

ARTICLE IV Establishment of Zoning Districts

4.1 Primary Zoning Districts Established; Purposes Set Forth

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

A. 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.

B. R-15 Single-Family Residential District

The R-15 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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.

H. 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 cater to the everyday needs of a residential neighborhood.

I. 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 public view, they should provide an appropriate appearance, ample parking, and be designed to minimize traffic congestion.

J. 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 both compatible with nearby residential areas and not hazardous to vehicular and pedestrian traffic.

K. 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

CITY OF MOUNT AIRY ZONING ORDINANCE

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.

4.2 Conditional Districts Established; Purposes Set Forth

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

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

The purpose of the Conditional District rezoning process is to provide a procedure for considering the rezoning of property based upon the recognition that certain types of zoning would be inappropriate at particular locations in the absence of special conditions. Because of the refinement of this option, the City strongly encourages its use for such situations. Conditional District zoning affords a degree of certainty when making land use decisions that are not possible when rezoning to a general zoning district, which allows the full range of uses permitted in the district and does not provide the flexibility to propose or require binding site-specific conditions to address unique issues that affect the subject property or any potential adverse impacts on adjacent property.

4.3 Overlay Districts Established; Purposes Set Forth

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

A. 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 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 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 floodwaters 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 watercourses within the jurisdiction as identified by the Federal Emergency Management Agency (FEMA) on its latest flood maps with accompanying supporting data, which are hereby adopted by reference.

B. 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.

C. 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:

1. Protecting and conserving the heritage of the City of Mount Airy and the State of North Carolina;
2. 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;
3. 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;
4. Fostering civic beauty; and
5. 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.

CITY OF MOUNT AIRY ZONING ORDINANCE

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 on 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 State Historic Preservation Office, 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 thirty (30) days following receipt by the Department of the investigation and report of the Commission, the Commission and the City Board of Commissioners shall be relieved of any responsibility to consider such comments.

The Historic Preservation Commission and the City Board of Commissioners 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. All amendments thereto shall be filed by the Historic Preservation Commission in the Office of the Register of Deeds. 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 Office of Register of Deeds. 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 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.

1. Designation of Historic Districts and Landmarks

a. Designation of Historic Districts

Mount Airy Historic Districts are established by the City after action has been proposed by a neighborhood organization, a preservation group, or the city, and after careful research and evaluation. Historic district designation is designed to protect and enhance the existing character of a community. Through historic district overlay zoning, a neighborhood is protected from unmanaged change by a review process based on established design guidelines. The following process will be followed for designating historic districts:

CITY OF MOUNT AIRY ZONING ORDINANCE

- i.** An area within the City will be nominated to be part of the Mount Airy Historic District. Nominations can come from the Historic Preservation Commission, the City of Mount Airy, neighborhoods and individual citizens within an area.
- ii.** The area must be of special significance in terms of history, prehistory, architecture, and/or culture and to possess integrity of design, setting, materials, feeling, and association. Special significance shall be explained in an investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any proposed district.
- iii.** A description of the boundaries of such district must be prepared.
- iv.** The proposed district must be submitted to the Department of Cultural Resources, acting through the State Historic Preservation Office. The State Historic Preservation Office shall provide an analysis of and recommendations concerning such report and description of proposed boundaries. The State Historic Preservation Office shall submit its written analysis and recommendations to the municipal governing board within thirty (30) calendar days after a written request has been received. If the written analysis is not received within thirty (30) days of receipt, the municipality is relieved of its responsibility to await such analysis and the City may adopt or amend its Zoning Ordinance.
- v.** The Historic Preservation Commission will review the boundaries, significance and guidance received from the State Historic Preservation Office and make recommendations to the municipality regarding the proposed district. The Historic Preservation Commission is the only body authorized to propose local designation to the governing board.

b. Designation of Historic Landmarks

A property shall be recommended for designation as a historic landmark if 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 keep a listing of designated historic landmarks describing each property by name, the names of the owners of the property, the elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary.

The following process will be followed for designating historic landmarks:

- i.** The Commission shall undertake an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction (if an inventory has not already taken place).
- ii.** Once properties are identified, the Commission shall receive nominations for historic landmarks from the Commission members, the City, and property owners. The nomination period runs and is open for one (1) year.
- iii.** Once nominations are received, the Commission will review nominations and review properties for compliance with Historic Preservation standards and landmark guidelines. The nominations will be forwarded to the State Historic Preservation Office, North Carolina Department of Cultural Resources.
- iv.** At a future Historic Preservation Commission Meeting following the receipt of guidance from the State Historic Preservation Office, a public hearing shall be held, which is open to the public and in accordance with

the North Carolina Open Meetings Law, Chapter 143, Article 33C. Following the public hearing, the Commission shall approve or deny properties to be recommended as historic landmarks.

- v. Upon denial of historic landmarks, owners of subject properties shall be given written notification of such designation insofar as reasonable diligence permits.
- vi. If approved to be recommended as a historic landmark, the Commission will forward the recommendation as required by City Code to the Board of Commissioners for approval. The Historic Preservation Commission is the only body authorized to propose local designation to the governing board.
- vii. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Office of the Register of Deeds. The Commission shall require the property owner of record to pay a reasonable fee for filing and indexing.
- viii. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.
- ix. Upon adoption of a property as a historic landmark, it shall be the duty of the Commission to give notice thereof to the Tax Supervisor of the county in which the property is located. The designation and any recorded restrictions up on the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising it for tax purposes.
- x. For each designated landmark, a suitable sign on the property indicating that the property has been so designated shall be placed by the owner on the property

or on a nearby public right-of-way. The sign must be approved by the Commission.

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.

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, Mount Airy, North Carolina*, the following rules shall apply:

- A. As property boundaries and rights often extend into and within rights of ways, 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 centerlines 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 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 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.

4.6 Determining Permitted and Special Uses, Principal Uses and Mixed Uses

The listings of Permitted and Special 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 Special 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 (NAICS) 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/she 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:

- A.** Is clearly incidental to and customarily found in connection with a principal building or use;
- B.** Is subordinate to and serves a principal building or a principal use;
- C.** Is subordinate in area, extent, or purpose to the principal building or principal use served;
- D.** Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- E.** Is located on the same lot and zoned the same as the principal building or use served.

Two (2) 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.