



*PURPOSE ,  
AUTHORITY, &  
LEGAL STATUS*

ARTICLE

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**PURPOSE, AUTHORITY, & LEGAL STATUS**

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# ARTICLE 1. PURPOSE, AUTHORITY, & LEGAL STATUS

## 1.1 TITLE

This Ordinance shall be known as the "Development Ordinance of the Town of Mineral Springs, North Carolina," and may be referred to as "Mineral Springs Development Ordinance". The associated zoning map is identified by the title "Official Zoning Map, Mineral Springs, North Carolina," and may be known as the "Zoning Map."

## 1.2 PURPOSE

- A. The purpose of these regulations shall be to:
- Regulate the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, and the location and use of buildings;
  - Prevent overcrowding of land and lessen congestion in the streets;
  - Promote the public health, safety, and general welfare and secure safety from fire, panic and other dangers;
  - Provide adequate light and air;
  - Protect floodplains and wetlands;
  - Promote economy in governmental expenditures; and
  - Encourage the most appropriate use of land, buildings, and other structures within the area of jurisdiction of this Ordinance.
- B. The zoning districts and maps have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the Land Development Plan for the development of the community, as well as with due consideration of existing development and uses of land within the Town of Mineral Springs and prior zoning under the auspices of Union County.
- C. These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment, and assuring the development of a future environment that realizes the most appropriate use and enjoyment of land throughout the Town. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

## 1.3 AUTHORITY

- A. This Ordinance is adopted pursuant to the authority granted by North Carolina General Statutes (NCGS) Chapter 160D.
- B. In accordance with the requirements of NCGS 160D-703 that zoning regulation be by districts, the Town, as shown on the Zoning Map accompanying this Ordinance, is divided into districts, as set forth in Article 4, which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

## 1.4 ZONING MAP

### 1.4.1 ADOPTION BY REFERENCE

The Zoning Map and all the notations, references and all 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 and set out herein. The Official Zoning Map is on file in the Town Hall and is available for inspection by the public.

### 1.4.2 ZONING MAP MAINTENANCE

The Official Zoning Map shall be retained in the office of the Administrator. The Administrator or designee shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Council that a zoning change has been made, the Administrator shall make the necessary changes on the Official Zoning Map.

### 1.4.3 INTERPRETATION

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation. Where the Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are different than those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret zoning district boundaries.

#### 1.4.3.1 CENTERLINE

Where a boundary line lies within and follows a street or alley right-of-way, railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such

street or alley right-of-right, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts. If such right-of-way is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street or utility easement.

#### **1.4.3.2 EDGE LINE**

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street or utility easement.

#### **1.4.3.3 LOT LINE**

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

#### **1.4.3.4 JURISDICTIONAL BOUNDARIES**

Boundaries indicated as approximately following Town limits shall be construed as following the Town limits.

#### **1.4.3.5 WATERCOURSES**

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

#### **1.4.3.6 EXTENSIONS**

Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, Town limits or County boundary shall be so construed.

#### **1.4.3.7 SCALING**

In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.

## **1.5 APPLICABILITY**

### **1.5.1 JURISDICTION**

These regulations shall govern the use of all land and the development thereof within all of the incorporated area of the Town of Mineral Springs, North Carolina.

### **1.5.2 ORDINANCE APPLICABILITY AND EXEMPTIONS**

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any change of use be established for any building, structure, or land, unless in conformity with the general provisions of this Ordinance and the specific provisions for the district in which it is located, except as specified throughout this Ordinance. These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted. Any preliminary or final development plat approvals required for such approved and exempted site specific plans shall be conducted in accordance with the requirements of the Zoning Ordinance or Subdivision Ordinance under which they were approved.

### **1.5.3 MINIMUM REGULATIONS**

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standards shall govern.

## **1.6 ABROGATION & SEPARABILITY**

- A. If any section, specific provision, or standard of these regulations, including any zoning district boundary that now exists or may exist in the future, is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.
- B. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, water supply watershed regulations, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are

imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

## **1.7 PLAN CONFORMITY AND RIGHT-OF-WAY DEDICATION**

- A. In accordance with the requirements of NCGS 160D-701, the regulations adopted pursuant to this Ordinance shall be consistent with the Town's Land Use Plan and any specific plans adopted by the Town Council. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans and any other adopted plans.
- B. When a proposed development includes any part of a thoroughfare which has been designated as such upon the officially adopted Charlotte Regional Transportation Planning Organization (CRTPO) Comprehensive Transportation Plan (CTP), such thoroughfare right(s)-of-way shall be dedicated and constructed by the developer(s) as shown on the plan. Where such right-of way does not currently exist, the developer shall be required to dedicate the necessary right-of-way on the development side of the street.

## **1.8 DEVELOPMENT APPROVALS AND VESTED RIGHTS**

### **1.8.1 DEVELOPMENT APPROVAL DURATION**

- A. Pursuant to NCGS 160D-1109, building permits expire six months after issuance unless work under the permit has commenced and work has not been discontinued for a period of more than 12 months after the work has commenced.
- B. Unless otherwise specified, local development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for

a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

- C. Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.
- D. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phased development.
- E. Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.
- F. If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, then NCGS 143-755 applies.



### **1.8.2 ESTABLISHMENT OF DEVELOPMENT VESTED RIGHTS**

Pursuant to NCGS 160D-108.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific vesting development plan approval which shall entitle said landowner to develop property in accordance with said site specific development. The procedure for establishing a vested right for two (2) to five (5) years is set forth in Section 3.11.

### **1.8.3 EFFECT OF VOLUNTARY ANNEXATION ON VESTED RIGHTS**

A petition for annexation filed with the Town shall contain a signed statement declaring whether or not any zoning vested right with respect to the property subject to the petition has been established under NCGS 160D-108. A statement that declares that no zoning vested rights has been established or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner and any zoning vested right shall be terminated.

### **1.8.3 DEVELOPMENT AGREEMENTS**

Development Agreements may be approved by the Town Council in accordance with NCGS Chapter 160D, Article 10.

## **1.9 EFFECTIVE DATE**

These regulations shall become effective on July 12, 2019. Upon such date, these regulations shall supersede, repeal and replace the Town of Mineral Springs Zoning Ordinance and Subdivision Ordinance.