

ARTICLE III Application, General Provisions, Exceptions and Modifications

3.1 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 Zoning Ordinance.

3.2 Relationship of Buildings to Lot

Every building hereafter erected, moved or placed shall be located on a lot and in no case shall there be more than one (1) principal residential building on a lot except as otherwise provided for in this Ordinance by the Special Requirements of Section 6.5.

3.3 Street Access

No building, structure or use of land shall be established on a lot nor shall any lot be created that does not abut upon a public street as defined herein to which it has legal access for a distance of not less than twenty-five (25') feet. Provided, the following exceptions shall apply to the access requirement:

- A.** The access requirement shall not apply to lawfully existing lots of record with a minimum of twenty-five (25') feet of frontage on a dedicated but not maintained street.
- B.** The access requirement shall not apply to developments exempt from the public street access by a Special Requirement of Section 6.5 or where that Section permits a lesser minimum frontage requirement.
- C.** The access requirement shall not apply to parcel(s) of land that meet the requirements for a family subdivision as defined in Chapter 14 of the Code of Ordinances of the City of Mount Airy.

3.4 Lot of Record

Where the owner of a lawfully existing lot of record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of

this Ordinance, such lot may be used as a residential building site where permitted, provided, however, that the other requirements of the district are compiled with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as one or more lots which meet the minimum requirements of this Ordinance for the district in which such lots are located.

3.5 Open Space Requirements

For the purpose of complying with the provisions of this Ordinance, no part of a yard, court or other open space provided around any building or structure shall be included as a part of a yard or other open space for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except as provided for in this Section. However, certain accessory structures are permitted to be placed in the required yard areas as provided for in the Schedule of District Regulations and this Section.

3.6 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 in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

3.7 Water and Sewer Requirements

The lot sizes required for the various districts in this Ordinance were drawn upon the assumption that adequate water supply and sewage disposal systems are available to every lot. The lack of adequate systems for one (1) or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.

3.8 Height Limitation Exceptions

The height limitations of this Ordinance shall not apply to public buildings, churches, temples, schools, hospitals, belfries, cupolas and domes not

intended for residential purposes, or to monuments, water towers, observation towers, power and communication transmission towers, flag poles and similar structures provided such structures meet the required North Carolina Building Code. Height limitations shall apply to cellular telephone towers as regulated herein.

3.9 Building Setback Exceptions

Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building, or structure excluding:

- A. Unenclosed porches, attached carports, balconies or decks which do not project into any required yard more than three (3') feet;
- B. Chimneys, flues, eaves, roof overhangs, window sills and bay windows which do not project into any required yard more than three (3') feet;
- C. Patios, drives, walkways, if no portion of the same extends more than twelve (12") inches off the ground;
- D. Any structure that is a mere appendage to a building such as a flagpole or fountain; and
- E. Residential handicap ramps.

3.10 Fences and Retaining Walls

A. Residential Fences and Retaining Walls

Fences erected in the front yard shall not exceed four (4') feet in height and shall be semi-to-non-opaque. Opaque (privacy) fences are not permitted within the front yard. Fences or walls erected in the side yard shall not exceed six (6') feet in height. Side yard fences may extend from the side property line to the front wall of the residence. Fences and walls erected in the rear yard shall not exceed eight (8') feet in height. The height limitations for retaining walls shall apply only to the height above the top of the soil retained by such wall.

B. Non-Residential Fences and Retaining Walls

Fences and walls erected in the front and side yards shall not exceed six (6') feet in height. Fences and walls erected in the rear yard shall not exceed eight (8') feet in height. The height limitations for retaining

walls shall apply only to the height above the top of the soil retained by such wall.

3.11 Accessory Buildings and Structures

- A. The following standards shall apply to all accessory buildings on residential lots:
 - 1. Residential accessory buildings may only be established behind the front building line of the principle dwelling with which they are associated.
 - 2. Residential accessory buildings shall meet the minimum setback and height requirements of the district in which they are located.
 - 3. Residential accessory buildings exceeding twenty (20') feet in height shall be setback from side and rear property lines by an additional one (1') foot for each foot of height exceeding twenty (20') feet.
 - 4. Residential accessory buildings shall be separated from the principle dwelling and other accessory buildings by a minimum of five (5') feet.
 - 5. Residential accessory buildings shall not exceed the total square footage of the footprint of the principle dwelling and no more than two (2) residential accessory buildings shall be permitted per lot. This standard shall not apply to residential accessory buildings on lots exceeding two (2) acres in size.

- B. The following standards shall apply to all accessory buildings on non-residential lots:
 - 1. Non-residential accessory buildings shall meet the minimum front and side street setback requirements of the district in which they are located.
 - 2. Non-residential accessory buildings shall be setback a minimum of ten (10') feet from the side and rear property lines.
 - 3. Non-residential accessory buildings shall not exceed the height of the principle building with which they are associated.

4. Non-residential accessory buildings shall be separated from the principle building and other accessory buildings by a minimum of ten (10') feet.

3.12 Double Frontage Lots

In all zoning districts, double frontage lots shall provide the minimum yard requirements for front yards along both street fronts.

3.13 Front Yard Setbacks for Dwellings

For dwellings in residential districts, where lots located on either side of a center lot are improved with buildings having a front yard setback of less than twenty-five (25') feet, and the structures are no more than two-hundred (200') feet apart, the required setback of the center lot shall be the average of the setback of the two (2) adjacent main buildings.

3.14 Visibility at Intersections

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision within the range of three (3') feet to seven (7') feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said right-of-way lines, each of which is thirty-five (35') feet from the point of intersection.

3.15 Entrances/Exits to Public Streets

Entrances and exits to public streets shall be placed and constructed in accordance with the *Policy on Street and Driveway Access to North Carolina Highway* adopted by the North Carolina Department of Transportation (NCDOT), as amended.

3.16 Developments with more than one (1) Principal Building

Developments with more than one (1) principal building (including "out parcels", group and cluster developments and multi-tenant buildings) shall include similar architectural styles but should not be identical throughout the development. All sides of the individual building shall be treated in an architecturally similar manner. More specifically, at least two (2) of the following three (3) unifying elements must be presented in each building

(including accessory buildings and those buildings located on out parcels) and to the greatest extent practical, in other architectural features of the development (walls, fences, signs, etc.):

A. Building Materials

Such material shall apply to at least thirty (30%) percent of each ground-mounted sign as well.

B. Colors

A maximum of three (3) colors may be designated as the unifying element but the maximum number of colors throughout the development is not limited.

C. Architectural Features

These features include, but are not limited to, roof treatment (style, color, material), facade treatments or building form (overhangs, canopies, arcades, protected walkways, entrance treatments).

3.17 Projections into Front Yards in Commercial and Industrial Districts

In commercial and industrial districts, open and unenclosed gasoline pump canopies, gasoline filling and related equipment and similar facilities may project into one-half (1/2) the front-yard setback requirement for the district.

3.18 Outdoor Lighting

Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Glare or hazardous interference are situations where the sensation produced by luminance within the visual field is sufficiently greater than the luminance to which the eyes are adapted, such as to cause annoyance, discomfort, or loss in visual performance and visibility. Outdoor lighting shall be constructed and operated to minimize the spillover of obtrusive light onto property outside the boundaries of the property on which the lighting is sited which could result in annoyance, discomfort or distraction to persons on the other property. Therefore, all outdoor lighting fixtures, except for temporary and emergency lighting, that would otherwise cause glare or obtrusive spillover shall be shielded, recessed, or otherwise oriented, or treated in such a way to prevent glare or obtrusive spillover. Furthermore, all outdoor lighting fixtures, including display lights, shall be turned off after

close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum necessary.

3.19 Class C Mobile Homes Prohibited

After the effective date of this Ordinance, no Class C mobile home shall be placed in the jurisdiction of this Ordinance nor shall any Class C mobile home that is existing within the jurisdiction of this Ordinance be moved and placed at any other location within the jurisdiction of this Ordinance. Mobile homes must meet HUD standards.

3.20 Use of Mobile Homes for Storage Prohibited

The use of mobile homes, travel trailers and truck trailers for storage purposes shall be expressly prohibited in all residential districts.

3.21 Outdoor Storage and Display

Outdoor storage and/or display of items for sale or advertising purposes shall be prohibited in all residential districts and the *B-5* district. In the *B-1*, *B-2*, *B-4* and *M-1* districts, display of items for sale on premises shall be limited to items, which are sold by that particular business.

In the *B-3* district, open storage shall be prohibited unless such open storage shall be substantially screened from adjacent residential property which is either zoned residential or has a residential structure located thereon. Open storage shall be substantially screened from any adjacent public street, public highway or private drive. Prior to implementing any open storage prohibited by this Section, the property owner, occupant or developers, as appropriate, shall submit to the Zoning Administrator of the City of Mount Airy detailed and complete plans, specifications and map, clearly showing the nature, precise location and extent of any proposed open storage together with detailed plans for the substantial screening of such storage designed to meet the requirements of this article. Notwithstanding the provisions for screening contained in this Section, no proposed or existing open storage shall be approved if such storage is deemed to constitute or reasonably may constitute a hazard or impediment to health, safety or environment. Such determination shall be within the discretion of the Zoning Administrator. In those situations, wherein screening will not serve the intended purpose of

this Section, due to the particular terrain or structural features of the subject or adjacent property, no open storage shall be permitted.

Under the conditions set out above, this Section is intended to permit open storage of goods, material and equipment intended for wholesale sales. Nothing in this Section shall be construed to permit the open storage of any waste, residue, salvage or junk materials in any quantity or any other materials or substances which are or are likely to become detrimental to the health, safety or general welfare of this zoning district or of the community.

3.22 Setback from Residential Districts

Any use in any non-residential district which has any activity area not completely enclosed in a building such as car washes, equipment repair areas, intensive play areas, heavy vehicle parking, areas with intensive lighting, amplified sound, or any such area which might cause light or similar effects upon the adjoining residential area shall setback such area a minimum of fifty (50') feet from the residential zoning line.

3.23 Minimum Regulations

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or Ordinance, the more restrictive or higher standards shall govern.

3.24 Fees

Applicants for permits and other procedures as provided for by this Ordinance may be required to pay such fees as may be established by the Board of Commissioners in the Schedule of Fees and Charges.