

Article IV. ESTABLISHMENT OF ZONING DISTRICTS

Section 4.1 Primary Zoning Districts Established: Purposes Set Forth

For the purposes of this Ordinance, the City of Mount Airy, North Carolina and its area of extraterritorial jurisdiction, is hereby divided into the following primary use districts:

Section 4.1.1 R-20 Residential District

The R-20 Residential District is established as a district in which the principal use of the land is for low density residential or agricultural uses. The R-20 district also permits associated public and private facilities typically associated with such districts.

Section 4.1.2 R-15 Single-Family Residential District

The R-15 Single-Family Residential District is established as a district in which the principal use of land is for medium density single-family residential uses and associated public and private facilities typically associated with such districts.

Section 4.1.3 R-8 Single-Family Residential District

The R-8 Residential District is established as a district in which the principal use of land is for single-family residential purposes. The regulations of this district are intended to provide areas for those persons desiring single-family residences.

Section 4.1.4 R-6 General Residential District

The R-6 Residential District is established as a district in which the principal use of land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas in the community for those persons desiring small residences and multi-family structures in relatively high density neighborhoods.

Section 4.1.5 R-4 Residential and Office District

The R-4 Residential and Office District is established to provide for the high density residential, office, governmental and institutional needs of the community. It functions as a transitional land use between intensive commercial and industrial uses, and residential development. The district is also designed to encourage compatible uses along major thoroughfares adjacent to residential neighborhoods.

Section 4.1.6 B-1 Central Business District

This district is the central shopping area of the City of Mount Airy and its surrounding commercial trade area. The regulations of this district are designed to encourage the continued use of land for community trade and commercial service uses and to promote a concentrated development of permitted uses while maintaining a substantial relationship between the intensity of land uses and the capacity of utilities and streets.

Section 4.1.7 B-2 General Business District

This district provides a location for those businesses and services which generally serve a wider area than the neighborhood business, but do not necessarily require location in the

central business district. Because these commercial uses are important to the economy of the area and are subject to public view, they should have ample parking, controlled traffic movement, and suitable site design.

Section 4.1.8 B-3 Neighborhood Business District

The B-3 Neighborhood Business District is intended for the use of those businesses which are properly and necessarily located near residential areas and which cater to the everyday needs of a residential neighborhood.

Section 4.1.9 B-4 Highway Business District

The B-4 Highway Business Districts are generally located on major thoroughfares and collector streets in the Mount Airy Planning area. Because these business areas are subject to the public view. They should provide an appropriate appearance, ample parking, and be designed to minimize traffic congestion.

Section 4.1.10 B-5 Medical Business District

The regulations for this district are designed to permit concentrated development of business and professional office facilities within the jurisdiction and to encourage development that is compatible with nearby residential areas that is not hazardous to safe vehicular and pedestrian traffic.

Section 4.1.11 M-1 Industrial District

The M-1 Industrial District is established for those areas of the community where the principal use of land is for industrial and warehousing uses. These uses, by their nature, may create some nuisance and are not properly associated with residential, commercial or service establishments. These uses normally seek outlying locations on large tracts of land where the operations involved do not detract from the development potential of nearby undeveloped properties.

Section 4.2 Conditional Use Districts Established: Purposes Set Forth

There is also established a Conditional Use District (CUD) which corresponds to each of the districts authorized by this Ordinance as follows:

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| R-20 - CUD | B-1 - CUD |
| R-15 - CUD | B-2 - CUD |
| R-8 - CUD | B-3 - CUD |
| R-6 - CUD | B-4 - CUD |
| R-4 - CUD | B-5 - CUD |
| | M-1 - CUD |

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Use District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The Conditional Use District classification will be considered for rezoning only upon request of a property owner. If for

any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Use Permit shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

Within a CUD, only those uses authorized as permitted or Conditional Uses in the zoning district with which the CUD corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Board of Commissioners, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use and uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include conditions not generally a part of land development controls. In granting a Conditional Use Permit the Board of Commissioners may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. The authorization of a Conditional Use Permit in any CUD for any use which is permitted only as a Conditional Use in the zoning district which corresponds to the CUD shall preclude any requirement for obtaining a Conditional Use Permit for any such use from the Board of Adjustment.

Section 4.3 Overlay Districts Established; Purposes Set Forth

The Primary Zoning Districts established in Section 4.1 and the Conditional Use Districts established in Section 4.2 may also be subject to the additional requirements of one or more Overlay District as established herein.

Section 4.3.1 Flood Damage Prevention Overlay District

The flood hazard areas of the jurisdiction are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages.

It is the purpose of this Overlay District to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and,
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

The Flood Damage Prevention Overlay District is established as the Floodway and Floodway Fringe areas of the various water courses within the jurisdiction as identified by the Federal Emergency Management Agency on its latest flood maps with accompanying supporting data which are hereby adopted by reference.

Section 4.3.2 Water Supply Watershed Protection Overlay District

The Water Supply Watershed Protection Overlay Districts are intended to help preserve and maintain the City's outstanding water resources. They are established to protect those portions of designated water supply watersheds which lie closest to existing and proposed water supply intakes from activities which could degrade water quality; to reduce the amount of sediment washing into streams; to encourage a low intensity of land development in the most sensitive portions of the watershed; to reduce the risk to water quality posed by high density residential and non-residential developments; and for the purpose of protecting and promoting public health, safety, and the general welfare of the jurisdiction.

The following Watershed Protection Overlay District classifications are established and are shown on the Watershed Protection Overlay District Map which is hereby adopted and incorporated into this Ordinance.

- Ararat River Watershed Critical Area (ARWS-CA) – WS-III-CA*
- Ararat River Watershed Protected Area (ARWS-PA) – WS-IV-PA*
- Lovills Creek Watershed Critical Area (LCWS-CA) – WS-IV-CA*
- Lovills Creek Watershed Protected Area (LCWS-PA) – WS-IV-PA*
- Stewarts Creek Watershed Critical Area (SCWS-CA) – WS-IV-CA*
- Stewarts Creek Watershed Protected Area (SCWS-PA) – WS-IV-PA*

* Water Supply Watershed classification as assigned to the Water Supply Watershed by the North Carolina Environmental Management Commission pursuant to North Carolina General Statutes 143-214.5.

Section 4.3.3 Historic Landmarks and Preservation Overlay District

The Mount Airy Historic Landmarks and Preservation Overlay Districts are among the most valued and important assets of Mount Airy. They are established for the purpose of protecting and conserving the heritage of the City of Mount Airy and the State; for the purpose of safeguarding the character and heritage of the landmarks and districts by preserving the districts as a whole and any individual property that embodies important elements of social, economic, cultural, political or architectural history; for the purpose of promoting the conservation of such landmarks and districts for the education, pleasure and enrichment of residents of the City of Mount Airy and the State as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values, thus contributing to the improvement of the general health and welfare of the City of Mount Airy and the residents of the landmarks and districts.

This Historic Landmarks and Preservation Overlay Districts are hereby established as a series of areas which overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated in the Official Zoning Map and which is hereby adopted and made a part of this Ordinance.

No property or area shall be recommended for designation as a landmark or district unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

The Department of Cultural Resources, acting through the State Historic Preservation Office shall either upon request of the Department or at the initiative of the Historic Preservation Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark or district pursuant to this part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the Commission, the Commission and the City Board shall be relieved of any responsibility to consider such comments.

The Historic Preservation Commission and the City Board shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Law.

Following the joint public hearing or separate public hearings, the City may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

Upon adoption of the ordinance, the owners and occupants of each designated landmark or overlay district shall be given written notification of the ordinance and all amendments thereto shall be filed by the Historic Preservation Commission in the office of the Register of Deeds and the copy shall be made available for public inspection at any reasonable time. Each designated landmark or district shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office. A second copy of the ordinance and all amendments thereto shall be given to the building inspector.

The fact that a building, structure, site, area or object has been designated a landmark or district shall be clearly indicated on all tax maps maintained by the City for such period as the designation remains in effect.

Upon the adoption of the landmark or district ordinance or any amendment thereto, it shall be the duty of the Historic Preservation Commission to give notice thereof to the tax supervisor. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes.

Section 4.4 District Boundaries Shown on Zoning Map

The boundaries of the districts are shown on the map accompanying this Ordinance and made a part hereof entitled “Official Zoning Map, Mount Airy, North Carolina”. The Zoning Map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described as set out herein. The Zoning Map is posted at the Municipal Building and is available for inspection by the public.

Section 4.5 Rules Governing Boundaries

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

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street or railroad right-of-way lines or such lines extended, such center lines, street or railroad right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow platted lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or right-of-way of same, such district

boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by use of the scale shown on said Zoning Map.

- D. Where any street or alley is hereafter officially closed, vacated or abandoned, the zoning district adjoining each side of the street or alley shall be automatically extended to the center of the street or alley, and all lands which are included in the closed portion shall thereafter be subject to the regulations of the extended districts.
- E. Boundaries indicated as approximately following City limit lines shall be construed to follow such City limit lines.
- F. Where district boundaries are indicated as following topographic contours, drainage divides or specific measured distances such features shall be construed to be such boundaries.
- G. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- H. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- I. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or if further uncertainty exists as to the location of boundaries or applicability of zoning districts, the Board of Adjustment shall interpret the intent of the Zoning Map as to the location of such boundaries, and the applicability of such districts.

Section 4.6 Determining Permitted and Conditional Uses, Principal Uses and Mixed Uses

The listings of Permitted and Conditional Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In determining proposed uses, the Zoning Administrator shall classify the form and function of the use. When a proposed use is not specifically listed in the Table of Permitted and Conditional Uses, the Zoning Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Zoning Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. In doing so the Zoning Administrator may consult the North American Industry Classification System published by the U.S. Office of Management and Budget. If the Zoning Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted.

In determining what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure serves or is proposed to serve. An accessory use shall be considered a structure or use that:

- (1) is clearly incidental to and customarily found in connection with a principal building or use;
- (2) is subordinate to and serves a principal building or a principal use;
- (3) is subordinate in area, extent, or purpose to the principal building or principal use served;
- (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- (5) is located on the same lot and zoned the same as the principal building or use served.

Two or more principal uses may, in some cases, be permitted to occupy the same land or building as long as each use is a permitted use.