

§ 6.8 OTHER USES.

Use Types	Note	R-A	R-20	R-12	R-10	R-8SF	R-8MF	RD	MHMU	O&I	B-1	B-2	B-3	L-I	H-I
Adult oriented businesses (@ see Adult Oriented Business Overlay District, § 5.16)													@		
Agricultural production (crops)		X	X	X	X	X	X	X					X	X	X
Agricultural production (livestock)		X	X											X	X
Coexisting	25									X/S	X/S	X/S	X/S		
Forestry		X	X	X	X	X	X						X	X	X
Horticultural specialties		X	X										X	X	X
Private greenhouses		X	X	X	X	X	X	X	X	X	X	X	X	X	

(Ord. passed 5-13-1996)

Note 25, Coexisting, Mobile and Temporary Uses.

(A) *Intent.* To provide greater flexibility in the review and regulation of coexisting uses that seek to operate in the Zoning Jurisdiction of the City of Mount Holly. Each person seeking ~~special use permit~~ to operate a coexisting use, defined as a mobile or temporary business operation that exists together, in the same place, on the same commercially zoned property, as an existing business operation, shall be subject to the rules and procedures outlined in § [15.2](#), Zoning Permits, of the Zoning Ordinance, ~~which requires the approval of a one-time zoning compliance and business registration permit .~~

~~Each person seeking to operate five (5) or more mobile or temporary businesses as a coexisting use, as defined above, shall follow the rules and procedures outlined in § [12.6](#), Special Use Permits, of the Zoning Ordinance, in addition to the requirements found herein.~~

~~Each person seeking to operate a mobile use, within a public parallel parking space in the B-1 Central Business District, located along South Main Street, North Main Street, West Central Avenue and East Central Avenue, shall be subject to the rules and procedures outlined in § [15.2](#), Zoning Permits, of the Zoning Ordinance, which requires the approval of a one-time zoning compliance and business registration permit. The public parallel parking space shall be on a first come, first serve basis ~~OR~~ The mobile vendor may reserve up to two public parallel parking spaces in the B-1 Central Business District no more than two-hours ahead of the respective mobile vendor's scheduled start of business each day.~~

~~Properly-weighted and secured canvas tents, to provide shelter and relief from the elements for customers, may be utilized in conjunction with permitted mobile uses in public parallel parking spaces only.~~

~~Outside of City-sponsored events, no temporary uses, defined herein, shall be allowed within any public parallel parking space within the B-1 Central Business District.~~

~~Mobile and temporary uses for City-sponsored events, and/or one-time special events located on private property, shall not be subject to the requirements of this ordinance.~~

(B) *Requirements.* Each person wishing to seek a special use permit for a coexisting use shall be subject to the following requirements.

(1) The applicant shall provide the City of Mount Holly Planning and Zoning Department with the following information:

(a) The shape and dimensions of the lot on which the proposed coexisting use, whether it shall be mobile or temporary, is to be erected or conducted;

(b) The location of the said lot with respect to adjacent rights-of-way;

(c) The shape, dimensions and location of all buildings, existing and proposed, on the said lot;

(d) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot; this shall include the nature of the merchandise or food that is to be sold;

(e) The location and dimensions of off-street parking and the means of ingress and egress to such space; each coexisting use is to have five parking spaces dedicated solely to its own customers. It is important to note that the coexisting use may not take away from any required parking of the existing business operation. Coexisting uses in the B-1 District do not have to provide off-street parking;

(f) The height, dimensions and location of all signage, existing and proposed, on said lot;

(g) Any other information which the Zoning Enforcement Officer may deem necessary for consideration in enforcing the provisions of this ordinance.

(2) **If the proposal involves operating five (5) or more mobile or temporary uses on a commercial property as a coexisting use**, it is important to note that the applicant must provide the required information to the City of Mount Holly Planning and Zoning Department no later than 20 days before the next scheduled Board of Adjustment meeting.

(3) **For proposals involving the operation of five (5) or more mobile or temporary uses on a commercial property as a coexisting use**, the applicant is required to appear before the Board of Adjustment for approval or denial of a special use permit for the coexisting use, with the owner of the property, on which the proposed coexisting use is to be located. If the property owner is for some reason unable to attend the Board of Adjustment meeting, he or she may submit a written letter, stating his or her consent for the coexisting use, to the applicant, which shall be made available to the Board.

(C) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

APPLICANT. One who applies for a special use permit for a coexisting use.

COEXISTING USE. A mobile or temporary business operation that exists together, in the same place, on the same commercially zoned property, as an existing business operation.

FOOD. Solid food and non-alcoholic beverages and only includes foods sold by the piece or by an individual serving. Any such **FOOD** must strictly comply with any regulations as

interpreted and administered by the County Department of Environmental Health or any other food code enforcement agency.

KITCHEN CONTAINER, DETACHED. Use of a detached container may be located in the B-1 Zoning District to be used as a commercial kitchen to specifically to produce food for the patrons of the principal business on the property. The commercial kitchen must be registered as a restaurant and a separate business from the principal building use.

(a) The structure may utilize other pre-fab structures that comply with State Building Code and Gaston County Health Department as a permanent commercial structure.

(b) Section 3.11 Accessory Buildings and Structures must be complied with in locating the kitchen container.

(c) Exterior materials for the accessory structure may be metal, but must be painted with at least two coats of commercial sealer to protect the exterior. Once sealed, a finished decorative coat must be applied.

(d) The use must utilize an outdoor patio area that adjacent to and for shared use between the two businesses located on the same property. The minimum size of a kitchen container would be 160 square feet and the minimum size of a shared outdoor patio area must be at least 200 square feet.

(e) Must connect to public utilities permitted through the city and county to avoid generators or other intrusive elements for the operation of the kitchen.

(f) Must have a roofing system installed to provide protection from weather that meets all building code requirements. Roofing system shall be constructed of treated lumber or steel framing with metal, shingle or rubber membrane sheeting. If metal, then must follow division (c) of this definition above.

(g) Must be equipped with air conditioning and full commercial kitchen vent hood that is adequately sized for fire suppression.

(h) At no time can the structure be used for general storage that prevents the operation of the commercial kitchen.

MERCHANDISE. Items or entertainment as authorized by the Board of Adjustment.

MOBILE USE. Any vehicle, trailer, pushcart or pedal-powered cart, which can be moved with the assistance of a motor or by pushing or pedaling.

PERSON. Any individual, firm, partnership, association or corporation. Whenever the word **PERSON** is used in any section in this chapter prescribing a penalty or fine as applied to a

partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents or employees thereof who are responsible for any violation of such section.

TEMPORARY USE. A non-permanent building, tent or stand that can be erected and taken down with relative ease. The Board of Adjustment may require that any such **TEMPORARY USE** be constructed with consideration given to size, quality and design.

VENDOR. A person receiving a special use permit for a coexisting use as prescribed under this chapter.

(D) *Prohibited conduct.*

(1) The following shall constitute unlawful conduct under this chapter. It shall be unlawful to:

(a) Violate any federal, state, county or city law or regulation that pertains to food, beverages or the selling thereof or that pertains to the operation of the vendor's business in the City of Mount Holly's zoning Jurisdiction;

(b) Fail to permit any lawfully requested inspection by health officials or fail to comply with any lawful request of a police officer or any other city enforcement official;

(c) Fail to carry and display at all times the permit issued under this article **or any required Gaston County Health Department permit, if applicable;**

(d) Have a coexisting use that is not in compliance with the review regulations or any additional special restrictions or conditions stated in the special use permit, **if applicable;**

(e) Vend in any area other than that space designated by the permit;

(f) Leave any stand overnight on any street or sidewalk, park other than in a lawful parking place or in violation of any section of this code or other city ordinance pertaining to parking, or fail to remove any stand during unmanned hours, if required by the permit. Does not apply to detached kitchen containers in the B-1 District;

(g) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;

(h) Sell food or beverages for immediate consumption, unless the vendor has available for public use, the vendor's litter receptacle or a public litter receptacle that is no more than ten feet distant from the person's stand. Does not apply to detached kitchen containers in the B-1 District;

(i) Allow any item relating to the operation of the vending business to be placed anywhere other than in, on or under the mobile or temporary use;

(j) Offer to sell any goods other than those permitted by the permit;

(k) Sound or permit the sounding of any device which produces a loud and raucous noise or engage in any hawking or harassment for the purpose of attracting the attention of the public to the stand for commercial purposes;

(l) Have any advertising, except the posting of prices, the name of the product and the name of the vendor, if desired; and/or

(m) Fail to actually operate the coexisting use, for whatever reason, during a period of 30 consecutive days. Such failure shall constitute an abandonment of the site and shall result in revocation of the permit.

(2) Any permitted vendor or person, who fails to operate his or her coexisting use under the provisions of this ordinance, shall be subject to action prescribed under § [15.5](#) of the Zoning Ordinance.

(3) If a special use permit is approved, then it may be operated in perpetuity if the guidelines of this ordinance, other city codes and applicable agency regulations are not violated.