

ARTICLE 3

ZONING DISTRICTS

Section 3.1 Zoning Districts

In order to achieve the purpose of this Ordinance, the following districts based on the concepts and proposals of the land development plan of the Town of Mineral Springs are hereby established. In addition to the primary uses which are permitted by right or through the issuance of a conditional use permit, other uses including accessory uses, off-street parking, and signs are permitted as listed in this Ordinance.

3.1.1 R-Residential Districts.

These districts are established to encourage the retention of existing farms and low-density residential areas, which are compatible with the land development plan concept of retaining the suburban, rural character of the community. Residential development must be restricted to a sufficiently low density where there is no public water supply and development is dependent upon septic tanks on individual lots for sewage disposal. In order to provide for a healthful, rural environment outside of the downtown area, residential development must continue in a large lot, low-density fashion. Within the downtown area, densities may be increased to provide a range of housing types.

Minimum lot sizes set forth hereinafter are exclusive of any buffer, open and/or common areas, and of any unusable lands (e.g. floodplains, wetlands, etc.). Individual lot sizes on proposed subdivision plats shall not be calculated by averaging or through the application of similar mathematical techniques in order to satisfy this Ordinance's requirements.

- a) **Agricultural Residential, Single-Family and Agricultural.** This district allows for agricultural uses and low-density single-family residential development. The maximum density is one dwelling unit per two acres.
- b) **Rural Residential, Single-Family and Agricultural.** This district allows for agricultural uses and low-density single-family development. The maximum density is one dwelling unit per 1.5 acres.
- c) **RA-40, Single-Family and Agricultural.** This district is designed to encourage the perpetuation of existing agricultural uses and to accommodate primarily existing low-density single-family residential development, including Class A & B manufactured homes. The minimum size lot is 40,000 square feet.
- d) **RA-20, Single-Family and Agricultural.** This district is designed to encourage the perpetuation of existing agricultural uses and to accommodate low-density single-family residential development, including Class A & B manufactured homes. The minimum lot size is

20,000 square feet.

- e) **R-20, Single-Family and Agricultural.** This district allows for agricultural uses and low-density single-family residential development, including Class A manufactured homes. The minimum lot size is 20,000 square feet.

3.1.2 **B-Business Districts**

a) **B-2 Community Business District.** This district is established to provide for an area for neighborhood business without undue conflict with, detriment to, or disruption from nearby land uses or zoning districts. This district is designed primarily for furnishing professional services as well as a narrow range of other business and retail services for the convenience of residents of the Town of Mineral Springs. All permitted uses located in the B-2 district shall have a maximum gross floor area of 3,000 square feet. Uses otherwise permitted within this zone, which exceed a gross floor area of 3,000 square feet, are permitted on a conditional use basis only.

b) **B-4 General Commercial District.** This district is established to accommodate a wider range of commercial activities than that permitted in a B-2 district. Shopping centers within this district are permitted on a conditional use basis only.

c) **L-I Light Industrial District.** This district is established to provide for general industrial and warehousing operations, which shall be operated indoors in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential and business districts, including manufacturing, processing and assembling of goods, product distribution facilities, and a broad variety of specialized commercial and industrial operations. Outdoor storage may be utilized, when specifically permitted on a case basis and where screened in compliance with the provisions of this Ordinance.

3.1.3 **Overlay Districts Established.**

In addition to the Primary and Conditional Use Districts the following Overlay Districts are hereby established with the designations, purposes, and requirements as listed below.

a) **DOD Downtown Overlay District**

It shall be the purpose of the Downtown Overlay District to make the downtown business district the focal point of the Town, encouraging private and public investment which will preserve the downtown area as the primary office, institutional, cultural, and entertainment center of the Town, and protect property values. It is further the purpose of this district to encourage a strong supportive retail center in the downtown overlay district, which will complement other downtown uses and the surrounding neighborhoods, and promote the community's character and integrity. It is the intent of this district to place a high priority on the quality of design, integrating new uses with existing structures in a cohesive and attractive

manner that promotes a traditional architectural and visual environment. Development should facilitate the transportation needs of individuals and businesses and a well-balanced transportation system should also recognize the importance of all forms of movements, be it pedestrian, bicycling, transit, automobile or truck in nature. The intent of the Downtown Overlay District regulations is to provide a mechanism for implementing the above-referenced goals by directing the desired character of the development in the Downtown Overlay District.

Definition of Downtown Overlay District.

An area which is located in the heart of Mineral Springs surrounding the intersection of Potter Road and Highway 75, including properties along Eubanks Street, as shown on the Official Zoning Map. These properties shall be zoned as an Overlay District. The Overlay District shall be further divided into the “Highway District” and the “Non-highway District.” The terms “Overlay District” and “Downtown Overlay” shall refer to both the Highway District and the Non-highway District.

b) Permitted and Excluded Uses

All uses allowed in the underlying zoning district by right or with a conditional use permit are allowed in the Overlay District, subject to obtaining a Downtown Overlay permit (and a Conditional Use Permit, if applicable) from Town Council with the exception of the following uses:

- Animal Hospital with outdoor runs
- Car mechanics
- Cemetery/Columbarium
- Convenience Store with Retail Fuel Sales
- Golf Course (public or private)
- Hotel/Motel
- Nursery (Horticultural), Greenhouses
- Restaurant, Drive-In
- Restaurant, Drive-Through
- Schools (Kindergarten, elementary, junior high, high)
- Stadium
- Storage units
- Telecommunications Tower
- Theatre: Outdoor Movie

c) Downtown Overlay Development Permit Process.

1) Downtown Development Design Approval Required.

Any property owner or agent thereof proposing to erect a building or structure or conduct major renovations on any building or structure in the Downtown Overlay District, for which a zoning permit application or

a conditional use permit application is submitted after the effective date of this Article, shall first obtain a Downtown Development Permit.

2) Preapplication Conference.

Before submitting an application for a Downtown Development Permit, the property owner or agent thereof is required to schedule a pre-application conference with the Zoning Administrator prior to the submission of the application. A sketch plan showing general development details proposed shall be provided at the meeting to assist in discussing the basic scope of the project.

The Zoning Administrator and/or staff shall review the Downtown Development Design regulations found in this Ordinance with the applicant.

3) Submission of Application.

An application for a Downtown Development Permit shall include:

- a) A vicinity map clearly establishing the location of the project with readily recognizable landmarks.
- b) A development summary including land area in development, proposed use(s), total building square footage, required parking, provided parking spaces, indicating where off-lot parking is being included.
- c) An accurate drawing of property boundaries.
- d) Existing topography of existing vacant land to be disturbed by the development activity, and appropriate, water courses and water bodies, floodplains and floodways, or other areas that would require extensive clearing and grading or alteration for development.
- e) Identification and location of all existing site improvements, including streets, water, sewer, storm drainage, buildings, overhead power or telephone/cable lines, cross access easements, and utility easements.
- f) Proposed location, type and size of each sign to be employed on the site.
- g) Elevations of the structure with a description of materials to be used on the exterior, including siding and roofing materials.
- h) Location of trash dumpsters or bins and required screening.
- i) Grading, drainage, erosion and sedimentation control and utility plans.
- j) Landscaping, including street trees, parking lot islands, perimeter planting where required and any existing trees to be retained. Details of required landscaping showing species, dimensions, and

spacing of planted materials shall be provided, with a proposed timeline for installation.

- k) Name of the project, owner, name and address of engineer, architect, planner or landscape architect, scale, date and north arrow.

Application forms are available from the Zoning Administrator. If the proposed use is a conditional use, as specified in the Table of Uses, the applicant shall also submit a Conditional Use Permit Application for consideration and action through the processes outlined in Section 6.

4) Application Completeness.

No Downtown Development application shall be deemed complete unless it contains or is accompanied by all items required in this Ordinance, or requested by the Zoning Administrator, and a fee, in accordance with a fee schedule approved by the Town Council for the submittal of Downtown Development permit applications. Ten (10) folded of the application and attachments shall be submitted to the Zoning Administrator at the time a fee is paid.

Downtown Development permits require sufficient time for review by staff, and the Planning Board. Applications must be submitted a minimum of twenty-five days in advance of the next Planning Board meeting.

5) Staff Review.

Once the application is deemed complete, the Zoning Administrator shall review the Downtown Development Permit, and prepare written information regarding the facts and ordinance requirements for the Planning Board. The purpose of this process is to determine if the application and plans comply with the requirements of this Ordinance.

During the review process, the applicant may modify the application, plans, etc. as a result of discussions with staff, but must resubmit new drawings, plans, etc. to replace any portion of the application that has been changed.

6) Planning Board Review and Decision.

The Zoning Administrator shall place the Downtown Development Permit on the Planning Board calendar, and forward copies of the application and attachments to the Planning Board members, along with written staff comments.

The Planning Board shall have a maximum of thirty (30) days from the date on which it last met or until its next regularly scheduled meeting, whichever is longer, to review the application and to submit its recommendation to the Town Council. If a recommendation is not

made during said time period, the application shall be forwarded to the Town Council by the Zoning Administrator without a recommendation from the Planning Board.

Effect of Approval

If an application for a Downtown Development Permit is approved by Town Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the Downtown Development Permit.

7) Binding Effect

Any Downtown Development Permit so authorized shall be perpetually binding to the property included in such a permit unless subsequently changed or amended after review and approval of a new Downtown Development Permit by the Town Council.

8) Changes to Downtown Development Permit

Minor changes in the detail of an approved Downtown Development Permit may be made with the approval of the Zoning Administrator. The minor changes allowed include, but are not limited to:

- I) will not alter the relationship of the proposed development to adjacent property, and
- II) will not increase the gross floor area of any non-residential use by the smaller of ten (10) percent or ten thousand (10,000) square feet, and
- III) will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than one foot

No more than three (3) sets of minor changes may be approved by the Zoning Administrator. Further changes may only be made by submittal of a revised Downtown Development Permit application and a full review and approval of the new application by Planning Board and Town Council.

9) Certificate of Zoning Compliance

No certificate of zoning compliance for a use or structure requiring a Downtown Development Permit shall be issued for any building or land use on a piece of property which has received a Downtown Development Permit unless the building is constructed or used, or the land is developed or used, in conformity with the Downtown Development Permit approved by the Town Council. In the event that only a segment of a proposed development has been approved, the certificate of zoning compliance shall be issued only for that portion of the development constructed or used as approved.

If the application for certificate of compliance is for any building, the application shall include a scaled, dimensional plat, drawn by and certified as accurate by a professional engineer, architect, and/or land surveyor registered with the State of North Carolina with his or her seal, which shows the “as-built” information for all structures, buildings, parking areas, driveways, sidewalks, signs, landscaping, buffering, etc., which affirmatively shows that the building(s) or structure(s) and other site features were constructed in compliance with this Ordinance and the approved Downtown Development Permit.

10) Implementation of Downtown Development Permit

Unless the Town Council issues a Downtown Development Permit which either is specifically exempt from any time constraints, or has some other specified time period for implementation, the applicant must secure a valid building permit within a six (6) month period from the date of issuance of the Downtown Development Permit.

If a valid building permit is not in place at the end of said six month period, the Permit shall expire. The Zoning Administrator shall notify the applicant, the Town Council, and the Union County Dept. of Building Inspections Department of this expiration.

11) Violations and Penalties

After the effective date of Section 3.1.3., any person, who, being the owner or agent of the owner of any land located in the Downtown Development Overlay District, who constructs or erects any new building(s), or modifies the exterior of any existing building, or proposes a new use for the property, shall obtain a Downtown Development Permit authorizing the use, construction, or modification.

Violators of this Ordinance shall be subject to the enforcement procedures and all penalties for violations found in Section 1.5 of this Ordinance.

d) General Regulations Applicable to all New Developments (Except Single-Family, and Duplexes) in the Downtown Development Overlay District.

1) Setbacks

a) Highway District

The Highway District shall use the front, side and rear setback of the underlying zoning district.

b) Non-highway District

1) Build-to-line and Zero Front Setback

Uniform building “build-to” lines (setbacks) are key to establishing a pedestrian oriented downtown. In order to

accomplish this, the “build-to” line for all properties within the Downtown Development Overlay District shall be 0’, or at the edge of the proposed right-of-way, as shown on the most recent, adopted Union County Thoroughfare Plan.

Notwithstanding this “build-to” requirement, new structures may be located behind the build-to line (up to a distance of 50’) if such placement of structures would prevent the removal of existing healthy and significant trees over 6” in diameter or for the outdoor dining area of restaurants. In the latter case, a minimum of 60% of the seating area shall be covered with a hard surface material such as brick or decorative pavers, stone, ceramic tile, or colored, textured concrete.

An optional low wall (maximum of 30 inches high) which can provide a narrow seating area, may be located on the edge of an outdoor dining area provided said wall does not extend for more than 80% of the building frontage.

If there is a difference between the underlying zoning district setback and the setback listed in this Section, then the Downtown Development District Overlay regulations shall apply.

Except for driveways, sidewalks, outdoor pedestrian areas, or outdoor restaurants, no paving or parking areas may occur in front of the building.

2) Side Setback.

The side setback for all properties within the Downtown Development Overlay District shall be 0’ to encourage maximum usage of the property. If there is a difference between the underlying zoning district setback and the setback listed this Section, then the Downtown Development District Overlay regulations shall apply.

3) Rear Setback.

The rear setback for all properties within the Downtown Development Overlay District shall be a minimum of 10’ to encourage maximum usage of the property. If there is a difference between the underlying zoning district setback and the setback listed in this Section, then the Downtown Development District Overlay regulations shall apply.

2) Building Heights.

Building heights shall be limited to 35’ for all properties in the Downtown Overlay District. If there is a difference between the underlying zoning district height limits and the height listed in this

Section, then the Downtown Development District Overlay regulations shall apply.

3) Building Orientation and Location and Required Sidewalks

Buildings must be oriented to face the street, and designed to be pedestrian friendly, not located so as to separate the existing and/or proposed public sidewalks system by paved parking lots, or large expanses of non-required yards.

A five foot (5') wide concrete sidewalk shall be constructed in the proposed right-of way, adjacent to the property line, as shown on the most recently adopted version of Union County Thoroughfare Plan, to promote high levels of pedestrian activity. Sidewalks shall typically be a minimum distance of six (6) feet off of the back of curb in order to accommodate a planting strip which may also be used for the placement of trash receptacles, fire hydrants, bicycle racks, pedestrian benches, and similar elements in a manner that does not obstruct pedestrian access or motorist visibility. At least half of the cost of the sidewalk construction shall be borne by the Town of Mineral Springs. The applicant/owner shall be responsible for the remaining costs.

Curb and gutter will be determined on a case-by-case basis and depend upon whether road improvements are required as part of the development. Curb and gutter requirements may be waived by the Town Council in certain situations. (If road widening will occur in the future, based on the most recently adopted version of Union County Thoroughfare Plan, then the sidewalk shall be installed without curb and gutter).

If a building is on a corner lot, then a five foot (5') sidewalk shall be constructed on both sides unless a waiver is obtained from the Town Council. The building shall be oriented to both the streets.

4) Design Standards

a) Windows, Doors, Walls: The first floor of all commercial buildings should be designed to encourage and complement pedestrian-scale activity. It is intended that this be accomplished principally by the use of windows and doors arranged so that uses are visible and/or accessible from the street. Where windows are used they must be clear transparent glass to encourage window-shopping. Regulations to accomplish this are:

- 1) Ground level street front construction shall be a minimum of 60% non-reflective clear glass.
- 2) Where expanses of solid wall are necessary for interior reasons, the maximum length of a blank exterior wall plane facing an existing public street shall not exceed ten (10) linear feet. A

blank exterior building wall is any wall unbroken to a height of nine (9) feet by either:

- a) A public doorway made of transparent materials, or
 - b) A doorway made of opaque materials and recessed at least three (3) feet, or
 - c) A public stairway directly available at street level to the public, not including fire escapes or false doorways.
 - d) A window of at least fifteen (15) square feet in area and no more than three (3) feet above the sidewalk at its lowest point.
- b) Roof and Equipment: Flat roofs are encouraged to have a “cap” such as a cornice band or parapet cap. Roof top equipment shall be screened from view of a public street.
- c) Building Materials: Building materials for all façades and exterior surfaces play a significant role in the appearance and overall character of the individual building as well as for the Downtown area as a whole. The following standards are intended to enhance the quality and sense of place of the Downtown area, which in turn makes it a more attractive place for people to gather and do business.

1) Suggested Building Materials for Walls:

- a) New or used non-white brick
- b) Cut or carved stone
- c) Clear glass, glass block
- d) Cast Iron
- e) Clapboard where appropriate (limited)
- f) Ceramic tile
- g) Tinted/textured concrete masonry units
- h) Traditional stucco (not synthetic)
- i) Polished Marble (limited)

Prohibited materials include synthetic stucco; smooth concrete block; prefab steel panels; tilt-up concrete panels; corrugated fiberglass; vinyl siding; masonite particle board; highly reflective glass or metal; imitation masonry of any kind; imitation wood siding; astro-turf. Materials with a glossy or reflective finish such as polished marble should not be a dominant façade material.

2) Suggested Roofing Materials (where visible from the street).

- a) Flat concrete or clay tiles

- b) Slate or slate appearing substitutes
- c) Standing seam metal roofs (not batten or corrugated)
- d) Class A composition shingles

Prohibited roofing materials include exposed corrugated metal, batten standing seam metal, or plastic roofs.

3) Suggested Fences, Walls, and Gate Materials.

- a) Concrete or plaster with smooth or lightly textured surface
- b) Wrought iron
- c) Split face block
- d) New or used face brick
- e) Wooden picket fence

Prohibited materials include cinder block (whether colored or unfinished), chain link or “cyclone” fences, rough sawn or natural wood.

4) Suggested building colors:

- a) Environmental colors such as greens, tans, light browns, terra cotta, with black, dark blue, grays, and other dark colors used as accent are highly encouraged. Bright colors may only be used as accents and are subject to review and approval by the Town Council.

5) Suggested Windows and Doors:

- a) Large expanses of glass on buildings are not encouraged. The use of dividing the glass into smaller lights through the use of mullions or muntins is highly encouraged.
 - b) When shutters are utilized, it is suggested that they should be used consistently on the building, and tied to the overall design of the project. Bright colored shutters are prohibited.
- d) Outdoor Lighting: All public and private outdoor lighting installed in the Overlay District shall be planned to improve night-time public safety and security, while reducing excessive glare and light trespass and shall be in compliance with Section 4.10:
- 1) Decorative street lighting in compliance with Section 4.10 shall be installed along all properties in the Overlay District that front along all public streets. It shall be the duty of the Town Council to review and select a spacing requirement for luminaries in the Downtown Overlay District. The spacing specifications recommended shall be available from the Zoning Administrator.

- 2) All luminaires, in non-commercial areas, lawfully in place prior to the date of this section, are deemed “pre-existing luminaires”. However, any luminaire that replaces a pre-existing luminaire that is moved, must meet the standards of this ordinance.
 - I) The operation of searchlights, lasers, or other high-intensity beams is prohibited.
 - II) Light sources shall be located within the street-tree/street furniture zone. Pedestrian lighting will be in addition to other street light luminaires installed by the State or the Town for vehicular traffic safety. For consistency, all other luminaries, whether free-standing on the property (such as security luminaries in parking lots) or mounted on a structures (such as wall packs) proposed within the Downtown Development Overlay District shall be consistent in style and character with the architecture of the buildings proposed on the site. In addition, the use of color improved, mercury vapor bulbs is highly encouraged in all other luminaries, whether freestanding or mounted on structures, so that the color spectrum of the bulbs are consistent and harmonious throughout the Overlay area. The Town Council may allow other types of bulbs if the lighting color spectrum of the alternative bulb is equivalent to a mercury vapor bulb.
- e) Awnings and Canopies: Entrances to buildings and shop front windows are permitted to have canopies and awnings made of canvas or treated canvas material. Metal awnings are not permitted. Awnings or canopies may extend from the building up to one-half the width of the sidewalk area. In no case shall an awning or canopy extend beyond the sidewalk, nor shall it interfere with the growth or maintenance of trees or shrubs. A minimum overhead clearance of 8’ from the adjacent pedestrian area or sidewalk must be maintained.
- f) Signs and Kiosks: It shall be the duty of the Town Council to review and select a style or type of kiosk for use in the Downtown Overlay District. The specifications of the recommended kiosk(s) allowed in the Overlay District shall be available from the Zoning Administrator.
 - 1) Only wall signs (or signs on canopies) and information kiosks are allowed in the Downtown Development Overlay District. No freestanding signs are allowed, permanent or temporary. Kiosks may contain signs listing names and/or uses, or location of more than one business, activity, or professional office conducted within a building, group of buildings, or shopping center. Such signs are typically located near entrances or at strategic locations within the center or complex, and contain no other identifying or advertising messages.
 - 2) Wall signs are limited in size to 10% of the square footage of any building façade.

- 3) All other types of signs are prohibited in the Overlay District with the exception of signs exempted in Section 8.2.
- g) Utilities: All new developments shall place utilities underground, except for major transmission lines. All utility services which are upgraded in the Downtown Development Overlay District shall also place utilities underground.
- h) Curb and Gutter: The requirement for curb and gutter in all new developments in the Overlay district will be determined on a case-by-case basis, depending upon whether road improvements are required. The Town Council may waive the requirement for curb and gutter, under certain circumstances.
- i) Landscaping: All new developments in the Overlay district shall provide landscaping according to the underlying zoning district regulations found in Article 15, with the following exceptions and requirements.
 - 1) Small maturing trees shall be planted in the planting strip between the curb and sidewalk. The maximum spacing between trees shall be thirty (30) feet (excluding driveways and cross-walk areas).

Responsibility for construction, landscaping materials, and landscape installation, shall be borne by the applicant.
 - 2) Continued landscaping maintenance shall be the responsibility of the property owner and will be provided as set forth in Article 15.
 - 3) When non-required front yards are proposed, landscaping of shrubs, flowers, grass, or other decorative or vegetative ground cover is required, where there is not pavement of some type.
 - 4) Waivers of side and rear buffers required between certain zoning districts under Article 15, may also be granted by the Town Council, when the spirit and intent of this Ordinance have been met with existing vegetation or other device(s) to buffer the zoning districts, or for unusual topography.
 - 5) All dumpsters or trash handling areas (with the exception of trash receptacles located in the street tree/street furniture zone of the sidewalk), and all service entrances or utility structures, and loading docks or spaces, shall be screened from abutting property and from public view from a public street).
- j) Parking Lots: Off-street parking and loading standards and requirements can be found in Section 9, with the following exceptions:
 - 1) Non-highway District. Parking lots shall be placed in the rear yard. They may be placed in a side yard with approval of the Town Council, if the spirit and intent of this Ordinance have been met. All handicap-parking spaces shall be located as close as possible to entrances.

Parking lots shall be designed to connect to adjacent existing or future parking lots, in order to reduce vehicular traffic on the public rights-of-way, and encourage interconnectivity of parking lots in the same block.

2) Highway District: Parking lots shall be placed in the rear yard. They may be placed in the side yard with the approval of the Town Council, if the spirit and intent of this Ordinance have been met. All handicap-parking spaces shall be located as close as possible to entrances. A limited number of parking spaces may be placed in the front yard with the approval of the Town Council using the following guidelines:

a) Front yard parking spaces shall not exceed an amount equal the total number of spaces that could be provided for on-street parallel parking, not including fractions.

For example, the number of parking spaces calculated for a lot having a frontage of 145 ft would be as follows:

Total Lot Frontage:	145'
<u>Less Required Driveway Entrance:</u>	<u>-20'</u>
Remaining Lot Frontage:	125'
<u>Divided By 20' Parking Space=</u>	<u>7.25</u>
Allowed Spaces (excluding fraction) =	7

b) Front yard parking spaces shall include the required handicap-parking spaces.

Parking lots shall be designed to connect to adjacent existing or future parking lots, in order to reduce vehicular traffic on the public rights-of-way, and encourage interconnectivity of parking lots in the same block.

k) Landscaping in Parking Lots: In addition to the parking lot buffer requirements found in Section 9, when off-street parking areas contain twenty or more parking spaces, landscaping within the parking lot is required as described below:

1) For each twenty (20) off-street parking spaces located in a side or rear yard, the following number of shrubs and understory trees shall be provided within the parking lot:

Ten (10) shrubs and
Two (2) small maturing (understory) trees

2) Such landscaped areas shall be separated from parking spaces, driveways and maneuvering areas by a curb at least six (6) inches in height designed to minimize damage by vehicles to plants located in the landscaped area. For an area to be considered as satisfying the landscape provision of this Ordinance, it must contain a minimum

contiguous area of one hundred eighty (180) square feet with a minimum width of 8’.

- 3) Street trees and landscaping located planting strip shall not be counted towards the off-street parking landscaping requirement.
 - 4) All off-street parking spaces shall be located no more than fifty (50) feet from an understory tree counted as part of the off-street parking landscaped area.
- l) Street Furniture: It shall be the duty of the Town Council to review and select a style or type of pedestrian benches, trash receptacles, bicycle racks, and any other street furniture or amenities that may be added, at the option of the developer, in the planting strip in the Downtown Overlay District. The specifications of the recommended street furniture allowed in the Overlay District shall be available from the Zoning Administrator.
- m) Variation in Massing: A single, large, dominant building mass shall be avoided.
- 1) Horizontal masses shall not exceed a height to width ratio of 1:3 without substantial variation in massing that includes a change in height and a projecting or recessed element(s).
 - 2) Changes in mass shall be related to entrances, the integral structure, and/or the organization of interior spaces and activities and not merely for cosmetic effect. False fronts or parapets create an insubstantial appearance and are prohibited.
- n) Site-Specific Design: Building design shall contribute to the uniqueness of the community with predominant materials, elements, features, color range, and activity areas tailored specifically to the site and its context. In the case of a multiple building development, each individual building shall include predominant characteristics shared by all buildings in the development so that the development forms a cohesive place within the overlay district, or community. A standardized prototype design shall be modified if necessary to meet the provisions of this Ordinance.
- o) Non-Conforming Existing Situations: The provisions of Section 7, “Non-Conforming Situations” shall apply to all property located in the Downtown Overlay District with the following exceptions:
- 1) Five (5) years after property has received a Downtown Development Design Overlay District zoning classification, all uses (except single or two-family principal residential uses) on said lot shall conform with the sidewalk provisions, the landscaping in parking lots provisions, and street tree/landscaping provisions contained herein. In cases where the parking lot landscaping provisions would reduce the number of parking spaces below those required in this Ordinance, the Zoning Administrator may waive these requirements if the spirit and intent of this Ordinance have been met as much as possible.

e) Additional Regulations Applicable to all New Commercial and Mixed Use Developments in the Downtown Overlay District.

1) Purpose.

These additional standards are intended to promote the design of an urban environment that is built to human scale to encourage attractive street fronts and other connecting walkways that accommodate pedestrians as the first priority, while also accommodating vehicular movement.

2) Relationship of Buildings to Streets, Sidewalks, Walkways and Parking.

- a) Orientation to a Connecting Sidewalk. At least one main entrance of any commercial or mixed-use building shall face and open directly onto a connecting 5' wide, sidewalk providing pedestrian access. The sidewalk shall be constructed of concrete or another agreed upon material.
- b) Walkways within the site shall be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination and shall not be located and aligned solely based on the outline of parking lot configuration. Connecting walkways shall be grade separated from the parking lot, with a concrete surface not less than 6' in width.

3) Character and Image.

a) Facade Treatment.

- 1) Minimum Wall Articulation. Building bays shall be a maximum of thirty (30) feet in width. Architectural features such as columns, ribs or pilasters, piers, and fenestration pattern shall visually establish bays. In order to add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size, the following additional standards shall apply:
 - a) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding thirty (30) feet without including at least two of the following: change in plane, change in texture or masonry pattern, windows, entrances, arcades, arbors, awnings, treillage with vines, or an equivalent element that subdivides the wall into human scale proportions.
 - b) Side or rear walls that face pedestrian walkways may include false windows and false door openings defined by frames, sills, and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building.
 - c) All sides of the building shall include materials and design characteristics consistent with those on the front.

b) Entrances.

- 1) Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade, porch or portico in order to provide shelter from the summer sun and winter weather.
- c) Awnings.
 - 1) Awnings, when used, shall be no longer than a single storefront.
- d) Base and Top Treatments. All facades shall have:
 - 1) A recognizable "base" consisting of (but not limited to):
 - a) Thicker walls, ledges, or sills;
 - b) Integrally textured materials such as stone or other masonry;
 - c) Integrally colored and patterned materials such as smooth-finished stone or tile;
 - d) Lighter or darker colored materials, mullions, or panels; or
 - e) Planters.
 - 2) A recognizable "top" consisting of, but not limited to:
 - a) Cornice treatments, other than just colored "stripes" or "bands", with integrally textured materials such as stone or other masonry or differently colored materials;
 - b) Sloping roof with overhangs and brackets;
 - c) Stepped parapets.

4. Site Amenities for Commercial and Mixed Use Developments.

- a) Development plans shall include site amenities that enhance safety and convenience, promote walking or bicycling as an alternative means of transportation, or add to the ambiance of the site. Site amenities may include, but not be limited to, bike racks, drinking fountains, decorative water features/fountains, trash receptacles, canopies, bus shelters, pedestrian benches, artworks, gardens, etc.
- b) It shall be the duty of the Town Council to review and select a style or type of pedestrian benches, trash receptacles, bicycle racks, bus shelters, drinking fountains, or other street furniture/amenities allowable in the Downtown Overlay District. The specifications of the recommended site amenities allowed in the Overlay District shall be available from the Zoning Administrator. The Town Council shall approve site features such as artworks, gardens, or decorative water features/fountains on a case by case basis.

3.1.4 Airport Overlay (AO) District

**AO Section 1:
Purpose**

The Airport Overlay (AO) District is intended to protect the airport environ from the encroachment of incompatible land uses which present hazards to users of the airport as well as to persons residing or working in the airport vicinity. It is the intent of this Ordinance to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Monroe Regional Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, AO designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of the Ordinance with other regulations duly established by the Town of Mineral Springs, whose primary intent is to further the purposes set out above.

**AO Section 2:
Applicability**

The Airport Overlay District is not intended to be utilized as a district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the district to which such designation is attached, appended, or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.

**AO Section 3:
Definitions**

The following definitions shall apply to this AO Section:

Airport: Monroe Regional Airport

Airport Elevation: The highest point of the airport's useable landing area measured in feet above mean sea level (679.0 feet).

Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in AO Section 5 of this Ordinance.

Approach, Transitional, Horizontal, And Conical Zones: These zones are set forth in AO Section 4 of this Ordinance.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.

Hazard To Navigation: An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

Hazard To Navigation: An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

Height: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be a mean sea level elevation unless otherwise specified.

Horizontal Surface: A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger Than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of the Ordinance or an amendment thereto.

Nonprecision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in AO Section 5 of this Ordinance.

Person: An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two-hundred (200) feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in AO Section 4 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including by without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

AO Section 4: Airport Zones Established

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Monroe Regional Airport. Such zones are shown on the Official Zoning Map of the Town of Mineral Springs. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and are defined as follows:

Precision Instrument Runway Approach Zone (AO-A): The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Nonprecision Instrument Runway Approach Zone (AO-AN): The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Transitional Zones (AO-T): The transitional zones are the areas beneath the transitional surfaces.

Horizontal Zone (AO-H): The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those

arcs. The horizontal zone does not include the approach and transitional zones.

Conical Zone (AO-C): The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there, from a horizontal distance of 4,000 feet.

AO Section 5: Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limitations herein established for each zone in questions as follows:

Precision Instrument Runway Approach Zone (AO-AP): Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence, slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

Nonprecision Instrument Runway Approach Zone (AO-AN): Slopes thirty-four (34) feet outward for each foot upward beginning at the end of the horizontal distance of ten thousand (10,000) feet along the extended runway centerline.

Transitional Zones (AO-T): Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface, and extending to a height of 150 feet above the airport elevation (or 829 feet above mean sea level). In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the side of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

Horizontal Zone (AO-H): Established at 150 feet above the airport elevation or at a height of 829 feet above mean sea level.

Conical Zone (AO-C): Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation or at a height of 1,029 feet above mean sea level.

Excepted Height Limitations: Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 100 feet above the surface of the land.

**AO Section 6:
Use Restrictions**

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

**AO Section 7:
Nonconforming Uses**

Regulations Not Retroactive: The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and is diligently prosecuted.

Marking and Lighting: Notwithstanding the preceding provision of this Ordinance, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Monroe Regional Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Monroe Regional Airport Authority.

**AO Section 8:
Permits**

Future Uses: Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it, to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall

be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with AO Section 8-4.

In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than one-hundred (100) feet of vertical height above the ground except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than one-hundred (100) feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.

In areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than one-hundred (100) feet above the ground, except when, such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in AO Section 5-12.

Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become greater hazard to air navigation than it was on the effective date of this Ordinance, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.

Nonconforming Uses Abandoned or Destroyed: Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 60% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this Ordinance.

Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in compliance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment for a variance from such regulations. The application for a variance shall accompany a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if

granted, will not be contrary to the public interest, will not create hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Ordinance. Additionally, no application for a variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of this application has been furnished to the Director of the Monroe Regional Airport for advice as to the aeronautical effects of the variance. If the Airport Director does not respond within thirty days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

Obstruction Marking and Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Monroe Regional Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights.

AO Section 9: Enforcement

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by the Ordinance to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Administrator.

Section 3.2 Zoning Map Interpretation

The map entitled "Official Zoning Map of the Town of Mineral Springs, North Carolina", as certified as such by the Town Clerk of the Town of Mineral Springs, North Carolina is hereby adopted by reference and declared to be a part of this Ordinance. The zoning of the districts on said map is hereby declared to be in the proper zoning for said districts as of the effective date of this Ordinance.

3.2.1 For the purposes of interpretation of district boundaries as shown on the zoning map, the following rules shall apply:

- a) Boundaries indicated, as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- c) Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits.

- d) Boundaries indicated as parallel to or extensions of features indicated in this section shall be construed as such. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- e) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by this Section the Town Council shall interpret the district boundaries.