

ARTICLE IV: CONDITIONAL USES

Section 4-1 General

Conditional uses add flexibility to the zoning ordinance by allowing uses, which could otherwise be undesirable; to be established in designated districts under conditions imposed by the Board of Adjustment. Applications for conditional use permits shall be filed with the Zoning Administrator, who shall immediately transmit the application to the Board of Adjustment. Before granting a conditional use, the Board of Adjustment shall advertise and hold a public hearing, such public hearing being advertised in a paper of general circulation at least one week in advance. After the public hearing, the Board of Adjustment shall grant permission to establish conditional uses as permitted under these regulations if the Board of Adjustment finds that:

- 4-1.1 the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Hertford and its environs;
- 4-1.2 the proposed use will not adversely affect the public health and safety if located where proposed and developed according to the plan as submitted and approved;
- 4-1.3 the proposed use will not be detrimental to the use development, or value of adjacent properties; or that the use is of a public necessity;
- 4-1.4 the proposed use will not be affected adversely by the existing uses;
- 4-1.5 the proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use;
- 4-1.6 the proposed use or its location will not constitute a nuisance or hazard to surrounding property or residents because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation or type of physical activity; and ,
- 4-1.7 the use meets all required conditions and specifications.

Section 4-2 Specified Conditions

The Board of Adjustment may grant permission for the establishment of conditional uses, subject to any specific conditions, either set forth or referenced below, or which said board may deem necessary to satisfy the conditions of Section 4-1 of the Article.

- 4-2.1 Bulk Storage of Oil, Gasoline, and Other Flammable Materials:
 - a) the front, rear, and side yards shall be a minimum of fifty (50) feet;
 - b) the storage area shall be enclosed by a fence at least six (6) feet in height; and,
 - c) the tanks and other storage facilities shall meet the requirements of the National Fire Protection Association.

4-2.2 Junk and Salvage Yards:

- a) the front rear, and side yards shall be a minimum of fifty (50) feet;
- b) the storage area shall be screened by a continuous visual buffer at least six (6) feet in height; and,
- c) junk or salvage shall not be allowed to collect water, which provides breeding ground for mosquito and other insects, or harbor breeding ground for rats or other rodents.

4-2.3 Marinas, Private (including facilities for storage and repairs of boats and sale of boating supplies and fuel)

- a) Location and site requirements. Marinas shall be so located as to be accessible from major roads without creating traffic congestion on minor streets through residential districts.
- b) Operational and site planning requirements.
 - 1. Launching ramps, boat repair facilities for sale of boating supplies and fuel, clubhouses, and parking areas for boat storage on land which are to be open for use between the hours of 10:00 P.M. and 7:00 A.M. shall be at least three hundred (300) feet from the nearest lot line of any lot upon which a residence is permissible. If any such areas or functions are not open between the hours indicated, the distance may be reduced to 150 feet, or if parking areas and areas for boat storage on land are enclosed by a solid masonry wall at least six (6) feet in height; the distance may be reduced to 150 feet.
 - 2. A minimum of one (1) off-street parking space per boat slip shall be required, provided that where launching ramps adjoin the parking area, the parking spaces shall all have a minimum dimension of twelve (12) feet by forty (40) feet.
 - 3. Where fuel is to be dispensed in conjunction with other marina operations, no pump or fuel storage area shall be located within fifty (50) feet of any adjacent property line or public right-of-way.

4-2.4 Sanitary Landfill or Incinerator:

- a) no refuse shall be deposited and no building or structure shall be located within fifty (50) feet of the nearest property line; and,
- b) the operation of said landfill or incinerator shall be carried out in accordance with the standards and procedures prescribed by the North Carolina State Board of Health.

- 4-2.5 In such cases where a use is being considered by the Board of Adjustment as a conditional use to be allowed in a TR (Transitional Residential) district, the use shall:
- a) satisfy the conditions of Section 4-1 of this Article, and
 - b) be located in a residential structure existing on the effective date of this title, except where the building inspector certifies the residential structure on the lot on which said use is to located is dilapidated and cannot be brought up to acceptable standards for occupancy for less than fifty (50%) of its assessed valuation or where a lot is vacant on the effective date of this title in which case the Board of Adjustment may allow as a conditional use, the location of said use in a new structure, provided it reviews the plans for the structure and finds them in harmony with the residential character of the area.

4-2.6 Group Development:

In the case where two (2) or more buildings are to be constructed on a plot of land at least two (2) acres in size, not subdivided into customary streets and lots, and which will not be subdivided, the application of the terms of this ordinance may be varied by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood provided:

- a) that such uses are limited to those permitted within the zoning district in which the project is located, and that, in no case shall the Board of Adjustment authorize a use prohibited in the district in which the project is to be located; and
- b) that the overall intensity of land use is no higher and the standard of open space is no lower than is permitted in the district within which the project is to be located; and
- c) that the building heights do not exceed the height limits permitted in the district within which the project is to be located; and
- d) the minimum front, side and rear setbacks shall at least equal those setbacks established for the district within which the project is to be located; and
- e) all buildings established as a part of a group development project shall be separated by not less than twenty (20) feet; and
- f) where a group development abuts property zoned under a different classification, buffer strips shall be provided in agreement with Section 3-9; and
- g) a detailed site plan at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted to the Planning Board to show the size and location of all structures, streets, drives and parking spaces and their relationship to open spaces and adjacent properties; the Planning Board shall have forty-five (45) days to submit their recommendations to the Board of Adjustment (after forty-five days, the Planning Board is assumed to concur with such plan) who shall make final determination of appropriateness Section 4-1) and shall establish any additional conditions of approval.

4-2.7 Restaurant, Short Order/ Take Out:

In such cases where a Short Order/ Take Out Cooking establishment is being considered for a C-3 zone, the use shall:

- a) Satisfy the conditions of Section 4-1.
- b) A minimum of three (3) off-street parking spaces for customer pick-up. These spaces shall not be in addition to any other off-street parking requirements due to other uses of the facilities.

4-2.8 Bar, Tavern

- a) No such establishment shall be located within 400 hundred (400) feet of a church, elementary or secondary school, public park, or residentially-zoned property.
- b) No such establishment shall be located within fifty (50) feet of a church, elementary or secondary school, public park, or residentially-zoned property in the C-1 Zoning District.
- c) A minimum six (6) foot high opaque fence shall be erected adjacent to the property abutting residences.
- d) All required parking areas shall be no closer than thirty (30) feet to the property line of abutting residences.

4-2.9 Automobile Repair Shop

- c) No storage of any wrecked, partially dismantled, or inoperative vehicle shall be permitted, except inside the building. (Vehicles may be parked outside while waiting to be repaired)
- d) All repair work shall be conducted inside an enclosed area.
- e) Any type of auto body work or painting shall be specifically excluded.
- f) A minimum six (6) foot high opaque fence shall be erected adjacent to the property abutting residences.
- g) In the C-3 District the maximum zoning lot size is one acre.

4-2.10 Equipment Rental & Leasing

- h) Outside storage must be fenced in with opaque screening.
- i) No outside storage shall be allowed on public property.

4-2.11 Greenhouses and Nurseries

In such cases where greenhouses and nurseries are being considered by the Board of Adjustments as a conditional use to be allowed in an R-10 district, the following use shall:

- j) Be located on no less than one (1) acre of land independent of the residence.
- k) Satisfy the conditions of Section 3-9

4-2.12 Entertainment Establishments

- l) No such establishment shall be allowed within four hundred (400) feet of a residential district.
- b) No such establishment shall be allowed within four (400) feet of another Entertainment Establishment, Bar, or Tavern.
- m) Satellite parking shall not be allowed.

4-2.13 Automobile Sales in C-1 Zoning Districts

- a. Space for the sales of antique vehicles is not to exceed 40% of the open space of the entire property
- b. The vehicles offered for sale or on the lot are to be in like restored condition and 30 years old or older
- c. The sales of antique vehicles must be in conjunction with a fully operational Automobile Service Station.

4-2.14 Mining, Quarrying, Sand Pits, and Mineral Extraction

- A) Where Permitted
 - RA, Conditional Use Permit
- B) Use Separation
 - 1) The edges of any pit where a mining operation is taking place and any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial uses operated in conjunction with the mine or quarry shall be located at least 300 feet from any property line unless the Hertford Planning and Zoning Board of Adjustment recommends an appropriate landscaping buffer in accordance with Section 13-2.1 6).
 - 2) Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.
 - 3) No heavy truck traffic will be allowed on town streets defined as minor streets or marginal access streets by section 6-2.9 of the town's Subdivision regulations unless permitted by the HPZBOA.
- C) Hours of Operation
 - All operations involving blasting discernible beyond the external property line on a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.
- D) Mining Permit
 - A valid state-issued mining permit must be obtained.
- E) Screening
 - Screening shall be provided in accordance with the requirements of Section 13. However, if a berm is determined to be an adequate alternative screening method, the minimum height of the berm shall be six feet.
- F) For consideration of a Conditional Use Permit, all approved State permits must be submitted to the HPZBOA along with detailed site plans of the operation

4-2.15 Adult Establishments

A) Where Permitted

C-2, Conditional Use

B) Use Separation

1) No property associated with the use shall be closer than 1,000 feet to a property line of a residential zone. No building or structure associated with the use shall be closer than 50 feet to a property line of an adjacent nonresidential zone or use.

2) No property associated with the use shall be closer than 1,000 feet to a preexisting place of worship, state licensed day care facility, public or private school, public park, or library.

3) The minimum straight line distance between the property lines of two adult establishments shall be 2,000 feet. No two adult establishments shall be located within the same building.

4) Measurements shall be made from the property line of the proposed adult establishment to the property line or zoning district line as noted above, and from the property line of any separate parking lots used for the adult establishment.

C) Signage, On and Off Site

1) Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner and may contain only the name of the business.

2) No neon lighting to be used on or around the sign

3) No offsite signage of any type

4-2.16 Flea Markets, Open Air

A) Where Permitted

C-2, Conditional Use

B) Use Separation

1) All rental spaces shall maintain a 50 ft. setback from all property with a residential use and must meet setbacks for the C-2 zoning district. Display of any goods is not allowed within this, or any district setback.

2) Must meet landscape buffer requirements as set forth in Section 13-2.1 of the Zoning Ordinance

C) Conditions

1) Trailers, Pods, and other temporary storage units shall not be allowed in the day to day operations

2) Trash and debris shall be picked up daily.

3) Any and all dumpsters shall be screened from public view

4) Sanitary facilities shall be provided, with facilities for both male and female genders.

5) A site plan is required and shall include parking, location and number of tables, tents and other display areas. Ingress and egress must be shown on the plan to receive approval from the Hertford Planning and Zoning Board of Adjustment.

6) If inside sales are to be conducted on the same parcel, then a statement shall be provided denoting the total square footage of all indoor retail space.

7) If a retail business is associated with the flea market, the business must be open during the operating hours of the flea market, provided they occupy the same property or adjacent properties.

8) No flea market may be held more than 2 consecutive days per week.

9) The activities of the flea market shall not interfere with the ingress and egress requirements of other tenants or businesses located on the same property as the flea market.

D) Parking

- 1) Off street parking shall be provided with a minimum of three (3) spaces per “stand” or rented space.
- 2) Off street parking must be provided separate of the requirement for indoor retail space if such operation exists on the property.
- 3) All off street parking requirements for all uses on the property shall be met before the same is considered for the flea market.

E) Signage, On and Off Site

- 1) No offsite signage of any type.
- 2) No neon signage shall be allowed for any sign associated with the flea market
- 3) No permanent signage permitted
 - Temporary signage is allowed 48 hours prior to the flea market and must be removed 24 hours after the closing

4-2.17 Wedding Chapel

A) Where Permitted

C-1, C-2 and C-3, Conditional Use Permit

B) Parking

If located within the C-2 or C-3 district must meet parking category D requirements

C) Hours of Operation

If located within the C-1 district hours of operation are restricted to 10M- 10 PM Monday through Saturdays, 12 noon- 9 PM on Sundays.

D) Events allowed at a Wedding Chapel

Only weddings and receptions that are part of a hosted wedding are allowed at Wedding Chapel. No event rentals that are not for the expressed use of the Wedding Chapel are allowed.

E) Alcohol on Premises

If alcohol is to be served at a wedding and reception event at a Wedding Chapel, the operator of the Wedding Chapel shall be responsible for the sale and distribution and must obtain proper permits to do so.

4-2.18 Contractor/ Construction Business

A) Where Permitted

C-4, RA Conditional Use Permit

B) Parking

If located in any other zoning district than C-4, the use must meet parking category F requirements.

C) Any and all dumpsters shall be screened from public view.

D) No inoperable vehicles or equipment shall be stored outside of the building or fenced storage area.

E) The outside storage area shall be enclosed by a fence at least six (6) feet in height in addition to all applicable landscape buffering. requirements as outlined in Section 13-2.1 and 13-5 of the Zoning Ordinance.

4-2.19 Electronic Gaming/ Internet Sweepstakes Cafe

A) Parking

One (1) space per every two (2) terminals or one (1) space per every one hundred (100) square feet of total floor area, whichever is greater.

B) Days/ Hours of Operation

8am to 10pm Monday- Saturday, 1pm- 10pm Sundays.

- C) The maximum number of machines/ terminals/ computers for any electronic gaming operations business is 30.
- D) No alcohol is to be served or consumed on the premises at any time.
- E) No property associated with the use shall be closer than 1,000 feet, measured in a straight line distance to a preexisting place of worship, state licensed day care facility, public or private school, public park, or library.
- F) The minimum straight line distance between the property lines of two Electronic Gaming/ Internet Sweepstakes Cafe shall be 1,000 feet.

4-2.20 Funeral Homes (in Residential Zoning Districts)

- A) Parking
One (1) space for each four (4) seats in the principal place of assembly
Must be located on the same, or directly adjacent parcel as the principal use
- B) There may be no cremation conducted on site when a Permitted Funeral Home is located in a residentially zoned District

Section 4-3 Revocation of Permits

Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, said board shall revoke such permit after sending notice to the owners of the property involved and to the owners of all adjacent property.