. A single-family dwelling unit suitable for year-round occupancy; containing the same water supply, waste disposal, and utility conveniences as immobile housing; designed to be transported, in one or more sections, on its own chassis and wheels and designed to be used with or without a permanent foundation when connected to required utilities. The term also includes park trailers, park model RV's and other transportable structures placed on a site and intended to be improved property.

MANUFACTURED HOME PARK. A tract of land upon which two or more manufactured homes are located and which are occupied as residences and for which payment to the landowner is being required. Situations where an individual property owner allows family (as herein defined) to maintain manufactured homes upon his property free of charge are not considered manufactured home parks for purposes of this chapter.

MANUFACTURED HOME PARK CONSTRUCTION PERMIT. A permit issued by the planning department authorizing the manufactured home park developer to construct a manufactured home park in accordance with an approved park plan.

MANUFACTURED HOME PARK OPERATING PERMIT. A permit issued by the planning department to a manufactured home park owner or operator upon completion of a manufactured home park which conforms to the requirements of this chapter.

MINOR MANUFACTURED HOME PARK. A proposed manufactured home park where four (4) to ten (10) spaces will result after the park is complete. One phase of planned development cannot be considered a minor manufactured home park unless the entire development does not exceed ten (10) spaces.

ORDINANCE ADMINISTRATOR. The individual or office designated by the county manager or County Commissioners to enforce the provisions of this chapter. Unless otherwise appointed, the Ordinance Administrator shall be the Director of the Office of Development Services or designee.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

PERSON RESPONSIBLE FOR THE VIOLATION.

(1) The developer or other person who has or holds himself or herself out as having financial or operational control over the development activity; and/or

(2) The landowner or person in possession or control of the land when he/she has directly or indirectly allowed the development activity or has benefited from it.

PRIVATE STREET OR ROAD. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. §136-102.6. A private street or road shall not be used for parking.

PUBLIC STREET OR ROAD. A development street or road dedicated to the public to provide ingress and egress to real estate which has been laid out for the purpose of providing home sites, or other purposes, and such street or road is or shall be constructed according to the minimum construction standards of the North Carolina Division of Highways, with the intent of requesting that it be added to the state-maintained system.

SETBACK. A strip of stable or undisturbed land located within the boundary of a tract being developed, and which is located between the development activity and any adjoining property, street or road, or natural resource.

SITE NUMBER. The number attached in four-inch high permanent lettering to the side of the manufactured home facing the street.

SPECIAL MANUFACTURED HOME PARK. A proposed park where three (3) or fewer spaces on a new or existing private road will result after the park is complete.

TEN-YEAR STORM. The surface runoff resulting from a rainfall or an intensity expected to be equaled or exceeded, on the average, once in ten years, and of duration which will produce the maximum peak or rate of runoff for the watershed of interest under average antecedent wetness conditions.

TRACT. All contiguous land and/or bodies of water being developed or to be developed as a unit, regardless of ownership.

VIOLATION. Any activity covered under the provisions of this chapter planned or carried out without regard to all the contents and responsibilities thereof.

(Ord. passed 01-01-2004; Am. Ord. passed 12-04-2023)

§ 157.03 JURISDICTION.

The provisions of this chapter shall be applicable to all new and existing manufactured home parks and any addition or expansion of existing manufactured home parks lying within the unincorporated areas of the county, but shall not be applicable to and shall not be enforced within the corporate limits or jurisdiction of any municipality. Section 157.05 shall not apply to manufactured home parks existing at the original effective date of this chapter.

(Ord. passed 01-01-2004; Am. Ord. passed 12-04-2023)

§ 157.04 PERMIT REQUIRED TO CONSTRUCT AND OPERATE A MANUFACTURED HOME PARK.

(A) It shall be unlawful for any person, corporation, partnership or other entity to commence construction of any manufactured home park as heretofore defined without first obtaining a manufactured home park construction permit from the ordinance administrator.

(B) It shall be unlawful for any person, corporation, partnership or other entity to operate any manufactured home park as heretofore defined without first obtaining a manufactured home park operating permit from the ordinance administrator.

§ 157.05 CRITERIA FOR ISSUANCE OF PERMIT.

(A) In determining whether or not to issue a construction permit for the establishment of a manufactured home park, the ordinance administrator shall require the applicant to submit two copies of the preliminary site plan along with the manufactured home park permit application. The plan shall be clearly and legibly drawn at a scale of not more than one inch = 100 feet. The plan shall depict or have attached the following information:

(1) Title block containing the following:

- (a) Names, addresses and telephone numbers of the owner(s) of record;
- (b) Name of the manufactured home park (approval required by Ordinance Administrator);
- (c) Accurate site location and directions;
- (d) Date of plan;
- (e) Scale (graphic or written); and
- (f) Tax parcel identification number, PIN.

Am. Ord. passed 12-04-2023

- (2) The following project data:
 - (a) Total area to be developed;
 - (b) Total number of lots and placement sites; and
 - (c) Proposed date for initiation of construction.
- (3) The following road information:
 - (a) Location of roads and drives within or abutting the park (show dimensions and grade); and
 - (b) Road names.
- (4) The following utilities information:
 - (a) Provisions for and locations of electrical and telephone service; and
 - (b) Proposed sanitary sewer and water distribution system.
- (5) Other details to be shown are as follows:
 - (a) North arrow;
 - (b) Any natural features affecting the site including any off-site areas draining storm water runoff through any part of the proposed site, locations of proposed cuts and fills;
 - (c) The location of the flood hazard, floodway and flood fringe boundaries, if available from county flood maps;
 - (d) Location of lots and lot numbers; and
 - (e) Storm drainage facility and discharge points.

(B) An as-built (as constructed) site plan shall be provided prior to issuance of the park permit. If the preliminary plan is identical to the as-built plan, the final site plan is not required. The plan shall be clearly and legibly drawn at a scale of not more than one inch = 100 feet. The plan shall depict or have attached the following information:

- (1) Title block containing the following:
 - (a) Name and address of the owner(s) of record;
 - (b) Name of the manufactured home park;

- (c) Accurate site location and directions;
 - (d) Date of plan;
 - (e) Scale (graphic or written); and
 - (f) Tax parcel identification number, PIN.
- (2) The following project data:
- (a) Total area developed;
 - (b) Total number of lots and placement sites; and
 - (c) Date construction was initiated.
- (3) The following road information:
- (a) Location of roads and drives within or abutting the park (show dimensions and grade); and
 - (b) Road names.
- (4) The following utilities information:
- (a) Provision of electrical and telephone service;
 - (b) Sanitary sewer location and approval by the North Carolina Division of Environment and Natural Resources or the Sanitary District or the county health department, as applicable; and
 - (c) Water distribution system location and approval by the North Carolina Division of Environment and Natural Resources or the Sanitary District, county health department or the state Department of Health, as applicable.
- (5) Other details to be shown are as follows:
- (a) North arrow;
 - (b) Any natural features affecting the site including any off-site areas draining storm water runoff through any part of the proposed site, locations of proposed cuts, and fills;
 - (c) The location of the flood hazard, floodway and flood fringe boundaries, if available from county flood maps;

- (d) Location of lots and lot numbers; and
- (e) Storm drainage facility and discharge points.

(C) The plan must satisfactorily document that the following provisions will be adhered to and such provisions must be adhered to throughout the operation of the manufactured home park:

- (1) *Street-construction standards.*

The Manufactured Home Park Roads Minimum Construction Standards are as set forth in this chapter and as shown in Schedule I.

NOTE: Private roads constructed to the minimum standards of this chapter WILL NOT meet NC Department of Transportation minimum subdivision road requirements. As a result, the NC Department of Transportation MAY NOT accept these roads without additional improvement(s).

(a) Road Standards. Manufactured Home Park roads may be designated public or private.

1. Public Manufactured Home Park roads shall be built to minimum construction standards of the NC Department of Transportation as required by G.S. §136-102.6. The public subdivision road standards are contained in NC Division of Highways Subdivision Roads Minimum Construction Standards.

2. All minor and major Manufactured Home Park roads intersecting a state maintained road shall have a stop sign that conforms with NC Department of Transportation specifications, installed by the developer and maintained by the developer or homeowners association. After the North Carolina Department of Transportation accepts the Manufactured Home Park road(s), the developer or homeowners association shall not be responsible for the maintenance of road name and stop signs.

3. Private minor and major Manufactured Home Park roads shall be built to minimum construction standards set forth in Schedule I of this chapter.

4. No road in an area subject to flooding shall be approved if it is more than two feet (2') below the elevation of a 100-year flood. The Ordinance Administrator may require, where necessary, profiles and elevation of roads for areas subject to flooding. Fill may be used for roads provided such fill does not increase flood heights. Drainage openings for roads in areas subject to flooding shall be provided and shall be so designed as to not restrict the flow of water and increase flood heights.

5. Every road and any associated storm water drainage facility shall be designed to accommodate and convey the runoff from a ten- (10) year storm in a non-erosive, safe and stable manner to discharge point(s).

(b) Road Design. Private Manufactured Home Park roads shall meet the following minimum road design standards:

1. New Road Right-of-Way Width. All Manufactured Home Park roads shall have a minimum right-of-way of forty-five feet (45') unless the road is completed prior to filing the final plat for approval. In that case, a thirty foot (30') right-of-way along the centerline shall be permitted. **NOTE: NC Department of Transportation requires a fifty foot (50') minimum right-of-way for a dead-end road more than 2,500 feet in length or a loop road more than one (1) mile in length.**

2. Previously Platted Road Right-of-Way Width. Where a right-of-way less than forty-five feet (45') was recorded or platted prior to the original adoption of this chapter and a forty-five (45') right-of-way is not now obtainable for the purpose of accessing the Manufactured Home Park for either a minor or major manufactured home park, the following minimum standards shall be met by the developer:

a. The developer or his assignee shall submit a copy of the recorded plat or deed describing and identifying the right-of-way.

b. The access road shall be a minimum twelve foot (12') all-weather surface road for a minor manufactured home park or an eighteen foot (18') all-weather surface road for a major manufactured home park unless the previously recorded right-of-way (agreement which provides sole access to the development) will not allow these minimum standards.

c. A disclosure statement shall be placed on the final plan stating "This Manufactured Home Park is accessed by a road which does not have a forty-five foot (45') minimum right-of-way and/or does not have the minimum recommended roadbed width. Access to homes within the Manufactured Home Park may be limited. The NC Department of Transportation is unlikely to accept and maintain roads within the Manufactured Home Park as public road(s)."

3. Cul-de-sacs. The required turnaround on a dead-end road in a Manufactured Home Park shall have an unobstructed roadway radius of not less than twenty-five feet (25'). If the road length does not exceed fifteen hundred feet (1,500') and if construction difficulties will not permit a turnaround, the use of a modified "Y" or "T" with one (1) extension extending at least thirty-five feet (35') and the other extending a minimum of fifty feet (50') and a maximum of one hundred feet (100') which will allow a vehicle with a wheel base of at least thirty feet (30') to complete a turning movement with a maximum of one (1) backing movement, shall be permitted.

4. Road Grades. Maximum road grades shall be twenty percent (20%). In extreme cases, where the terrain prohibits a lesser grade to attain access to a nearby area, a maximum grade of twenty-five percent (25%) is permissible if a professional engineer, currently licensed in the State of North Carolina by the NC Board of Examiners for Engineers and Surveyors, designs and certifies grade and slope stability of the portion from 20.01% to 25%. For any road containing grade(s) exceeding twenty percent (20%), the following minimum standards shall be met by the developer:

a. The developer shall submit a report by a professional engineer, with civil engineering qualifications, or professional land surveyor currently licensed in the State of North Carolina by the NC Board of Examiners for Engineers and Surveyors, stating that there are no reasonable alternative routes to access the adjacent area which do not exceed twenty percent (20%) grade.

b. Any road exceeding fifteen percent (15%) grade shall meet NC Department of Transportation minimum construction and paving (bituminous) specifications for the length exceeding fifteen percent (15%) grade plus an additional three hundred feet (300') on each side of the length exceeding fifteen percent (15%) grade or until the road grade reaches eight percent (8%) over a fifty foot (50') section. The least distance shall be enforced. A professional engineer, with civil engineering qualifications, or registered land surveyor currently licensed in the State of North Carolina by the NC Board of Examiners for Engineers and Surveyors shall identify on the plan(s) the road(s) which have grades exceeding fifteen percent (15%), the point(s) where the fifteen percent (15%) grade begins and terminates, and the additional three hundred foot (300') segments to be paved on each side. Should it be necessary to go beyond property lines to reach a distance of three hundred feet (300') or for the purpose of measuring or determining the existence of an average grade of eight percent (8%) over a fifty foot (50') section of road, only that portion of the road within the subject property is required to be paved.

c. A disclosure statement shall be placed on the final plan stating “This Manufactured Home Park contains roads which exceed fifteen percent (15%) grade(s). Access to homes within the Manufactured Home Park may be limited. The NC Department of Transportation is unlikely to accept and maintain roads within the Manufactured Home Park as public road(s).”

(c) Connections with State Road System. If a new Manufactured Home Park road to be dedicated as public or private will connect to a state system road, a permit authorizing construction on state right-of-way may be required from the Division of Highways before beginning construction. If required, applications shall be made to the District Engineer of the NC Department of Transportation having jurisdiction in this area.

(d) Intersections. When a new Manufactured Home Park road connects to a state maintained road, the design standards of the NC Department of Transportation for intersections shall be required.

(Ord. passed 01-01-2004; Am. Ord. passed 12-04-2023)

SCHEDULE I

DESIGN CRITERIA FOR PRIVATE ROADS

Minimum Road Right of Way Width	
Shoulder Section	45'
(If road is completed prior to filing final plat)	30'
Minimum Road-Bed Width for Eleven (11) Spaces or More	
Shoulder Section	18'
Minimum Road-Bed Width for Ten (10) or Less Spaces	
Shoulder Section	12'
Maximum Grade	
(NC DOT Classification-Hill Terrain)	20%
(Designed and certified by Professional Engineer)	25%
Minimum Shoulder Width	
Shoulder Section (must be stabilized)	2'
Minimum Cul-de-Sac Radius	
Right of Way Shoulder Section	50'
Minimum Cul-de-Sac Radius for Roadbed	
Turning Radius Shoulder Section	25'

***Any road exceeding fifteen percent (15%) grade shall meet NC Department of Transportation minimum construction and paving (bituminous) specifications for the length exceeding fifteen percent (15%) grade plus an additional three hundred feet (300') on each side of the length exceeding fifteen percent (15%) grade or until the road grade reaches eight percent (8%) over a fifty foot (50') section.**

(2) *Manufactured home spaces.*

(a) Each manufactured home space shall be clearly defined.

(b) Each manufactured home space shall be located on ground not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises.

(c) Each manufactured home shall be located at least 30 surveyed feet from any other manufactured home and at least 15 surveyed feet from the manufactured home park boundary.

(d) Manufactured home setbacks from streets:

1. All units must be located outside the right-of-way.

2. All units must be located a minimum of fifteen feet (15') from any road surface.

3. All units must be located twenty five feet (25') from all state and federal highways.

(e) Parking requirements:

1. Minimum 400 square foot of area for each unit.

2. Parking area must be located outside the road shoulder area.

3. If parking area is divided, must be in equal 200 square foot sections.

(3) The county building inspections department shall inspect electrical service before a park may receive final approval.

(4) The ordinance administrator, the county health department, the county building inspections office, and erosion and sedimentation control office are authorized and directed to make such inspections as necessary to determine satisfactory compliance with this chapter, and shall have free access to the premises of manufactured home parks at reasonable times for the purpose of inspections.

(5) Each manufactured home will have a four-inch (4") site number of permanent nature attached to its street side.

(6) It is recommended that each manufactured home have an accessible, frostproof water cutoff valve outside the skirting.

§ 157.06 ISSUANCE OF A MANUFACTURED HOME PARK CONSTRUCTION PERMIT AND MANUFACTURED HOME PARK OPERATING PERMIT.

(A) After the manufactured home park application is approved, the planning department shall issue a manufactured home park construction permit. The intent of this permit is to enable the execution of the park plan in the field and shall not be construed to entitle the recipient to offer spaces for rent or lease or to operate a manufactured home park as defined in this chapter.

(B) If the construction of the park has not begun within 12 months from the issue date of the manufactured home park construction permit, the permit shall be deemed expired. The administrator may grant a one-year extension of the manufactured home park construction permit if the developer shows cause.

(C) When the construction of the manufactured home park is completed, the developer shall apply to the planning department for a manufactured home park operating permit. If the manufactured home park conforms to the park plan approved by the administrator and other agencies, the planning department shall issue the developer a manufactured home park operating permit. If the park does not conform to the approved plan, the planning department shall delay issuance of the manufactured home park operating permit until the park comes into conformity with the approved development plans and the requirements of this chapter. The manufactured home park operating permit issued to the developer shall constitute authority to lease or rent spaces in the manufactured home park.

(D) All pre-existing manufactured home parks shall apply for a Pre-existing Manufactured Home Park Operating Permit and submit a diagram, drawing, sketch or otherwise acceptable map of the pre-existing conditions within the park by 180 days of the date of adoption of the ordinance.

§ 157.07 REQUIREMENTS FOR ALL MANUFACTURED HOME PARKS.

The following requirements shall be applicable to all manufactured home parks, whether new, existing or an expansion of an existing park:

(A) Each park owner shall maintain the park property in a safe and sanitary condition. The park owner shall not permit the accumulation upon such property, except in approved receptacles, of garbage, refuse, rubbish, litter, trash or other discarded materials, including used building materials, batteries, scrapped appliances, rags, paper, rubber, dismantled or wrecked automobiles or parts thereof, and other ferrous or nonferrous material. Safety hazards such as, but not limited to, open wells, open manholes and abandoned appliances shall be promptly corrected or removed.

(B) It is the duty of the park owner to ensure that all manufactured homes be equipped with underskirting within 60 days of approval of electrical service. If the park owner also owns the home, the underskirting shall be provided by the park owner. All skirting shall be of a material and type manufactured for that purpose and shall be securely attached. Skirting shall be sized from the

ground to the lower perimeter of the structure and shall be maintained free from broken sections or pieces. Masonry foundation shall be approved as an alternative to this requirement.

(C) Every home shall be provided with an adequate potable water supply system. “Potable water supply” means direct connection to a well, to a public water utility or equivalent water service delivery system, and does not include water delivered through a hose or via containers. Every home shall be properly connected to an approved water and sewer system as long as the home is occupied.

§ 157.08 PENALTY FOR VIOLATION.

The establishment or maintenance of a manufactured home park in violation of this chapter shall be a misdemeanor subject to the penalties and enforcement provisions of G.S. §153A-123 and G.S. 160D-404.

Whenever the ordinance administrator determines that a mobile home park is being operated in violation of the ordinance, a notice will be issued to the owner and/or operator of the park which shall describe the violations with particularity. The owner and/or operator shall be given a reasonable period of time from the issuance of the notice to correct the deficiencies before any legal proceedings are initiated, except that the notice period may be reduced to no less than five working days upon a finding by the ordinance administrator that the violations are of such serious nature as to constitute an immediate danger to health and safety.

No legal action shall be initiated against the park owner, if the park owner files an action for summary ejectment against the owner of the manufactured home which is the subject of the notice to correct deficiencies within the notice period.

Failure on the part of the developer of the manufactured home park to comply with any enforcement provision of this chapter shall result in the assessment of a civil penalty of no less than fifty dollars (\$50.00) per violation for each day the violation continues.

(Ord. passed 01-01-2004; Am. Ord. passed 12-04-2023)

§ 157.09 APPEALS AND REQUESTS FOR VARIANCES.

Variance requests. Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause an unnecessary hardship, the Planning Board may authorize a variance, if such variance can be made without destroying the intent of this chapter. Any variance thus authorized is required to be entered in writing in the minutes of the meeting of the Planning Board and the reasoning on which the departure was justified set forth.

(A) The decision on a variance request shall be made by the Planning Board as quasi-judicial matter following the provisions of G.S. 160D-406, with these specific provisions:

Am. Ord. passed 12-4-23

(B) Written request for a variance must be filed by an interested or aggrieved party within thirty (30) days after the party or parties receive the decision of the Ordinance Administrator or the aggrieved party or parties receive constructive notice to the decision. Applications for variance shall be filed with the Ordinance Administrator, who shall act as Clerk for the Board in receiving this notice. It shall be the duty of the Administrator to notify all the Board members as soon as possible of the application. All applications for a variance shall be made on the form entitled "Application for a Variance from the Haywood County Code of Ordinances, Chapter 157: Manufactured Home Park", as set forth in Appendix A. All information required on the form shall be complete before an application shall be considered filed.

(B) After receipt from the Manufactured Home Park Ordinance Administrator of the completed Application for a Variance, the Chairman shall schedule the time for the hearing, which shall be at the next regularly scheduled meeting. The application must be filed a minimum of fourteen (14) days prior to the next regularly scheduled meeting in order to be placed on that agenda.

The Clerk shall give notice of the hearing by mailing notices of the hearing to adjoining property owners and other parties to the action at least five (5) days prior to the hearing.

(1) Conduct of Hearing: Parties or their attorney shall appear in person at the hearing. The order of business for each hearing shall be as follows:

(a) The Chairman, or such person as he shall direct, shall give a preliminary statement of the case.

(b) At the discretion of the Chairman, witnesses will be sworn in.

(c) The applicant shall present the arguments and support of his case or application. Witnesses in favor of the applicant's request may be called and factual evidence submitted.

(d) Applicants and proponents may be questioned by the Board.

(e) Persons opposed to granting the application shall present their argument. Witnesses may be called and actual evidence submitted in opposition.

(f) Opponents may be questioned by the Board.

(g) Opponents may be allowed to cross examine all witnesses.

(h) The applicant may be allowed to inspect all evidence offered against him/her.

(i) Both sides will be permitted to present rebuttals to opposing testimony.

(j) The Board may, at its discretion, view the premises and obtain additional facts of matter before arriving at a determination of the case.

(k) The Board shall discuss the application and develop their conclusions.

(l) Motion.

(2) Decisions:

(a) Vote: The concurring vote of four-fifths of the eligible membership of the Board (excluding from the “membership” definition those Board members who are barred from participation because of the application of G.S. 160D-109) shall be necessary to grant any variance.

(b) Before the Planning Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

1. There are practical difficulties or unnecessary hardships in carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

a. If he/she complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of this property or the securing of a reasonable return.

b. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

c. The hardship is due to the physical nature of the applicant’s property, such as its size, shape, or topography, which is different from that of neighboring property.

d. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance and then comes to the Board for relief.

e. The hardship is peculiar to the applicant’s property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

2. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and intent.

3. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(c) In granting the variance, the Board may attach hereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Chapter.

(d) The Haywood County Planning Board shall refuse to hear an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the application.

1. Time: Decisions by the Board shall be made not more than thirty-six (36) days following the date of the hearing.

2. Form: Written notice of the decision and the reasons therefore in a case shall be given to the applicant by the Clerk as soon as practicable after the case has been decided. The final decision of the Planning Board shall be shown in the record of the case as entered in the Minutes of the Board, and signed by the Chairman and the Clerk upon approval of the Minutes of the Board. The Minutes shall record the reason for the decision, the summary of the evidence introduced, and the findings of fact and conclusions of the law made by the Board.

(3) Public Record of Decisions: The decisions of the Board, as filed in its Minutes, shall be a public record, available for inspection at all reasonable times. Minutes shall be kept by the Clerk who shall make them available to the public. Every decision of the Haywood County Planning Board shall be filed in the office of the Manufactured Home Park Ordinance Administrator and a written copy thereof shall be delivered to the applicant and adjacent property owners by personal service or registered mail.

(4) Appeals: Appeal of the Planning Board's decision on a variance request shall be made to the Haywood County Board of Commissioners in accordance with G.S. 160D-406(h) and the specific provisions that follow.

All appeals shall be taken to the Haywood County Board of Commissioners within thirty (30) days after the decision of the Planning Board is filed in the Office of the Ordinance Administrator or after a written copy thereof is delivered to the appellant by personal service or registered mail or certified mail, return receipt requested, whichever is later.

Any person aggrieved by the decision of the Haywood County Board of Commissioners or any taxpayer may appeal the decision to the Superior Court to be determined in accordance with the provisions of G.S. 160D-406(k). All appeals shall be taken to the Superior Court within thirty (30) days after the decision of the Haywood County Board of Commissioners is filed in the Office of the Clerk or after a written copy thereof is delivered to the appellant by personal service or registered mail or certified mail, return receipt requested, whichever is later.

(Ord. passed 01-01-2004; Am. Ord. passed 12-04-2023)

§ 157.10 AMENDMENTS.

(A) The Board of County Commissioners may from time to time amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have thirty (30) working days from the time the proposed amendment is submitted to it within which to submit its recommendation to the County Commissioners. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

(B) No amendment shall be adopted by the Board of County Commissioners until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Haywood County at least once a week for two (2) successive calendar weeks prior to the hearing in accordance with G.S. §153A-323.

(Ord. passed 01-01-2004; Am. Ord. passed 12-04-2023)

§ 157.11 VALIDITY.

Should any section or provision of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

§ 157.12 ABROGATION.

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern. Whenever conflicts exist between federal, state or local laws, ordinances, or rules, the more restrictive provision shall apply to any aspect of developing or operating a manufactured home park.

§ 157.13 EFFECTIVE DATE.

This revised ordinance revises and supplants the ordinance in Chapter 157 originally adopted January 1, 2004 and all subsequent amendments, and shall be effective on and after December 4, 2023.

Am. Ord. passed 12-4-23

APPENDIX A

Application for a Variance from the Haywood County Code of Ordinances, Chapter 157: Manufactured Home Park

Date _____ Application No. _____

Applicant's Name: _____ Phone: _____

Address: _____

PIN: _____

Directions to the property from Waynesville: _____

Applications shall contain the following:

- 1. A complete and detailed description of the proposed variance, (see the rest of this form), together with any other pertinent information which the applicant feels would be helpful to the Haywood County Planning Board in considering the application.

TO THE HAYWOOD COUNTY PLANNING BOARD:

I, _____ (Owner/Agent), hereby petition the Haywood County Planning Board for a variance from the literal provisions of Chapter 157: (Manufactured Home Park) Haywood County Code of Ordinances because I am prohibited from using the parcel of land described in this form in a manner demonstrated within this application. I request a variance from the following provisions of the Ordinance (cite sections):

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Haywood County Planning Board shall reach three conclusions as a prerequisite to the issuance of a variance:

(a) that there are practical difficulties or unnecessary hardships in carrying out the strict letter of the ordinance,

(b) that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit, and

(c) that in granting the variance the public safety and welfare have been assured and substantial justice has been done.

In the space provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Planning Board that it can properly reach these three required conclusions:

(1) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether in a particular situation “practical difficulties or unnecessary hardships” exist. State facts and arguments in support of each of the following:

(a) If he/she complies with the provisions of the ordinance, the property owner can secure no reasonable return from or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

(b) The hardship of which the applicant complains results from unique circumstances related to the applicants land. (Note: hardships suffered by the applicant in common with his neighbors do not justify a variance. Also, unique personal family hardships are not relevant since a variance, if granted, runs with the land.)

(c) The hardship is not the result of the applicant's own actions.

(2) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES THE SPIRIT. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

(3) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

Haywood County – Land Usage

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Signature

Date: _____

Transmitted by

Date: _____

Received by (Clerk to the Board)

Date: _____

IN THE EVENT THAT ANY DISCREPANCIES EXIST BETWEEN THE CRITERIA OUTLINED ON THIS FORM AND CHAPTER 157 (MANUFACTURED HOME PARK) OF THE HAYWOOD COUNTY CODE OF ORDINANCES, CHAPTER 157 SHALL PREVAIL.