

Article 9 - Zoning Districts and Zoning Map

Section 16-9.1 Residential Districts Established. The following residential districts are hereby established: R-A, R-15, R-10S, R-10D, R-10M, R-6S, R-6M, and R-MH. Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these districts are explained in the remainder of this section.

- a) The R-A (Residential-Agriculture) district is designed to accommodate residential uses and a wide variety of plant and animal-related uses, but excluding those uses that would have the potential of creating a nuisance for adjoining or adjacent residential uses.
- b) The R-15 district is intended to be a low density residential district in which single family residences constitute the predominant use. Multi family dwellings and mobile homes are prohibited in this district.
- c) The R-10S district is intended to be a medium density residential district in which single family residences constitute the predominant use. Multi family dwellings and mobile homes are prohibited in this district.
- d) The R-10D district is intended to be a medium density residential district in which two family residences constitute the predominant use.
- e) The R-10M district is intended to be a medium density residential district in which multi family residences constitute the predominant use.
- f) The R-6S district is intended to be a higher density residential district in which single family residences constitute the predominant use. Multi family dwellings and mobile homes are prohibited in this district.
- g) The R-6M district is intended to be a higher density residential district in which two-family and multi-family residences constitute the predominant use.
- h) The R-MH district is designed primarily to accommodate mobile homes and mobile home parks.

Section 16-9.2 Nonresidential Districts Established. The following nonresidential districts are hereby established: CB (Central Business), TC (Town Center), GB (General Business), OI (Office/Institutional), HMC (Hospital/Medical Complex), HSG (Horse Show Grounds), PGS (Parks and Green Space). These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.

- a) The CB district is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the town's central business district.
- b) The GB district is designed to accommodate the widest range of commercial activities permitted within the town, particularly those that are automobile oriented.
- c) The OI district is designed to accommodate a narrow range of commercial and institutional

activities, including offices, schools, churches, libraries, clubs and lodges, and government buildings.

- d) The HMC district is designed to accommodate the hospital and related offices and facilities that are designed to provide a continuum of care, including facilities that provide independent living, assisted living/CCRC, home health care, adult day care, intermediate care, skilled nursing care, and acute care.
- e) The HSG district is designed to accommodate equestrian activities such as horse shows.
- f) The PGS district is designed to accommodate public and private outdoor recreational facilities, including parks, trails, athletic fields, golf courses, tennis courts, swimming pools, etc.
- g) The TC district is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the town's central business district, while protecting the historic character of the downtown core primarily along Main Street.

Section 16-9.3 Overlay Districts.

16-9.3.1 Short-Term Rental Overlay District. The purpose of the short-term rental overlay district is to provide areas within the underlying multi-family residential zoning districts that are appropriate for short-term residential rental uses. As an overlay district, the Short Term Rental Overlay District does not replace or restrict the range of uses allowed in the underlying zoning district, but allows for additional uses within the boundaries of the overlay district.

- a) *Designation of Overlay District.* Following approval by the Board of Commissioners of an area to be included in the Short-Term Rental Overlay District, the area so designated shall be labeled as "STR" on the Official Zoning Map.
- b) *Permitted Uses.* In addition to the uses permitted within the underlying zoning district, short-term rental of a dwelling unit is allowed within the Short-Term Rental Overlay District.
- c) *Adoption Criteria.* A Short-Term Rental Overlay District may be established if the proposed map amendment application meets the following standards, criteria, and conditions:
 - 1) The map amendment may only be initiated by the Board of Commissioners, the Planning Board, the Town Administration, or an owner of property located within the proposed district. Unless a map amendment is Town-initiated (by the Board of Commissioners, the Planning Board, or the Town Administration), an application for a map amendment must be endorsed by a majority of the property owners of all lots, parcels, and units to be included within the boundary area of the proposed map amendment. The public notice, public hearing, and procedural requirements for the map amendment shall be as provided in Article 23.
 - 2) The area proposed for the short-term rental district must be located within an

- existing R-10M or R-6M zoning district.
- 3) The area proposed for the short-term rental district may only include an existing or proposed multi-family residential complex that has a homeowner's or property owner's association with the authority to regulate or manage short-term rental uses within the complex.
 - 4) The proposed short-term rental use must be compatible with established land uses in the immediate vicinity of the lots or parcels to be designated STR.
 - 5) The proposed short-term rental use will not result in so many additional vehicle trips that adverse traffic impacts will be felt upon the streets and within the neighborhoods bordering the proposed STR district.
 - 6) In addition to the requirements contained in Article 22 (Screening and Trees), the Council may require that the STR district be screened from any other adjacent residential use if it finds that any existing screening is inadequate or that there is insufficient separation between the proposed STR district and the adjacent residential uses.

16-9.3.2 Floodplain and Floodway Districts. The floodplain and floodway districts are hereby established as "overlay" districts, meaning that the following districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the applicable overlay district. The floodplain and floodway districts are further described in Section 16-16 of this chapter.

Section 16-9.4 Official Zoning Map. There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the city's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the office of the land use administrator. A copy of the zoning map shall also be filed in the Office of the Register of Deeds for Watauga County and Caldwell County.

Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further Board authorization or action is required so long as no district boundaries are changed in this process.

Section 16-9.5 Amendments to Official Zoning Map. Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments to this chapter, as set forth in Article 23.

16-9.5.1 The administrator shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Board. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued, and a copy of the updated map shall be

furnished to the Office of the Register of Deeds for Watauga County and Caldwell County.

16-9.5.2 No unauthorized person may alter or modify the Official Zoning Map.

16-9.5.3 The administrator shall keep copies of superseded prints of the zoning map for historical reference.

Section 16-9.6 Conditional Districts (CD)

Conditional districts are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the Board of Commissioners in accordance with G.S. 160A-382. Conditional districts provide for orderly and flexible development under the general policies of this Ordinance without the constraints of some of the prescribed standards guiding by right development. Conditional districts may be associated with any land development district and shall be designated by adding the suffix "CD" to the land development district with which they are associated. Conditional districts are not intended to relieve hardships that would otherwise be handled using a variance procedure.

(A) Application Procedures

(1) Applicant and Property. Conditional district classification shall only be considered upon the request of the owners and/or the representatives of the owners of all the property to be included. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. "Unified control" means that all land to be included within a CD shall be owned or otherwise under the legal control of the person or legal entity which has applied for a conditional district. Such person or entity shall be legally capable of providing a commitment to the town that the CD development will comply with all documents, plans, standards and conditions ultimately approved by the town.

(2) Standards of District to be Met. Within an approved conditional district, no use shall be permitted except pursuant to the conditions imposed by the applicant on the conditional district in the approval of the rezoning. In general, the development standards for the associated land development district, as well as general standards contained in this chapter, shall govern development within the conditional district. However, within a conditional district petitioners may place additional requirements or standards onto themselves and their property or ask that certain uses identified in the associated district be decreased. In addition, specific development standards (except those involving use), may be varied if specifically requested by the petitioner as part of a conditional district application.

If no specific request is made by the petitioner to change the applicable development standards or if the petition is silent on the point, it shall be understood that all applicable development standards shall govern the development and use of the property.

(3) Contents of Application. A conditional district application shall consist of the master plan, as provided for herein, as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the Board of Commissioners. The master plan, as a site specific conditional zoning plan, is itself a condition of the conditional district rezoning. The master plan shall include those existing environmental features (i.e., significant/historic trees, watercourses, rock outcroppings) required on application forms and checklists provided by the Land Use Administrator. Additional application details are found in Section 16-4.4 of this Chapter.

(a) Master plan. The master plan is intended to provide a detailed two-dimensional drawing that illustrates all of the required site features including buildings, parking areas, streets locations, street sections, rights-of-way, property lines and setbacks, required or proposed watercourse buffers, site landscaping and lighting (in conceptual form), and all related development calculations (e.g., density, proposed building areas, number of parking spaces, estimate impervious surface) in sufficient detail to show compliance with this ordinance. Detailed engineering drawings such as subsurface utilities (e.g., water and sewer) and on-site stormwater facilities are not required for master plans. All plans shall be submitted at a scale not less than 1 inch = 50 feet (for site plans) or 1 inch = 200 feet (for subdivisions) unless otherwise authorized by the Administrator and shall, at a minimum, consist of the following:

- (1)** The overall boundary and area of the district, including underlying zoning districts;
- (2)** The general location, orientation and size of principal structures and associated parking areas; landscape and buffer areas; open space areas; the location, size and general treatment of environmentally sensitive areas; the general location and size of existing and proposed water mains and sewer trunk lines required to service the development; and general traffic routes (external and internal) to and from the development with major access points identified;
- (3)** Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios or impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development;
- (4)** A full list of proposed uses consistent in character with the underlying zoning district. Such use classifications may be selected from any of the uses, whether permitted, by right or conditional, allowed in the general zoning district upon which

the conditional district is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the conditional district;

(5) A proposed development schedule if the project is to be phased.

(B) Formal Review.

(1) Procedure. Formal review shall be in accordance with the procedures contained in Section 16-23.1, "Amendments", except as modified herein.

(2) Site-Specific Development Plan. Conditional zoning is intended to link map amendments with a specific development plan and uses; therefore, the limitations contained in Section 16-10.5 concerning the range of uses proposed shall not apply.

(3) Decisions. Decisions by the Board of Commissioners shall be by majority vote, unless a valid protest petition has been filed, in which case, a 3/4 majority vote of eligible members shall be required for approval.

(4) Fair and Reasonable Conditions. The provisions of the CD Master plan shall replace all conflicting development regulations set forth in this Ordinance which would otherwise apply to the development site. The Board of Commissioners may attach, reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s); provided, however, only those conditions mutually approved by the Town and the applicant may be incorporated into the zoning regulations or permit requirements for the conditional district. Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to the Land Use Ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site. The applicant will have a reasonable opportunity to consider and respond to any additional requirements proposed by either the Planning Board or the Board of Commissioners prior to final action.

(C) Effect of Approval/Changes.

The applicant may proceed with development only after approval of the conditional district master plan by the Board of Commissioners, followed by approval of any necessary Site plans or subdivision Plats, except that all subsequent approvals shall be completed by the Administrator. The development and use of all land within the conditional district shall be in keeping with the approved master plan and all applicable provisions therein.

(1) Final Approval by Stages. If so reflected on the master plan, the Board of Commissioners may allow the staging of final development. Each phase of development

shall adhere to all applicable provisions and standards of this section and the applicable CD master plan.

(2) Substantial Changes. Any substantial change to a master plan as noted below shall be reviewed by the Planning Board and approved or denied by the Board of Commissioners as an amended conditional district. The following changes to a CD master plan shall require approval by the Board of Commissioners:

(a) Land area being added or removed from the conditional district.

(b) Modification of special performance criteria, design standards, or other requirements specified by the enacting ordinance.

(c) A change in land use or development type beyond that permitted by the approved master plan.

(d) When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.

(e) When there is an increase in the total number of residential dwelling units originally authorized by the approved master plan.

(f) When the total floor area of a commercial or industrial classification is increased more than 10 percent beyond the total floor area last approved by Board of Commissioners.

(3) Additional Changes. All other changes to a CD Master plan shall receive approval by the Planning Board. However, if in the judgment of the Planning Board, the requested changes alter the basic development concept of the CD, the Planning Board may require concurrent approval by the Board of Commissioners.

(4) Rescission of Conditional Districts. The applicant shall secure a valid building permit or obtain approval of a site specific development plan within a 12-month period from date of approval of the conditional district unless otherwise specified. If such project is not complete or a valid building permit or an approved site specific development plan is not in place at the end of the 12-month period, the Administrator shall notify the applicant of such finding. Within 60 calendar days of notification, the Administrator shall make a recommendation concerning the rescission of the conditional district to the Board of Commissioners. The Board of Commissioners may then rescind the conditional district, or extend the life of the conditional district for a specified period of time. The rescission of a conditional district shall follow the same procedure as used for approval.