

Article V. SCHEDULE OF DISTRICT REGULATIONS

Section 5.1 Primary Zoning Districts Requirements.

The Primary Zoning Districts as established in Article IV, Section 4.1 shall comply with all of the general and specific requirements of this Ordinance and in particular shall comply with the following standards and requirements:

- A. Uses. See Article VI entitled Table of Permitted and Conditional Uses.
- B. Dimensional Requirements. See Article VII entitled Table of Area, Land, and Height Requirements.
- C. Location of Accessory Buildings and Structures. See Article III, Section 3.11.
- D. Off-Street Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Article VIII.
- E. Signs. Sign shall be regulated by the requirements of Article IX.
- F. Landscaping. Landscaping shall be provided in accordance with the requirements of Article X.

Section 5.2 Conditional Use District Requirements

Only those uses authorized as permitted uses or special uses in the zoning district with which the CUD corresponds shall be eligible to 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 location on the property of the proposed use or 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 right-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.

Section 5.3 Overlay District Requirements

In addition to the standards and requirements of the underlying principal or conditional use district, Overlay Districts shall comply with the following requirements:

Section 5.3.1 Flood Damage Prevention Overlay District

Section 5.3.1.1 Objectives of the Flood Damage Prevention Overlay District

The objectives of this Section are to:

- Protect human life and health;
- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- Minimize prolonged business interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas; and
- Ensure that potential home buyers are notified that property is in a flood area.

Section 5.3.1.2 Lands to Which This Article Applies

This Section shall apply to all areas of special flood hazard within the jurisdiction of this Ordinance.

Section 5.3.1.3 Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, with accompanying maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of this Section and shall constitute the official boundaries of this Overlay District.

Section 5.3.1.4 Compliance With This Ordinance

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Section and other applicable regulations.

Section 5.3.1.5 Warning and Disclaimer of Liability

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Section does not imply that land outside the areas of special flood

hazard or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision made pursuant to this Section.

Section 5.3.1.6 Provisions for Flood Hazard Reduction

In all areas of special flood hazard the following provisions are required:

- New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- Onsite waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this Ordinance, shall meet the requirements of new construction as contained in this Section; and
- Nonconforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this Section and Article 11 of this Ordinance. Provided, however, nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section and located totally or partially within the floodway zone, provided that the bulk of the building or structure below base flood elevation in the floodway zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.

Section 5.3.1.7 Specific Standards for Construction of Permanent Structures

Section 5.3.1.7.1 Residential Construction.

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including the basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided. A registered professional engineer or land surveyor shall certify that the standards of this subsection are satisfied.

Section 5.3.1.7.2 Manufactured homes that are placed or substantially improved on sites (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or, (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Section 5.3.1.7.3 The following shall apply to Manufactured homes only:

- Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of § 4.14.18.2 shall be elevated so that the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS § 43-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

Section 5.3.1.7.4 Nonresidential Construction

New construction or substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes) shall have the lowest floor, including the basement, elevated no lower than one foot above the level of the base

flood elevation. Structures located in all A zones may be floodproofed in lieu of being elevated, provided that all areas of the structure below the required elevation are watertight, with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

Section 5.3.1.8 **Elevated Buildings**

New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

- Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- The bottom of all openings shall be no higher than one foot above grade; and
- Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage rooms.

Section 5.3.1.9 **Temporary Structures**

Prior to the issuance of a development permit for a temporary structure, the following requirements must be met:

- All applicants must submit to the Administrator prior to the issuance of the development permit a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:
- A specified time period for which the temporary use will be permitted;

- The name, address and phone number of the individual responsible for the removal of the temporary structure;
- The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
- Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.
- The above information shall be submitted in writing to the Administrator for review and written approval.

Section 5.3.1.10 Accessory Structures

When accessory structures (sheds, detached garages, etc.) with a value of \$5,000.00 or less, are to be placed in the floodplain the following criteria shall be met:

- Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas);
- Accessory structures shall be designed to have low flood damage potential;
- Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- Accessory structures shall be firmly anchored in accordance with this Section;
- Service facilities such as electrical and heating equipment shall be installed in accordance with this Section.
- Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with this Section.

Section 5.3.1.11 Cumulative Substantial Improvement

Any improvements, modifications, additions, and reconstruction projects to existing structures are considered to be cumulative from the date of this amendment. The total market value of any such projects shall not exceed 50 percent of the structure's previous market value. If the cumulative substantial improvements to any structure exceeds this amount then the structure must be made to comply with the ordinance requirements for new structures.

Section 5.3.1.12 Recreational Vehicles

A recreational vehicle is defined as a vehicle that is ready for highway use (on wheels or jacking system), is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

- Be on - site for fewer than 180 consecutive days;
- Be fully licensed and ready for highway use; or
- Meet the requirements of this Section.

Section 5.3.1.13 Standards for Land Subdivisions

- All subdivision proposals shall be consistent with the need to minimize flood damage;
- All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 20 lots or five acres.

Section 5.3.1.14 Floodways

- Located within areas of special flood hazard established in this Section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
- No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Administrator.
- All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.
- No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an

existing manufactured home park or subdivision providing the anchoring and elevation standards of this Section are met.

Section 5.3.1.15 Permitted Uses in Floodway.

The following uses shall be permitted within the floodway to the extent that they are otherwise permitted by this Section and the Underlying Zoning District, and provided that they do not employ structures or fill except as specified herein:

- General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, quarrying, wildlife and related uses;
- Ground level loading areas, ground level automobile parking areas, rotary aircraft ports and other similar industrial and commercial uses;
- Tractor-trailer parking, provided that no trailers shall be detached from tractors;
- Lawns, gardens, play areas, and other similar uses;
- Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;
- Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public utility uses, but only if the proposed activity combined with the allowable encroachment in the floodway will not increase the base flood elevation due to allowable one foot. The increase in base flood elevation due to allowable encroachment of the floodway fringe is listed in the Floodway Data Table in the Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA). Fill material for utilities shall be permitted only if approved by the city engineer;
- Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises;
- Boat docks, ramps, piers, or similar structures;
- Dams;
- Grading but not fill; and
- Cantilevered portions of structures, provided that foundation and supports are located outside the floodway and the underside of the cantilevered portion is at least one foot above base flood elevation.

Section 5.3.1.16 Permitted Uses in Floodway Fringe.

The following uses shall be permitted within the floodway fringe to the extent that they are otherwise permitted by this Section and the zoning ordinance.

Uses permitted below the Base Flood Elevation:

- Any use as permitted and regulated in the floodway.
- Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade ten feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two feet horizontal to one foot vertical.
- Structure foundations and supports, provided such conforms to the construction and floodproofing standards of this Section.

Section 5.3.1.17 Uses Permitted Above the Base Flood Elevation:

- Any residential or nonresidential use permitted by this Section and the underlying zoning district provided that the lowest flood elevation of any structure is located one foot or more above base flood elevation. Heating and electrical equipment installed below flood protection elevation shall be floodproofed.
- Any nonresidential use permitted by this Section and the underlying zoning district provided that all portions of the structure are elevated or floodproofed, as provided in this division, to an elevation at least two feet above base flood elevation.
- Heating and electrical equipment installed below flood protection elevation shall be floodproofed. Nonresidential structures may floodproof this equipment if placed below the base flood elevation, but the floodproofing must be certified by a professional engineer or architect registered in North Carolina.

Section 5.3.1.18 Standards for Streams Without Established Base Flood Elevations and/or Floodways

- Located within the areas of special flood hazard established herein are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:
- No Application for a Preliminary Plat shall be approved unless and until the Applicant has provided a study by a registered professional engineer which identifies the mean high water mark of the stream, the floodway, the floodway fringe, and the limits of the 100-year floodplain, in accordance with generally accepted engineering principles.

- No encroachments, including fill, new construction, substantial improvements of new development or new development shall be permitted within a distance of the stream bank equal to a minimum of 20 feet each side from top of bank, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- If base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of this division and shall be elevated or floodproofed in accordance with elevations established in accordance with Appendix B. When base flood elevation data is not available from a federal, state, or other source, all new construction and substantial improvements shall be elevated or floodproofed the one foot above the highest adjacent grade.

Section 5.3.1.19 Standards for Areas of Shallow Flooding (AO Zones)

- Located within the areas of special flood hazard are areas designated as shallow flooding. These areas have special flood hazard associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas:
- All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least one foot above the highest adjacent grade.
- All new construction and substantial improvements of nonresidential structures shall:
- Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least one foot above the highest adjacent grade; or
- Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Section 5.3.2 Water Supply Watershed Protection Overlay District

Section 5.3.2.1 General Provisions

The following general provisions apply to all Watershed Overlay Districts. These provisions and the provisions contained in the Individual Watershed Overlay Districts are designed to protect the water quality of the Water Supply Watersheds that lie within the jurisdiction of this Ordinance and to implement the rules adopted by the North Carolina Environmental Management Commissions for the classified watersheds pursuant to North Carolina General Statutes 143-214.5.

- A. The construction of new roads and bridges and non-residential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area should be avoided. The Department of Transportation BMPs as outlined in their document entitled “Best Management Practices for the Protection of Surface Waters” shall be used in all road and bridge construction projects in the watershed Overlay Districts.

- B. All development activities within Watershed Overlay Districts, in addition to those activities specifically regulated by these provisions, are subject to the standards, usage conditions and other regulations contained in the Rules and Requirements of the Surface Water Supply Protection Rules adopted by the North Carolina Environmental Management Commission.

- C. A minimum 30-foot vegetative buffer for development activities is required along all perennial waters, including streams, rivers and impoundments, indicated on the most recent versions of United States Geodetic Survey (USGS) 1: 24,000 scale topographic maps; provided, that nothing in this Subsection shall prevent artificial streambank or shoreline stabilization. No new development is allowed in the buffer, except that water dependent structures, or other structures such as flagpoles, signs, and security lights, which result in only a diminutive increase in impervious area and public works projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, direct runoff away from the surface water, and maximize the utilization of BMPs.

- D. Where otherwise permitted in the underlying Primary Zoning District, Cluster Development is allowed on a project by project basis as follows:
 - (1) The overall density of the project meets the density requirements of this Ordinance;
 - (2) The appropriate vegetative buffer in (C) above is provided;
 - (3) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, and maximize the flow length through vegetated areas;
 - (4) Areas of concentrated development are located in upland areas and away, to the

maximum extent practicable, from surface waters and drainage ways;

- (5) Remainder of tract to remain in vegetated or natural state;
 - (6) The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds and;
 - (7) Cluster development shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.
- E. All development in Watershed Overlay Districts, shall, to the maximum extent practicable, minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts.
- F. Existing development, as defined in this Ordinance, is not subject to the requirements of the overlay provisions. Expansions to structures classified as existing development must meet the requirements of these provisions, provided however, the built-upon area of the existing development is not required to be included in the density calculations. In determining expansions to existing development, the maximum permitted additional built-upon area is derived by multiplying the area of the portion of the property that is not built-upon by the appropriate percent built-upon limitation for the Overlay District in which the property is located.
- G. A pre-existing lot created prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed or redeveloped for single family residential purposes without being subject to the restrictions of these overlay provisions.
- H. Any existing building or built-upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and/or reconstructed, provided:
- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage or removal.
 - (2) The total amount of space devoted to built-upon area may not be increased.
 - (3) The repair or reconstruction is otherwise permitted under the provisions of this Ordinance.
- I. No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or

disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

- J. The Zoning Administrator may require such information on Zoning Compliance Permit and Development Plan applications, including density/built-upon area calculations, as he may deem necessary to determine compliance with Watershed Overlay District provisions.
- K. The Zoning Administrator may, prior to the issuance of any permit in a Watershed Overlay District, require evidence of a valid Sedimentation Control Permit issued by the State of North Carolina or evidence satisfactory to the Administrator that no permit is required.
- L. The Zoning Administrator shall maintain records of the administration of the Watershed Overlay District regulations and shall submit any modifications of the regulations to the Division of Environmental Management, Division of Environmental Health and Division of Community Assistance. The Zoning Administrator shall also maintain a record of variances issued and shall submit an annual report of each project receiving a variance and the reason for the variance to the Division of Environmental Management. The annual report shall contain the record of each variance granted by the Board of Adjustment during the previous calendar year and shall be submitted on or before January 1 of the following year.

Section 5.3.2.2 Critical Area Development Standards

The following development standards shall apply in the Critical Areas of the Ararat River Watershed, the Lovills Creek Watershed and the Stewarts Creek Watershed:

- A. No new sites for land application of residual or petroleum contaminated soils are allowed.
- B. No new landfills are allowed.
- C. Residential development activities which require a Sedimentation Control Permit shall not exceed one (1) dwelling unit per 20,000 square feet or, optionally, twenty-four percent (24%) built-upon area, on a project by project basis.
- D. Non-residential development activities which require a Sedimentation Control Permit shall not exceed twenty-four percent (24%) built-upon area, on a project by project basis.

Section 5.3.2.3 Protected Area Development Standard

The following development standards shall apply in the protected areas of the Ararat River Watershed, the Lovills Creek Watershed and the Stewarts Creek Watershed:

- A. Residential development activities which require a Sedimentation Control Permit shall not exceed one (1) dwelling unit per 20,000 square feet or, optionally, twenty-four percent (24%) built-upon area, on a project by project basis.
- B. Non-residential development activities which require a Sedimentation Control Permit shall not exceed twenty-four percent (24%) built-upon area, on a project by project basis.

- C. Residential development activities which require a Sedimentation Control Permit and which are not required to use, or do not utilize a curb and gutter street system, shall not exceed three (3) dwelling units per acre or, optionally, thirty-six percent (36%) built-upon area, on a project by project basis.
- D. Non-residential development activities which require a Sedimentation Control Permit and which are not required to use, or which do not utilize a curb and gutter street system, shall not exceed thirty-six percent (36%) built-upon area, on a project by project basis.
- E. Notwithstanding the limitations of 5.3.2.3 A, B, C and D above, 10% of the protected area of each of the watersheds may be developed with new development projects of up to seventy percent (70%) built-upon area as Special Intensity Allocations (SIAs). SIAs shall be allocated and developed in accordance with the following rules:
 - (1) SIA's shall be allocated by the Zoning Administrator through the Zoning Permit/Development Plan process. The Zoning Administrator shall maintain a record of the total acreage in each protected area eligible for SIAs, the acreage that has been allocated and the acreage that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. For the purpose of this subsection, the total area that can be allocated for SIA's in the protected areas is as follows:
 - a) Ararat River Protected Area - 62 acres
 - b) Lovills Creek Protected Area - 147 acres
 - c) Stewarts Creek Protected Area - 121 acres
 - (2) SIA's shall be allocated on a "first come, first served" basis upon the approval and issuance of the appropriate permit.
 - (3) The right to develop a SIA shall terminate with the loss of the right to develop due to the expiration of a Zoning Permit, Zoning Permit with Vested Rights, or Building Permit. In such a case, the allocated acreage, or unused allocated acreage, shall be returned to the unallocated total acreage eligible for allocation.
 - (4) In no case shall the built-upon area of a SIA exceed the built-upon limitations of the Primary Zoning District in which the SIA is located.

Section 5.3.3 Historic Landmarks and Preservation Overlay District

In addition to the standards and requirements of the underlying Principal or Conditional Use District, Historic Landmarks and Preservation District property shall comply with the following requirements:

Section 5.3.3.1 Historic Preservation Commission

The Historic Preservation Commission, in accord with G.S. 160A-400-7, is hereby established to exercise all duties and responsibilities and possess the authorities described herein. The Historic Preservation Commission shall consist of 9 members appointed by the City Board of Commissioners.

- A. Tenure. Members of the Commission shall serve consecutive terms of 3 years. Initially, 3 members shall be appointed for 1 year, 3 members for 2 years, and 3 members for 3 years. Thereafter, all appointments shall be for a term of 3 years. A member may be reappointed for any number of terms.
- B. Qualifications. All members of the Commission shall be residents of the City of Mount Airy or Mount Airy's ETJ and a majority of the members shall have a demonstrated special interest, experience, or education in history, prehistory, or architecture.
- C. Meeting. The Commission shall establish a meeting time, and shall meet at least quarterly. All meetings of the Commission shall be open to the public and reasonable notice of the time and place shall be given to the public. All meetings shall conform to the N.C. Open meetings Law, G.S. 143-33B.
- D. Attendance at Meetings. The Commission shall adopt a policy setting standards for attendance at meeting.
- E. Rules of Procedure and Design Guidelines. The Commission shall adopt and publish rules of procedure for the conduct of its business and principles and guidelines for new construction, alterations, additions, moving and demolition of historic landmarks and districts.
- F. Annual Report. An annual report shall be prepared and submitted to the City Board. The report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.
- G. Meeting Minutes. The Commission shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations and actions. The minutes of the Commission shall be a public record.
- H. Responsibilities. The Commission shall seek to promote, enhance and preserve the character of the Historic Landmarks and Districts provided the Commission shall not require the reconstruction of individual or original buildings or structures or portions thereof.
- I. Authority and Powers. The Commission is authorized and empowered to undertake such

actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this ordinance and Part 3C, Article 19 of Chapter 160A of the General statutes of the State of North Carolina and its amendments, including but not limited to the following:

- To recommend to the City Board districts or landmarks to be designated by ordinance.
- To recommend to the City Board that designation of any district or landmark be revoked or removed.
- To give advice to historic landmark or district property owners concerning the treatment of the historical and visual characteristics of their properties such as color schemes, gardens and landscape features, and minor decorative elements.
- To propose to the City Board changes to this or any related ordinance and to propose new ordinances or laws relating to the Historic Landmarks and Districts or relating to the total program for the development of the historical resources of the City of Mount Airy and its environs.
- To cooperate with other City of Mount Airy boards or commissions or with agencies of Surry County or other governmental units; to offer to request assistance, aid, guidance, or advice concerning matters under its purview of mutual interest.
- To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof.
- To recommend the official adoption of a preservation element as part of the City's Vision plan.
- To review and act upon Certificates of Appropriateness for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks pursuant to this ordinance.
- To negotiate at any time with the owner of a building structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate.
- To undertake programs of information, research, or analysis relating to any matters under its purview.
- To report violations of this ordinance, or related ordinances to the local official responsible for enforcement.

- To assist City of Mount Airy staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis.
- To accept funds granted to the commission from private or non-profit organizations for historic preservation purposes.
- To contract, with the approval of the City Board for services or funds from the State of North Carolina and agencies or departments of the United States government for historic preservation purposes.
- To recommend to the City Board and the State of North Carolina structures, sites, objects or districts worthy of national, state or local recognition.
- To initiate and participate in negotiations with owners and other parties in an effort to find means of preserving buildings scheduled for demolition.
- To establish guidelines under which the Director of Planning or his designee may approve minor modifications on behalf of this Commission.
- To conduct public hearings on applications for Certificates of Appropriateness where the Commission deems that such a hearing is necessary.
- To organize itself and conduct its business by whatever legal means it deems proper.
- To exercise such other powers and perform such other duties as are required elsewhere by this ordinance, the General Statutes of North Carolina or by the City Board.

Section 5.3.3.2 Certificate of Appropriateness

No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within a Historic District or Landmark until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission.

Such a Certificate shall be issued by the Commission prior to the issuance of a building permit for the purposes of constructing, altering, moving or demolishing structures. A Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this ordinance.

A Certificate of Appropriateness shall be required whether or not a building permit is required. Any building permit or such other permit not issued in conformity with this ordinance shall be invalid.

The Commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other

significant features within the district or landmark which would be incongruous with the special character of the district or landmark.

- A. Required Procedures. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Department of Planning and Development. Application for Certificates of Appropriateness shall be considered by the Historic Preservation Commission at its next regular meeting, provided they have been filed complete in form and content, at least ten calendar days before the regularly scheduled meeting of the Commission; otherwise consideration shall be deferred until the following meeting.
- B. Contents of Application. The Commission shall, by uniform in its Rules of Procedure, require data as are reasonably necessary to determine the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required data have been submitted.

Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

- C. Notification of Historic Preservation Commission. Upon receipt of a complete application, the Department of Planning and Development shall notify the Historic Preservation Commission at least 4 calendar days before its regularly scheduled meeting.
- D. Notification of Affected Property Owners. Prior to issuance or denial of a Certificate of Appropriateness, the Commission will see that such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and will give the applicant and such owners an opportunity to be heard.
- E. Public Hearing. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.
- F. Commission Action. The Commission shall take action on the application, and in doing so, shall apply the Review Criteria, contained in this ordinance and the Commission's Design Guidelines. The Commission's action on the application shall be approval, approval with modifications, or disapproval.

Prior to final action on an application, the commission, using the guidelines will make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the site or district in which located.

All applications for Certificates of Appropriateness shall be reviewed and acted upon with a reasonable time as defined by the Rules of Procedure, and not exceeding 60 days from the date the application is filed. As part of its review procedure the Commission may view the premises and seek the advice of the Department of Cultural Resources or other such experts as it may deem necessary under the circumstances.

- G. Reasons for Commission's Actions to Appear in Minutes. The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions, whether it be approval, approval with modifications, or denial.
- H. Submission of New Application. If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

Section 5.3.3.3 Review Criteria

It is the intention of these regulations to insure, insofar as possible, that the landmark or buildings or structures in the historic districts shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of them or to impose architectural styles from particular historic periods. In considering new construction, the Commission may encourage contemporary design which is harmonious with the character of the District.

Section 5.3.3.4 Certain Changes Not Prohibited

Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features in Historic Districts or Landmarks which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the Building Inspector or similar official shall certify in writing to the Commission is required by the need to protect the public health and safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinance, or regulations. Nothing in this ordinance shall be construed to prevent (1) the maintenance or (2) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the Commission.

Section 5.3.3.5 Demolition of Buildings

An application for a Certificate of Appropriateness authorizing the demolition or relocation of a building or structure within the districts may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Historic Preservation Commission or its agent may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the Historic Preservation Commission finds that the building has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

An application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Office as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

Section 5.3.3.6 Site Visits

As part of its review procedure, the Commission may view the premises and seek the advice of the North Carolina Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

Section 5.3.3.7 Appeals

An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying an application for a Certificate of Appropriateness. Such appeals may be taken by any aggrieved party, shall be taken within times prescribed by the Historic Preservation Commission by general rule, and shall be in the nature of certiorari.

Any appeal from the Board of Adjustment's decision in any case shall be heard by the Superior Court of Surry County.

Section 5.3.3.8 Compliance

Compliance with the terms of the Certificate of Appropriateness shall be enforced as provided for in this ordinance. Failure to comply with a Certificate of Appropriateness shall be in violation of this ordinance and punishable as provided in this ordinance.

A Certificate of Appropriateness shall expire six months after the date of issuance if the work authorized by the Certificate has not been commenced. If after commencement the work is discontinued for a period of six months the permit therefore shall immediately expire. No work authorized by any Certificate which has expired shall thereafter be performed until a new Certificate has been secured.

Nothing contained in this ordinance shall prohibit, impair, or limit in any way the power of the City of Mount Airy to prevent the construction, reconstruction, alteration, restoration or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the districts in violation of the provisions of the Zoning Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.