Chapter 42 ZONING [1]

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ARTICLE I. IN GENERAL

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Sec. 42-1. 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:

A

Abattoir means a commercial slaughterhouse except poultry slaughterhouses.

Accessory apartment. See *Apartment, accessory.*

Accessory use or structure means a subordinate use or structure clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this chapter) located upon the same lot occupied by the main use or building.

Acreage means a parcel of land, regardless of area, described by metes and bounds, which is not a numbered lot or parcel on any recorded subdivision plat.

Adjoining property owner, for purposes of notification, means the first property owner encountered when radiating out from a subject property, including property owners across public rights-of-way. An adjoining property owner shall not be the owner of the subject property.

Administrator means the official charged with the enforcement of this chapter. He may be any appointed or elected official who is, by formal resolution, designated to the position by the town council. He may serve with or without compensation as determined by the town council.

Adult bookstore or *adult video store* means an establishment having, as a substantial or significant portion of, its stock-in-trade as books, magazines, other periodicals, videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or similar media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

Adult entertainment means dancing, modeling or other live entertainment, if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult merchandise means magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia, either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult motel means a motel, hotel or similar commercial establishment that:

(1) Provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

(2) Offers a sleeping room for rent for a time period of less than ten hours; or

(3) Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

Adult movie theatre means an enclosed building, regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13" or "R" by the Motion Picture Association of America.

Adult nightclub means a restaurant, bar, club or similar establishment that regularly features adult entertainment.

Adult store means an establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.

Agriculture means the tilling of the soil, the raising of crops, horticulture, forestry, orchards, vineyards or nurseries, but not including the keeping of animals and fowl or agriculturally related business or industry, except as permitted in the district regulations.

Alteration means any change in the total floor area, use, adaptability or external appearance of an existing structure.

Amateur radio tower means a lattice-framed, girded, guyed or monolithic freestanding or building-mounted structure, including any base, tower, pole, antenna and appurtenances, intended for noncommercial airway communications purposes by a person holding a valid radio license issued by the Federal Communications Commission (FCC) not exceeding a height of 75 feet above ground level.

Antique store means a business offering primarily antiques for sale within a fully enclosed building. The term "antique," for the purposes of this chapter, shall be a work of art, piece of furniture, decorative object or similar items with an age of at least 30 years old.

Apartment means a dwelling unit.

Apartment, accessory, means a dwelling unit with a kitchen and bath provided for a caregiver or family members within a single-family residence or within a residential garage structure.

Apartment, garage, means an accessory apartment built over, or as part of, a private residential garage.

Apartment house means a building used, or intended to be used, as the residence of three or more families living independently of each other. Also see *Dwelling, multiple-family.*

Auction house.

(1) The term "auction house" means an enclosed place or establishment conducted or operated for compensation or profit as a private or public market where items are offered for sale through competitive bidding.

(2) The term "auction house" shall not include on premises estate, foreclosure, real estate or personal property sales conducted upon the estate, foreclosed or for sale property or property belonging to the personal property owner.

(3) The term "auction house" shall not include flea markets, yard sales or livestock markets defined or regulated elsewhere or sheriff's or bank repossession sales.

Auction house, business, means an auction house for items of a personal or business nature, generally found within retail stores located within the underlying zoning district.

Auction house, industrial, means an auction house for motor vehicles, machinery, heavy equipment, items of an industrial nature, or items not normally found within retail stores.

Automobile graveyard means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, are placed or kept for purposes of disassembly and for sale or resale of parts, not including the retention of wrecked, stolen, impounded or unclaimed vehicles being kept or stored by a public garage while awaiting legal disposition. See also *Junkyard.*

B

Basement means a story having part, but not more than one-half, of its height above grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises.

Bathroom means an interior room of a dwelling unit containing at least a bathtub or shower, washbasin and water closet.

Bed and breakfast inn means a single-family, owner-occupied dwelling which, as an accessory use, offers no more than six bedrooms (one of which may be located in an accessory structure) for short-term transient occupancy for compensation and where food service for resident guests is limited to breakfast only. In addition to the functions for overnight guests, the bed and breakfast inn may hold special events and social gatherings including but not limited to weddings and receptions.

Boardinghouse means a building where lodging or meals are provided for compensation for at least two, and up to 14, persons.

Building means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

Building, accessory, means a subordinate structure customarily incidental to, and located upon, the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes, except as herein provided.

Building, height of, means the vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the building or structure to the highest point of the building or structure. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building or structure.

Building, main, means the principal structure or one of the principal buildings on a lot or the building or one of the principal buildings housing the principal use on the lot.

C

Campground, overnight, means an area where recreational vehicles, tents or other temporary structures are put up for temporary lodging during outings, vacations, etc. Storage of recreational vehicles, boats, automobiles, trucks or other equipment and vehicles is not permitted, unless specifically authorized by conditional use permit.

Communications antenna means a communications receiving and/or broadcasting device (often attached to a building or an independent communications structure for support purposes) extending no more than ten feet above a roof support or 12 feet in total height, including but not limited to, panels, whips, dishes or masts.

Communications monopole means a single, self-supporting pole for the erection of communication antennas and not exceeding one-third of the height of the main structure above a roof support or 125 feet in total height, including any communications antennas.

Communications structure means any structure intended or utilized for supporting communications receiving and/or broadcasting devices. The term "communications structure" includes monopoles and towers.

Communications tower means a ground-supported, or roof-supported, lattice-framed, girded or guyed communications structure or any monolithic structure for the erection of communication antennas and not exceeding 250 feet in total height, including any communications antennas.

Condominium means real property and any incidentals thereto, or interests therein, which have been, or are to be, lawfully established as such under the Virginia Condominium Act.

State Law reference— Condominium Act, Code of Virginia, § 55-79.39 et seq.

Convalescent, nursing or rest home means any institution however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two or more persons not related to the operator thereof and admitted thereto for the purpose of

nursing or convalescent care. Nursing and convalescent care includes care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

Cul-de-sac means a street with only one outlet and having an appropriate vehicle turnaround at the end at least 100 feet in diameter. Lot frontage may be reduced at the end of a cul-de-sac or on a curved street if approved by the administrator and provided that minimum setback and lot area requirements are maintained.

D

Dairy means a commercial establishment for the manufacture, processing or sale of dairy products.

Day care means the care of children or adults away from their own home, or conservator's home, for any part of a 24-hour day for compensation or otherwise.

Day care, adult home, means the caring of not more than three adults, not related by blood or marriage, within one's personal residential dwelling for any part of a 24-hour day, for compensation or otherwise. Nursing or convalescent care shall not be offered.

Day care center means facilities or programs for the care of children or adults away from their own home, or conservator's home, for any part of a 24-hour day, for compensation or otherwise.

Day care center, adult, means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except:

(1) A facility, or portion of a facility, licensed by the state board of health or the department of behavioral health and developmental services, and

(2) The home or residence of an individual who cares for only persons related to him by blood or marriage.

Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

Day care center, child, means facilities or programs for the care of more than five children away from their own home for any part of a 24-hour day, for compensation or otherwise. Continuous lodging shall not be offered at such center.

District means districts as referred to in Code of Virginia, § 15.2-2280 et seq.

Domestic pet means an animal housed at a residence for family purposes as a household pet, including domesticated cats, dogs, fish, birds and other similar animals, as determined by the zoning administrator. Such use shall be deemed to be allowed by right on residential properties in accord with the provisions of chapter 8, Animals, and this chapter, but however shall not be deemed to include agricultural operations or the raising of non-domesticated animals. Pygmy goats as domestic pets are allowed with a conditional use permit.

Dwelling means any permanent structure which is designed for use for residential purposes, except hotels, boardinghouses, apartments, condominiums, manufactured homes and mobile homes, which are defined elsewhere within this section.

Dwelling, multiple-family, means a permanent structure arranged or designed to be occupied by more than two families and/or having more than two dwelling units. Also see *Apartment.*

Dwelling, nonconforming. See *Structure, nonconforming.*

Dwelling, single-family, means a dwelling arranged or designed to be occupied by no more than one family and containing only one dwelling unit.

Dwelling, two-family, means a dwelling arranged or designed to be occupied by two families, the structure having only two dwelling units.

Dwelling unit means one or more rooms in a dwelling or structure designed for living or sleeping purposes and having at least one kitchen and one bathroom.

F

Family means one or more persons related by blood, marriage, adoption or legal guardianship.

Family day home means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed.

Farmers' market means a site where outdoor stalls, booths, tables and/or the like are used by one or more vendors for the display and/or sale of locally produced fruits, vegetables, plants, flowers, plant products, and/or animal products such as eggs, milk, butter, cheese and honey. A farmers' market shall not include the display and/or sale of animals.

Fence. See section 30-14 in the Streets, Sidewalks and Other Public Places chapter of this Code for regulations.

Flea market means any person or aggregation, congregation or assembly of vendors, whether professional or nonprofessional, that offers for sale, trade or barter any goods, regardless whether they are new, used, antique or handmade; and where offered for sale in open air areas, temporary structures, or not otherwise within a fully enclosed building. This term "flea market" shall not include farmers' markets, as defined in this chapter, and shall not include garage and/or yard sales, as defined in chapter 20, Flea Markets and Garage and/or Yard Sales.

Fraternity/sorority house means a fraternity/sorority house shall be defined as consisting of a dwelling house having one or more rooms for living and sleeping purposes, and having at least one kitchen area and one bathroom facility, and which dwelling is occupied by two or more people unrelated by blood or marriage, and which occupants or users of said dwelling house are members of a student organization formed mainly to promote friendship and welfare of an organization with members belonging thereto.

Frontage, lot, means the distance for which the front boundary line of the lot and the street or road line are coincident.

Frontage, street or road, means all of the property on one side of a street or road between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

G

Garage apartment. See *Apartment, garage.*

Garage, private, means an accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the buildings to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of 1½ times as many automobiles as there are dwelling units.

Garage, public, means a building, or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

Golf course means any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges, as defined in this section.

Golf driving range means a limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

Governing body means the town council of the town.

Greenspace means the area of non-impervious surfaces. Landscaping/landscaped areas may be counted toward greenspace.

Guestroom means a room which is intended, arranged or designed to be occupied or which is occupied by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking. Dormitories shall be excluded from this definition.

H

Historical area, as indicated on the zoning map to which the provisions of this chapter apply for protection of an historical heritage.

Home garden means a garden in a residential district for the production of vegetables, fruits and flowers generally for use or consumption by the occupants of the premises.

Home occupation means any occupation, profession or enterprise conducted by one or more members of a family residing on the premises which is incidental and secondary to the use of the premises for dwelling purposes, provided that not more than one person other than a family member of the resident family is employed on the premises. Home occupations would include any activity for remuneration and would include, but would not be limited to, activities such as the keeping of files, sending and receipt of mail, accounting and filing of taxes associated with the activity associated with remuneration. See section 42-8 for conditional use permit requirements. When within this requirement, a home occupation includes, but is not limited to, the following:

(1) Art or photography studio;

(2) Dressmaking;

(3) Professional office of a physician, therapist, dentist, minister, lawyer, engineer, architect, accountant, salesman or other similar occupation;

(4) Typing, word processing or computer operation;

(5) Teaching with musical or educational instruction limited to two pupils at a time;

(6) Keeping of a single guestroom.

However, a home occupation shall not be interpreted to include the conduct of beauty parlors, barbershops, nursing homes, convalescent homes, rest homes, antique or craft resale, restaurants, tearooms, tourist homes, fortunetellers or similar establishments.

An application to conduct all home occupations shall be filed with the town manager/zoning administrator on forms provided by the town manager/zoning administrator. Business licenses are required in accordance with Chapter 18, Finance and Taxation. Such licenses shall be revocable by the town manager/zoning administrator for violations of this section and other applicable sections of this Code. Home occupations shall be classified as either a minor home occupation or a major home occupation.

Home occupation, major. Major home occupations shall consist of all home occupations other than minor home occupations, as defined herein. Major home occupations shall require a conditional use permit pursuant to section 42-8.

Home occupation, minor. A minor home occupation means a residential enterprise where no sales take place whereby property is transferred on-premises from one person to another, or others, for a consideration of value except for products fabricated or manufactured on the residential site, where no hazardous materials are stored or utilized, where on-street parking in conjunction with such operation is confined to the street frontage of the host lot, where no outside indication exists that a business enterprise is conducted on the premises, where there is no group instruction, assembly or activity, and where no more than one utility truck, not exceeding one ton, and one utility trailer associated with the business is stored. In cases where more than one home occupation is located at a residence, no more than one utility truck, not exceeding one ton, and one utility trailer shall be allowed combined between all home occupations at the residence in order to be eligible as a minor home occupation.

Hospital means an institution rendering medical, surgical, obstetrical or convalescent care, but not including nursing homes, rest homes and homes for the aged, and in all cases excluding institutions primarily for mental or feebleminded patients, alcoholics or drug addicts.

Hospital, special care, means an institution rendering care primarily for mental or feebleminded patients, alcoholics or drug addicts.

Hotel or *motel* means a building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are for compensation lodged with or without meals and in which provision may or may not be made for cooking in individual rooms or suites.

I

Industrialized building unit or *units* means a building assembly or system of building subassemblies having a valid Virginia registration seal affixed certifying that the unit is built to department of housing and community development standards at the time of manufacture, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building, or as a part of a finished building comprising two or more industrialized building units, and not designed for ready removal to, or installation or erection on, another site. The term "off-site," as used in this definition, refers to an industrialized building unit produced at any place other than the location in the completed building where it is permanently positioned. Also see *Trailer, construction.*

Institution, in zoning, means an organization having a public, educational or religious purpose, such as a government building, school, church, hospital, etc.

J

Junkyard means the use of any area of land in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard," as defined in this section.

K

Kennel means a place prepared to house, board, breed, handle or otherwise keep or care for dogs and/or cats for sale or in return for compensation or any place where five or more adult dogs and/or cats are kept.

L

Landscaping/landscaped area means areas of a non-grass, non-impervious nature including bark, mulch, decorative stone, planting areas of flowers, shrubs and trees including tree canopy. Areas of impervious surfaces, gravel and denuded areas shall not be considered as landscaped.

Live entertainment means entertainment provided in person, including, but not limited to, musical performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling or comedic performances.

Livestock market means a commercial establishment wherein livestock is collected for sale and auctioned or otherwise sold.

Lot means a parcel of land occupied, or to be occupied, by a main structure, or group of main structures, and accessory structures, together with such yards, open spaces, lot widths and lot areas as are required by this chapter, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

Lot, corner, means a lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

Lot, depth of, means the average horizontal distance between the front and rear lot lines.

Lot, double frontage, means an interior lot having frontage on two streets.

Lot frontage. See *Frontage, lot.*

Lot, interior, means any lot other than a corner lot.

Lot line, front, means the property line dividing a lot from a street. On corner lots and other lots with frontage on one or more streets, only one street line shall be considered as a front line with the street to which the primary entrance of the principal building faces or to which the building is addressed being considered the front lot line.

Lot, nonconforming, means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter. See sections 42-478 and 42-479 for more detail.

Lot of record means a lot which has been recorded in the clerk's office of the circuit court.

Lot width means the horizontal distance between the side lot lines measured at the front building setback line.

M

Major home occupation. See *Home occupation, major.*

Manufactured home means a structure subject to federal regulation which is transportable in one or more sections; is eight body feet or more in width or 40 body feet or more in length in traveling mode or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

Manufactured home, doublewide, means a structure subject to federal regulation which is transportable in two or more sections which is designed to be joined together at the point of use to form a single-family dwelling, and which is designed for removal to and installation or erection on privately owned sites, providing the title is relinquished and the unit is assessed as real estate, the towing gear and axle are removed and the perimeter foundation walls are constructed of masonry or other material approved for site built single-family housing. The location of doublewide manufactured homes, as defined, may be located in mobile home parks or on individual single-family dwelling unit lots.

Manufactured home, modular, means a structure having a valid Virginia registration seal affixed certifying that the unit is built to department of housing and community development standards at the time of manufacture, which is transportable in two or more sections that are designed to be joined together at the point of use to form a single-family dwelling, and which is designed for removal to and installation or erection upon privately owned sites, providing the title is relinquished and the unit is assessed as real estate and the perimeter foundation walls are constructed of masonry or other material approved for site built single-family housing. The location of modular manufactured homes, as defined, may be located on individual single-family dwelling unit lots.

Manufactured home not subject to federal regulation means a manufactured home constructed before June 15, 1976, and does not meet the criteria of a manufactured home, a doublewide manufactured home,

a modular manufactured home, a mobile home, or an industrialized building unit. Manufactured homes not subject to federal regulation (constructed before June 15, 1976) are not a permitted use within the town.

Manufactured home subdivision means an area designed to accommodate one or more manufactured homes on individual lots which may be offered for sale under the terms of this chapter and the subdivision ordinance. Manufactured housing is permitted within the district providing the title is relinquished and the unit is assessed as real estate, the towing gear and axle are removed and the perimeter foundation walls are constructed of masonry or other permanent material approved for site built single-family housing.

Manufactured home subject to federal regulation means a manufactured home constructed after June 15, 1976, having a U.S. department of housing and urban development seal affixed to the manufactured home at the point of manufacture certifying that the manufactured home is built to HUD standards at the time of manufacture.

Minor home occupation. See *Home occupation, minor.*

Mobile home means a manufactured home, singlewide, subject to federal regulation. The location of mobile homes, as defined herein, shall be limited to mobile home parks.

Mobile home park. Any area designed to accommodate two or more manufactured or mobile homes intended for residential use where residence is in manufactured or mobile homes.

N

Nonconforming activity or use means the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to the chapter.

Nonconforming lot. See *Lot, nonconforming.*

Nonconforming structure. See *Structure, nonconforming.*

O

Off-street parking area means space provided for vehicular parking outside the dedicated street right-of-way.

Open space means any space reserved for common use (as among a homeowners association or as common space in apartment complexes) as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

P

Paintball course means any commercial use indoor or outdoor course, trail or system of bunkers or barriers for paintball practice, competition or amusement by use of pneumatic guns.

Parking bump-out means a greenspace area located within a parking area that is surrounded on at least three sides by parking area or access road.

Parking garage means a building or structure, or portion thereof, designed or used for temporary parking of motor vehicles and consisting of more than one parking level or containing commercial establishments or governmental uses and parking at different levels.

Parking island means a greenspace area located within a parking area that is surrounded on all four sides by parking area or access road.

Personal service establishment means an establishment or place of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; pet grooming; seamstresses, tailors, or shoe repairs; florists; and laundromats and dry cleaning stations serving individuals and households.

Planning commission means the planning commission of the town.

Portable storage container means a portable, weather-resistant receptacle designed and used for the temporary storage or shipment of items, including, but not limited to, household goods, furniture, wares, building materials, equipment or merchandise. The term "portable storage container" shall not include dumpsters or refuse containers.

Public nudity means a public state of undress so as to expose the human male or female genitals, pubic area or buttocks or to cover any of them with less than a fully opaque covering, or the showing of the female breast or any portion thereof below the top of the nipple, or the covering of the breast or any portion thereof below the top of the nipple with less than a fully opaque covering.

Public water and sewer systems means a water or sewer system owned and operated by a municipality, county or private individual or a corporation approved by the town council and properly licensed by the state corporation commission and subject to special regulations as set forth in this chapter.

R

Recycling means the removal of materials, such as, but not necessarily limited to, aluminum, glass, newspaper, cardboard and plastics from the household or business waste stream and placing it in a secondary market for reuse or reprocessing.

Recycling, drop-off center, means a location either fixed or mobile where recyclable materials are deposited for later collection and transport to a post-collection separation facility.

Recycling, post-collection separation facilities, means a roofed structure, usually enclosed, where recyclable materials are separated from the waste stream and sorted according to material type for recycling. The term "recycling, post-collection separation facilities" may also include compaction and other equipment necessary to carry out the recycling effort. The term "recycling, post-collection separation facilities" may also include a recycling drop-off center and/or recycling transfer station.

Recycling transfer station means a distribution warehouse for the express purpose of collecting contained recycled goods for shipping to a buyer of recycled materials.

Rehabilitation center means a transitional housing facility for non-violent offenders returning to community life in which rehabilitated persons can learn skills and independent living in a home-like environment serving up to 20 persons.

Related by blood means family relationship of individuals including only spouses, children, parents, mothers-in-law, fathers-in-law, brothers, sisters, grandparents, great grandparents, grandchildren, great grandchildren, aunts, uncles, nieces, nephews, great aunts, great uncles, great nieces, great nephews and first cousins. Should a question arise regarding validity of family relationship it shall be the burden of the individuals claiming relation by blood to prove the existence of such relationship to the satisfaction of the zoning administrator.

Required open space means any space required in any front, side or rear yard or as delineated on an approved site plan or otherwise specified in this chapter.

Restaurant means any building in which for compensation food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery shops or refreshment stands.

S

Salvage yard. See *Junkyard.*

Sawmill means a plant located on private property for the processing of timber.

Setback means the distance by which any building or structure must be separated from any lot line or street line.

Shooting range, indoor, means the commercial use of a structure for archery and/or the discharge of firearms or pneumatic guns for the purpose of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting,

and non-commercial unstructured and nonrecurring discharging of firearms or pneumatic guns on private property with the property owner's permission.

Shooting range, outdoor, means a commercial use of land for archery and/or the discharge of pneumatic guns for the purpose of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting and the discharge of firearms, and non-commercial unstructured and nonrecurring discharging of pneumatic guns on private property with the property owner's permission in accordance with section 22-2.

Sign structure. See *Structure, sign.*

Special exception means a special use exception, yard exception or height exception specifically listed in this chapter which may be permitted in a specified district or in all districts in accord with terms of this chapter by the board of zoning appeals under certain conditions, such conditions to be determined in each case by the terms of this chapter and by the board of zoning appeals.

Special use permit. See *Conditional use permit.*

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast, including masturbation.

Stealth technology means a manmade tree, clock tower, bell steeple, light pole and similar alternative-design mounting structure that camouflages or conceals the presence of communications antennas, monopoles or towers.

Story means that portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half, means a space under the sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use.

Street line means the dividing line between a street or road right-of-way and the contiguous property.

Street or road frontage. See *Frontage, street or road.*

Street, road, means a public thoroughfare which affords principal means of access to abutting property.

Structure means that which is built or constructed.

Structure, accessory. See *Accessory use* or *Structure.*

Structure, nonconforming, means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter, or which is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter. (Note: For nonconforming dwellings in business and industrial districts see also section 42-480.)

Structure, permanent, means a structure, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including dwellings, buildings, signs, etc.; except for fences (see the definition of "fence" in this section). For purposes of setback requirements, bus stop shelters may not be classified as a structure under this definition.

Structure, sign, means the supports, uprights, bracing and framework of any structure exhibiting a sign, be it single-faced, double-faced, V-type or otherwise. For purposes of regulation, sign structures shall be governed by Chapter 4, Advertising.

Structure, temporary, means a structure, the use of which does not require permanent location on the ground or attachment to something having a permanent location on the ground, including wayside and roadside stands, tents, cargo containers, licensed or unlicensed vehicles or trailers regulated by agencies of federal, state or local governments used for sales, storage, collection centers, etc.

T

Terminal means a station, i.e., buildings, at an important point or junction of a transportation or supply line.

Terminal, passenger, means a terminal where passengers disembark or embark upon vehicles used primarily for public conveyance of people and limited small freight items, e.g., a bus station.

Terminal, truck, means a terminal where trucks may or may not unload and/or transfer freight or transfer trailers and contain one or more of the following activities: petroleum storage, refueling, vehicle or trailer repair, truck storage, sleeping quarters available to the general truck industry or public, retail or wholesale trade; e.g., a truck stop.

Terminal, truck freight. See *Warehouse, distribution.*

Therapist means a person licensed or certified in the occupation, profession, enterprise or activity of physical or mental therapy by a recognized association of professionals in the same area of expertise.

Tourist home means a dwelling where only lodging is provided for compensation for up to 14 persons, in contradistinction to hotels and boardinghouses, and open to transients.

Town council means the Christiansburg town council.

Townhouse means one of a series of from three to ten attached single-family dwellings designed to be offered for sale or sold as a unit, separated from one another by continuous vertical walls without openings from foundation through the roof. The lots or assigned land area, utilities and other improvements for each 'townhouse' are designed to permit individual and separate ownership of such lots and dwelling units. Also see article XX, Townhouses.

Traffic impact statement means a statement that assesses the impact of a proposed development on the transportation system and recommends improvements to lessen or negate those impacts. The traffic impact statement shall:

(1) Identify any traffic issues associated with access from the site to the existing transportation network;

(2) Outline solutions to potential problems;

(3) Address the sufficiency of the future transportation networks; and

(4) Present improvements to be incorporated into the proposed development.

The data and analysis contained in the traffic impact statement shall comply with the Virginia Department of Transportation Traffic Impact Analysis Regulations 24 VAC 30-155-60. If a traffic impact statement is required, data collection shall be by the developer or owner and the developer or owner shall prepare the traffic impact statement.

Trailer, construction, means a temporary mobile office currently inspected, licensed and insured for over the road usage that is primarily used at construction, amusement and similar sites while construction or transitory activity is in progress as opposed to an industrialized building unit of a more permanent character. Such construction trailer shall not be used for residential or long duration uses, unless specifically approved for such uses by the manufacturer and in accordance with the rules and regulations of the town and appropriate state and federal regulatory agencies. See also *Industrialized building unit.*

Travel trailer means a mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation.

Truck means every vehicle designed to transport property on its own structure independent of any other vehicle. Also see *Truck, tractor.*

Truck, tractor, means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto. Commonly referred to as tractor-trailer trucks. Also see *Truck.*

U

Undefined uses or terms refers to uses or terms not specifically enumerated within this chapter. See section 42-2.

Unrelated individuals means a person not related by blood, marriage, adoption or legal guardianship and not exempted under Code of Virginia, § 36-96.7.

V

Variance means a reasonable deviation from the provisions of this chapter regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of this chapter would result in unnecessary or unreasonable hardship to the property owner and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. The term "variance" shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

W

Warehouse means a building where wares or goods are stored, as before being distributed to retailers; a storehouse. Not a truck terminal.

Warehouse, distribution, means a warehouse where items are brought to, and temporarily stored for later distribution to other destinations. Distribution may include the use of cargo containers on trailers or dual trailers which are separated and transferred to other trucks for distribution of contents. Not a truck terminal.

Wayside stand, roadside stand, wayside market means any structure or land used for the sale of agricultural or horticultural produce or merchandise.

Y

Yard means an open space on a lot unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

Yard, front, means an open unoccupied space on the same lot as a building between the front line of the building, excluding steps, and the front lot or street line and extending across the full width of the lot.

Yard, rear, means an open, unoccupied space on the same lot as a building between the rear line of the building, excluding steps, and the rear line of the lot and extending the full width of the lot.

Yard, side, means an open, unoccupied space on the same lot as a building between the sideline of the building, excluding steps, and the sideline of the lot and extending from the front yard line to the rear yard line.

(Code 1972, § 30-1; Code 1992, § 30-1; Ord. of 6-20-1989; Ord. of 4-3-1990; Ord. of 10-16-1990; Ord. of 7-2-1991; Ord. of 9-1-1992; Ord. of 6-15-1993; Ord. of 9-5-1995; Ord. of 12-17-1996, art. I; Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-2, 5-15-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2003-6, 8-5-2003; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2010-

8, 12-21-2010; Ord. No. 2012-6, § 30-1, 6-19-2012; Ord. No. 2012-10, § 30-1, 11-20-2012; Ord. No. 2014-04, 7-22-2014; Ord. No. 2015-1, 4-28-2015)

Sec. 42-2. Districts.

(a) For the purpose of this chapter, the incorporated areas of the town are hereby divided into the following districts:

Agricultural	A
Residential, rural	R-1A
Residential, single-family	R-1
Residential, two-family	R-2
Residential, multiple-family	R-3
Residential, manufactured home subdivision	R-MS
Mixed use: residential - limited business	MU-1
Mixed use: residential - limited business - limited industrial	MU-2
Business, limited	B-1
Business, central	B-2
Business, general	B-3
Industrial, limited	I-1
Industrial, general	I-2
Floodplain	FP

(b) Said districts are shown on the official zoning map which accompanies, and is hereby made a part of, this chapter. For the purposes of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically

listed are prohibited; provided, however, that if an application is made for a use not specifically permitted and the administrator is unable to classify the use under the provisions of this chapter, the administrator shall refer the application to the planning commission which shall, at its next regular meeting, review the characteristics of the use and its compatibility or noncompatibility with other uses permitted in the district and shall make a recommendation to the administrator regarding classification of the use and his action thereon, or the commission shall, within a reasonable period of time, recommend to the town council that the chapter be amended to clarify its application to such use.

(Code 1972, § 30-2; Code 1992, § 30-2; Ord. No. 2004-4, 9-7-2004)

Sec. 42-3. Interpretation of boundaries.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described and where uncertainty exists with respect to the boundaries of any of the districts, as shown on the zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad main tracks, such centerlines, or lines at right angles to such centerline, shall be construed to be such boundaries, as the case may be.

(2) Where a district boundary is indicated to follow a river, creek, branch or other body of water such boundary shall be construed to follow the centerline at low water or at the limit of the jurisdiction, and in the event of change in the centerline, such boundary shall be construed as moving with the actual centerline.

(3) If no distance, angle, curvature description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on such zoning map. In case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.

(Code 1972, § 30-3; Code 1992, § 30-3)

Sec. 42-4. Administrator of chapter.

This chapter shall be enforced by the administrator who shall be appointed by the town council. The administrator shall serve at the pleasure of the town council. Compensation for such shall be fixed by resolution of the town council.

(Code 1972, § 30-4; Code 1992, § 30-4)

Sec. 42-5. Applicability of chapter.

Nothing contained in this chapter shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this chapter; provided, that such construction must commence within 30 days after this chapter becomes effective. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located. The zoning administrator is authorized to waive any of the requirements of this chapter in the event of an emergency or natural disaster.

(Code 1972, § 30-5; Code 1992, § 30-5; Ord. No. 2007-1, 4-3-2007)

Sec. 42-6. Zoning permits.

(a) Buildings or structures shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the administrator, and shall be void after a period of 180 days from the date of approval, if not utilized during the 180-day period.

(b) Each application for a zoning permit may be required to be accompanied by at least one copy of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, the location of such building or use with respect to the property lines of such parcel of land and to the right-of-way of any street or highway adjoining such parcel of land and any other information which the administrator may deem necessary for consideration of the application. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator.

(Code 1972, § 30-6; Code 1992, § 30-6)

Sec. 42-7. Certificates of occupancy.

Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the administrator. Such a permit shall state that the building, the proposed use or the use of the land complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter. Such certificate must be displayed by commercial establishments.

(Code 1972, § 30-7; Code 1992, § 30-7)

Sec. 42-8. Conditional use permits.

(a) Where so stated by this chapter, the location of permitted uses shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit approved by the town council when authorized as herein after provided. A conditional use permit should be approved only if it is permitted as a conditional use in the district regulations and only if it is found that the location is appropriate and not in conflict with the comprehensive plan, that the public health, safety and general welfare will not be adversely affected, that adequate utilities and off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values, and further provided that the additional standards of this chapter are complied with. In approving a conditional use permit the town council may impose such reasonable conditions as it believes necessary to accomplish the intent of this chapter. Unless otherwise specified in this chapter or specified as a condition of approval, the height limits, yard spaces, lot area and sign requirements shall be the same as for other uses in the district in which the proposed conditional use is located.

(b) In determining the conditions to be imposed, the town council shall take into consideration the intent of this chapter and may impose reasonable conditions that: abate or restrict noise, smoke, dust or other elements that may affect surrounding property; establish setback requirements necessary for orderly expansion; prevent or alleviate traffic congestion; provide for adequate parking and ingress and egress to public streets or roads; provide adjoining property with a buffer or shield from view of

the proposed use, if such use is considered to be detrimental to adjoining property; tend to prevent such use from changing the character and established pattern of development of the community.

(c) Any use listed as requiring approval of a conditional use permit and which use legally exists at the effective date of the regulations of this chapter shall be considered a nonconforming use, unless it has been approved as a conditional use by the town council. Conditional use permits may be revoked by the town council, town manager or zoning administrator, if the conditions of such permit are not fulfilled. Nothing contained in this chapter shall be construed to compel the town council to issue a conditional use permit. Conditional use permits approved shall be subject to administrative review on an annual basis and to the following time limitations:

(1) Any conditional use permit granted shall be null and void 24 months after approval by the town council if the use or development authorized by the permit is not commenced to a degree that, in the opinion of the zoning administrator, clearly establishes the intent to utilize the granted conditional use permit in a time period deemed reasonable for the type and scope of improvements involved. The property owner, or applicant, may request that town council allow a 12-month extension beyond the 24 month period for an approved conditional use permit provided that the request is received, in writing, within at least 23 months of the conditional use permit approval.

(2) Activities or uses approved by a conditional use permit which are discontinued for a period of more than 24 consecutive months shall not be reestablished on the same property unless a new conditional use permit is issued in accord with this chapter.

(d) The town council, town manager and zoning administrator are authorized to require supplemental conditional use permits if questions of compliance should arise regarding any provision of this chapter.

(e) Conditional use permit application submissions shall include a traffic impact statement whenever a proposed conditional use permit substantially affects transportation on town streets through traffic generation of either:

(1) 100 vehicles trips per peak hour by residential development;

(2) 250 vehicles trips per peak hour by non-residential development; or

(3) 2,500 vehicle trips per day by non-residential development.

(f) The data and analysis contained in the traffic impact statement shall comply with Virginia Department of Transportation Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

(Code 1972, § 30-8; Code 1992, §§ 30-1, 30-8; Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. No. 2012-6, § 30-8, 6-19-2012; Ord. No. 2012-10, § 30-8, 11-20-2012)

Sec. 42-9. Lighting and minimum off-street parking.

(a) *Specific requirements by use.* Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, accessory off-street parking spaces shall be provided as follows:

Use or Use Category	Off-Street Parking Spaces Required
Single-family, private driveway	16 feet wide x 18 feet long parking area

Two-family dwelling	2 per dwelling unit
Townhouse	2 per dwelling unit
Multifamily dwelling, three or more dwelling units:	
One or more bedroom apartments, roomers	2 per dwelling unit, 1 for each roomer
Mixed use structures located in the B-2 Central Business District:	
One or more bedroom apartments located above street level	1 per apartment unit
Church, temple, synagogue, or similar place of assembly	1 per 5 seats or bench seating spaces (seats in main auditorium only)
College or high school	1 per 5 seats or bench seating spaces (seats in main auditorium, gymnasium or field house only, whichever is larger) or one for each five students, whichever is greater
Elementary, junior high, or nursery school	1 per 10 seats in main assembly room or 2 per classroom, whichever is greater
Private club without sleeping rooms	1 per 5 members or 1 for each 400 square feet of floor area, whichever is greater
Public library, museum, art gallery, or community center	10 per use plus 1 additional space for each 300 square feet of floor area in excess of 1,000 square feet
Private clubs, fraternities, sororities, and lodges, with sleeping rooms	2 per 3 sleeping rooms or suites or 1 per 5 active members, whichever is greater
Sanitarium, convalescent home, home for aged, or similar institution	1 per 3 patient beds

Motel, motor hotel, motor lodge hotel, or tourist court	1 per sleeping room or suite plus 5 spaces for general use
Rooming, boarding, or lodging house, bed and breakfast establishment	1 per sleeping room
Hospital	2 per patient bed
Hospital, veterinary	1 per 400 square feet of floor area; 4 spaces minimum
Office or office building (other than medical), post office, studio	1 per 400 square feet of floor area; 3 spaces minimum
Medical offices or clinic	1 per 200 square feet of floor area; 10 spaces minimum for a clinic
Funeral home	1 per 50 square feet of floor area excluding storage and work area; 30 spaces minimum
Restaurant or other establishment for consumption of food or beverages inside a building on the premises	1 per 100 square feet of floor area, 3 spaces minimum
Restaurant, drive-in	1 per 100 square feet of floor area, 10 spaces minimum
Retail store or personal service establishment and banks	1 per 250 square feet of floor area for the first 5,000 square feet
	1 per 300 square feet of floor area for the second 5,000 square feet
	1 per 350 square feet of floor area for the third 5,000 square feet and all subsequent square footage
Shopping center	1 per 250 square feet of floor area for the first 5,000 square feet

	1 per 300 square feet of floor area for the second 5,000 square feet
	1 per 350 square feet of floor area for the third 5,000 square feet and all subsequent square footage
Automobile service station	3 for each service bay or pump island, whichever is greater. Parking for refueling may be credited toward required parking spaces if the administrator determines parked vehicles do not interfere with traffic
Antique store or antique mall	1 per 500 square feet of floor area; 3 spaces minimum
Furniture or appliance store, machinery, equipment, mobile home, and automobile and boat sales and service	1 per 500 square feet of floor area; 3 spaces minimum. Automobile sales and service, 10 minimum
Auditorium, theater, gymnasium stadium, arena, or convention hall	1 per 4 seats or seating spaces
Bowling alley	5 per lane
Food storage locker	1 per 200 square feet customer service area
Farmers' market	2 for each rented stall, table, or sales space
Outdoor sales area, open air market or flea market (other than farmers' market)	4 for each rented stall, table, or sales space
Self service storage, miniwarehouse	1 for each 25 storage areas plus 3 spaces for the office, if provided (driving aisle between units must be paved or concrete)
Amusement place, dancehall, skating rink, swimming pool or exhibition hall, without fixed seats	1 per 100 square feet of floor area. Does not apply to accessory uses

General service or repair establishment, printing, publishing, plumbing, heating, broadcasting station	1 per 2 employees on premises; auditorium for broadcasting station requires seating as above
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse, or similar establishment	1 per 2 employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry

(b) *Interpretation of specific requirements.*

(1) The parking requirements above are in addition to waiting spaces or stacking spaces necessary for the operation of drive-in or drive-through facilities. Waiting spaces on the premises must be adequate to avoid obstruction of traffic on the public way.

(2) The parking requirements above are in addition to space for storage of automobiles, trucks, mobile homes, campers, recreation vehicles, or other similar vehicles used or offered for sale in connection with a particular use.

(3) The parking requirements in this section do not limit the parking requirements contained in the district regulations.

(4) The parking requirements in this section do not limit special requirements which may be imposed by approval of a conditional use or special exception.

(5) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

(6) Except as otherwise provided, the number of employees shall be computed on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.

(7) The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.

(8) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(9) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this section for an increase in parking spaces of ten percent or more, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than ten percent of those required before the change or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking space of ten percent or more.

(10) Garages, carports, and other covered and/or enclosed parking areas shall not count toward off-street parking requirements of this section with the exception that parking spaces in parking garages are allowed to be counted toward off-street parking requirements.

(11) Stacked parking spaces that are not directly accessible to means of ingress and egress are not allowed to count toward off-street parking requirements.

(c) *On-site parking requirement and off-site cooperative parking provisions.*

(1) Except as otherwise provided in this chapter, all parking spaces required herein shall be located on the same lot with the building or use served. Where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 900 feet as measured along a traversable pedestrian route, with location approval from the zoning administrator. For the purpose of this requirement, land used for employee parking but located immediately across a street or alley from the building or use served shall be considered as located on the same lot.

(2) With the approval of the zoning administrator, required off-street parking may be provided cooperatively for two or more uses of the same or different types, provided that arrangements are made that will ensure the availability of such space for the duration of the use to be served, and provided further that, unless reduced by the zoning administrator as set forth below, the number of spaces provided shall not be less than the sum of the individual requirements.

(3) The combined parking requirements for two or more uses participating in a cooperative parking arrangement may be partially reduced by the zoning administrator, provided that the uses will not conflict in time of operation the parking needs of each use at a given time of day may be adequately met through the parking arrangements.

(4) Cooperative parking arrangements shall provide off-street parking spaces within 900 feet of each use served as measured along a traversable pedestrian route.

(5) For the purpose of this section, all spaces located within a cooperative parking arrangement shall be deemed to be on-site parking for each use served by such arrangement.

(6) Once approved by the zoning administrator, any subsequent change to a cooperative parking arrangement affecting the availability and convenience of the shared space shall be considered a zoning violation subject to enforcement and penalties as set forth in section 42-14.

(d) *Design standards.*

(1) *Minimum space area and paving.* For the purpose of these regulations, one off-street parking space is an area, not in a street or alley, of not less than 162 square feet (nine feet in width and 18 feet in length minimum). If the space is designed for parallel parking, it shall have an area of 144 square feet (eight feet in width and 18 feet in length minimum). Each parking space shall be permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a driveway which affords ingress and egress for the vehicle without requiring another vehicle to be moved. Paved parking with spaces delineated by four-inch striping is required for all parking lots. Acceptable paving methods/surfaces include asphalt, concrete, brick paving, and alternative pavements (such as porous pavement) as approved by the zoning administrator or town engineer (but does not include surface treatment or prime and double seal). An all-weather surface paving is permitted for a single-family or two-family dwelling. Parking lot striping shall be maintained to the satisfaction of the zoning administrator.

(2) *Entrances and exits.* Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards, including those of the Virginia Department of Transportation. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street and exits and entrances shall not be located within 25 feet of a street intersection or be greater than 40 feet in width. Landscaping, curbing or

approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

(3) *Drainage and maintenance.* Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and shall be paved in accordance with an approved plan or in accordance with applicable town specifications. Off-street parking areas shall be maintained in a clean, orderly and dust-free condition, at the expense of the owner or lessee.

(4) *Lighting.* Lighting shall be provided if off-street parking spaces are to be used at night in conjunction with a business or activity on the premises. Lighting facilities shall be arranged and installed, and the light source shielded, to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of 15 feet in a residential district or 30 feet in a business district. For mixed use districts, lighting fixtures shall not exceed 15 feet for a residential use or 30 feet for a business use or mixed use. Lighting fixtures shall be allowed to exceed specified maximum heights with conditional use permit approval. Property owned or controlled by the town shall be exempt from these lighting requirements.

(5) *Design in general.* All parking lots shall be arranged for functional efficiency and convenience and in general shall be designed to present a pleasing appearance so as to reduce adverse impact on surrounding public or private property.

(6) *Parking lot aisles.* Aisle widths shall be based upon the following:

90 degree parking	24-foot aisle minimum, if parking on both sides
60 degree parking	20-foot aisle minimum, if parking on both sides
45 degree parking	18-foot aisle minimum, if parking on both sides
Two-way traffic	18-foot aisle minimum, if parking on one side
One-way traffic	14-foot aisle minimum

(7) *Greenspace and landscaping.* Forty square feet of greenspace per one parking space provided shall be required within parking areas with 20 or greater parking spaces. One tree of a minimum height of six-feet tall shall be required per ten parking spaces interior to the parking perimeters for all parking areas with 20 or greater parking spaces. The greenspace and landscaping required shall be uniformly distributed in islands and bump-outs interior to the parking area to the satisfaction of the zoning administrator. Islands and bump-outs shall be of sufficient size to accommodate landscaping growth to maturity. The greenspace and landscaping requirements of this section shall be deemed to count toward the greenspace and landscaping requirements of

the zoning district, provided the parking is provided on-site. Parking garages shall be exempted from the parking greenspace and landscaping requirement.

(8) *Storage lots.* Storage lots for contractor equipment, tractor trailers, buses and similar large vehicles may be gravel, provided the storage area is fully enclosed by a minimum six-foot-tall gated fence.

(9) *Americans with Disabilities Act.* Parking areas shall comply with the Americans with Disabilities Act and Code of Virginia in regards to spaces reserved for the use of persons with disabilities.

(e) *Grandfathered status in the B-2 Central Business District*. Sites in the B-2 Central Business District having existing structures, which are adequate for commercial, professional, or residential uses as provided in the B-2 Central Business District at the time of enactment of this amendment, shall be considered as grandfathered in regards to off-street parking requirements. For enlargements or significant structural alterations of existing structures, the required parking shall equal the number of spaces required by this section for the new use area, unless a conditional use permit is granted by town council for an exception.

(f) *Parking credit for availability of mass transit.*

(1) Properties which have mass transit available shall be eligible for a ten percent credit toward reduction in the amount of required off-street parking (rounded downward to the nearest whole space). Mass transit shall be deemed as available by the presence of a bus stop of a town-sponsored bus service on-site or along the street frontage immediately adjoining the property under consideration or by the presence of a bus stop of a town-sponsored bus service within 600 feet of the property under consideration.

(2) The development under consideration shall reserve area for the placement of the credited off-street parking spaces on-site and show these credited spaces on the proposed site plan. Should town-sponsored mass transit no longer become available, the development shall provide the credited off-street parking within six months of the cessation of service.

(g) *Parking credit for motorcycle spaces.* At the option of the property owner, parking credit may be given in the amount of one parking space credit for each two designated motorcycle parking spaces provided at a maximum rate of one parking space credit per 50 provided parking spaces. Motorcycle parking spaces shall be a minimum of 4½ feet in width by eight feet in length.

(h) *Compact parking spaces.* At the option of the property owner, development with 100 or more provided parking spaces may provide a maximum of ten percent of total provided parking spaces as designated compact parking spaces. Compact parking spaces may be a minimum of eight feet in width by 16 feet in length.

(i) *Exceptions relating to conditional zoning and/or conditional use permits.* When the size, scope, or intensity of a permitted use is significantly decreased either by voluntary proffers under conditional zoning or by conditions under a conditional use permit, then town council may grant an exception to the minimum off-street parking spaces required and the design standards relating to acceptable paving methods and surfaces. Such exceptions shall run concurrently with the applicable conditional zoning or conditional use permit.

(Code 1972, § 30-9; Code 1992, § 30-9; Ord. of 5-2-1989; Ord. No. 2002-2, 3-5-2002; Ord. No. 2002-8, 11-5-2002; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-9, 6-19-2012; Ord. No. 2012-10, § 30-9, 11-20-2012; Ord. No. 2013-8, §§ 30-9(d), 30-9(i), 9-3-2013; Ord. No. 2013-9, § 30-9, 11-19-2013)

Sec. 42-10. Minimum off-street loading requirements.

(a) *Specific requirements by use.* Except as otherwise provided in this chapter, when any institutional, business or industrial building or structure is hereafter erected, or structurally altered to the extent of increasing the floor area by 25 percent or more, or any building is hereafter converted, for such uses, and when such buildings contain floor area in excess of 2,500 square feet, at least one accessory off-street loading space shall be provided, as required in subsequent sections of this article. The administrator may require additional spaces in an appropriate case in order to avoid congestion in public streets or approved accessways.

(b) *Interpretation of specific requirements.*

(1) The loading space requirements apply to all districts, but do not limit the special requirements which may be imposed in the district regulations.

(2) The loading space requirements in this section do not limit special requirements which may be imposed in connection with uses permitted by approval of a conditional use permit or special exception.

(c) *Mixed uses in one building.* Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the spaces are required. In such cases, the administrator may make reasonable requirements for the location of required loading spaces.

(d) *Design standards.*

(1) *Minimum size.* For the purpose of these regulations, the term "loading space" is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 15 feet.

(2) *Loading space for funeral homes.* Loading spaces for a funeral home may be reduced in size to ten by 25 feet and vertical clearance reduced to eight feet.

(3) *Entrances and exits.* Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

(Code 1972, § 30-9A; Code 1992, § 30-9A)

Sec. 42-11. Amendments to chapter.

(a) *Initiation of change.*

(1) The town council may, from time to time, amend, supplement or change, by ordinance, the boundaries of the districts or the regulations herein established. Any such amendment may be initiated by resolution of the town council, or by motion of the planning commission, or by petition of the owner, contract purchaser, with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment addressed to the town council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the planning commission. Petitions by private property owners shall be for

contiguous properties only; separate application shall be made by private property owners for non-contiguous properties.

(2) Rezoning application submissions shall include a traffic impact statement whenever a proposed zoning map amendment substantially affects transportation on town streets through traffic generation of either:

a. 100 vehicles trips per peak hour by residential development;

b. 250 vehicles trips per peak hour by non-residential development; or

c. 2,500 vehicle trips per day by non-residential development.

(3) The data and analysis contained in the traffic impact statement shall comply with Virginia Department of Transportation Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

(b) *Report from planning commission.* Before taking any action on any proposed amendment, supplement or change, the town council shall submit the same to the planning commission for its recommendations and report. Failure of the commission to report 90 days after the first meeting of the planning commission after the proposal has been referred to the planning commission shall be deemed approval.

(c) *Notice and hearing.*

(1) The planning commission shall hold a public hearing thereon, before submitting its report to the town council. Notice of public hearings before the commission shall be given by publishing the time, place and nature of the hearing once a week for two successive weeks in a newspaper published or having general circulation in the town, provided that such notice for both the planning commission and the town council may be published concurrently. The public hearing shall be held not less than six, nor more than 21, days after final publication. In addition, the commission shall cause the date, time, place and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the commission and a certificate of posting shall become a part of the record of the hearing. The published and posted notices shall contain reference to the place, or places, within the town where the plans, ordinances or amendments may be examined.

(2) Before approving any proposed change or amendment, the town council shall hold a public hearing thereon, notice of said hearing to be accomplished by publication in a newspaper as prescribed in subsection (c)(1) of this section. The planning commission and the town council may hold a joint public hearing after public notice, as set forth herein above. If such joint hearing is held, then public notice as set forth above, need be given only by the town council. If an advertised hearing is continued or deferred, notice shall be repeated for the new hearing.

(3) When a proposed amendment involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, or owners, their agent or the occupant, of each parcel involved, and to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected; including those properties which lie in an adjoining jurisdiction. Notice sent by registered or certified mail to the last known address of such owner, as shown on the current real estate tax assessment books, shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice hereunder shall be charged to the applicant.

(4) When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25, but less than 500, parcels of land, then, in addition to the advertising as above required, written notice shall be given by the planning commission at least five days before the hearing to the owner, owners, or their agent, of each parcel of land involved. One notice sent by first class mail to the last known address of such owner, as shown on the current real estate tax assessment books, shall be deemed adequate compliance with this

requirement, provided that a representative of the commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the commission to give written notice to the owner, owners, or their agent, of any parcel involved.

(5) Whenever the notices required hereby are sent by an agency, department or division of the town such notices may be sent by first class mail; provided, however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

(d) *Withdrawal of application.* Applications for a change in zoning may be withdrawn from consideration before the first notice of a public hearing thereon has been published and fees refunded if no publication cost is incurred. Applications for a change in zoning which are withdrawn after first publication shall be considered as denied for the purpose of the one-year limitation on reconsideration as provided in subsection (e) of this section.

(e) *Reconsideration, one-year limitation.* Whenever a petition requesting an amendment, supplement or change has been denied by the town council, such petition, for the same change, shall not be reconsidered sooner than one year after the previous denial.

(f) *Action by the town council.*

(1) The town council shall take action on a request for amendment within one year of the date of filing; otherwise the amendment shall be deemed approved. In determining what, if any, amendments to this chapter are to be adopted, the town council shall give due consideration to the proper relationship of such amendments to the entire zoning plan and the integrity and validity of the zoning districts herein described, and to avoidance of isolated unplanned spot-zoning changes in the zoning map. Any amendments adopted by the town council may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment, or amendments, to the zoning plan and this chapter; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice, as required in subsection (c) of this section.

(2) In determining what, if any, amendments to the text of this chapter or the zoning map are to be adopted, the town council shall recognize that a certain element of stability is desirable in land use controls and that all citizens have the right to be treated reasonably; at the same time the council recognizes in adopting this chapter that conditions and standards will change, and that no citizen, whether a general resident of the town, a neighbor or an affected property owner, has the right to indefinite continuation of any zoning regulation or classification, and that a citizen, a property owner, the planning commission or the town council, in accordance with the law and the provisions of this chapter, may initiate a change which they believe will properly adjust the zoning regulations and map to the comprehensive plan or changed conditions and standards.

(Code 1972, § 30-10; Code 1992, § 30-10; Ord. No. 2000-4, 6-6-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2012-10, § 30-10, 11-20-2012)

State Law reference— Adoption of zoning ordinance, map and amendments, Code of Virginia, § 15.2-2285.

Sec. 42-12. Conditional zoning.

(a) *Purpose.* Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of

this section to provide a zoning method as authorized under Code of Virginia, § 15.2-2303, as amended, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though said conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.

(b) *Proffer, in writing.*

(1) As a part of a petition for rezoning or amendment of the zoning district map, the owner or owners of the property involved may, prior to a public hearing before the town council, voluntarily proffer, in writing, such reasonable conditions, in addition to the regulations provided for the zoning district or districts as herein set forth, as he deems appropriate for the particular case; provided that:

a. The rezoning itself must give rise for the need for the conditions;

b. Such conditions shall have a reasonable relation to the rezoning;

c. Such conditions shall not include a cash contribution to the town;

d. Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the subdivision ordinance, chapter 40;

e. The conditions shall not include a requirement that the applicant create a property owners' association under the Code of Virginia, § 55-508, et seq., which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation;

f. Such conditions shall not include payment for off-site improvements, except those provided for in the subdivision ordinance, chapter 40;

g. No condition shall be proffered that is not related to the physical development or physical operation of the property; and

h. All such conditions shall be in conformity with the comprehensive plan.

(2) For the purpose of this chapter, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner, or owners, of the subject property: "I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

(3) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(c) *Review and revision of proffered conditions.*

(1) Additional conditions or modified conditions may be proffered by the applicant during, or subsequent to, the public hearing before the planning commission; provided, however, that after proffered conditions are signed and made available for public review and the public hearing before

the town council has been advertised (whether or not jointly held with the planning commission) no change or modification to any condition shall be approved without a second advertised public hearing thereon.

(2) After the town council public hearing has been advertised or commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the planning commission, then a second public hearing need be held only before the town council before the application and the modified conditions can be approved.

(3) Should additional conditions be proffered by the applicant at the time of the public hearing before the town council, which conditions were not addressed at the public hearing before the planning commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the planning commission, the application shall be the subject of a second public hearing before both the planning commission and the town council, which hearing may be either separately or jointly held.

(d) *Annotation of zoning map.* The zoning map shall show, by an appropriate symbol on the map, the existence of conditions attaching to the zoning on the map. The administrator shall keep in his office, and make available for public inspection, a conditional zoning index. The index shall provide ready access to the ordinance creating conditions, in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question. The Index shall also provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the town council, pursuant to Code of Virginia, § 15.2-2303.2. The zoning administrator shall update the Index annually and no later than November 30 of each year.

(e) *Enforcement of conditions.*

(1) The administrator shall be vested with all necessary authority, on behalf of the town council, to administer and enforce conditions attached to such rezoning or amendment to the zoning map, including:

a. The ordering, in writing, of the remedy of any noncompliance with such conditions;

b. The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

c. Requiring a guarantee, satisfactory to the town council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the town council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

(2) Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

(f) *Conformity of development plans.* Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations or other demonstrative materials, and no development shall be approved by any town official in the absence of said substantial conformity. For the purpose of this section, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

(g) *Change of approved conditions.* Once conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. If the amendment concerns an approved site plan, such application shall include the submission requirements for a site plan set forth in article XXI of this chapter, except that the administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the site plan amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application.

(h) *Review of the administrator's decision.* Any zoning applicant who is aggrieved by the decision of the administrator pursuant to the provisions of subsection (e) of this section may petition the town council for the review of the decision of the administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the town council within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved.

(Code 1972, § 30-11; Code 1992, § 30-11; Ord. No. 2015-1, 4-28-2015)

State Law reference— Conditional zoning defined, Code of Virginia, § 15.2-2201; conditional zoning, Code of Virginia, §§ 15.2-2296—15.2-2300; conditional zoning in certain localities, Code of Virginia, § 15.2-2303.

Sec. 42-13. Permits to be issued in compliance with chapter.

All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit issued in conflict with the provisions of this chapter shall be null and void.

(Code 1972, § 30-12; Code 1992, § 30-12)

Sec. 42-14. Penalties for violations of chapter.

(a) Any person, whether as principal, agent, employed or otherwise, violating, or causing or permitting the violation of, any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined not less than $10.00 nor more than $1,000.00. Such person shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this chapter is committed, continued or permitted by such person, and shall be punishable as provided in section 1-11.

(b) See Chapter 18, article XII, for authority to revoke a business license if in violation of this chapter.

(Code 1972, § 30-13; Code 1992, § 30-13; Ord. of 6-20-1989; Ord. No. 2012-6, § 30-13, 6-19-2012)

State Law reference— Penalty for violation of zoning ordinance, Code of Virginia, § 15.2-2286. A.5.

Secs. 42-15—42-31. Reserved.

ARTICLE II. AGRICULTURAL DISTRICT A

Sec. 42-32. Statement of intent.

Sec. 42-33. Permitted uses.

Sec. 42-34. Area.

Sec. 42-35. Setback.

Sec. 42-36. Frontage.

Sec. 42-37. Yards.

Sec. 42-38. Height.

Sec. 42-39. Corner lots.

Secs. 42-40—42-66. Reserved.

Sec. 42-32. Statement of intent.

The primary purpose of this district is the protection of agricultural operations in portions of the town appropriate for such uses and in general to prohibit those uses which would be incompatible with agriculture. At the same time the district would provide for rural low-density residence and certain public and semi-public uses in a spacious environment. While land use in the district is generally rural, it is nevertheless located near urban development and where urban services can be extended at the appropriate time. Therefore permanent preservation of agriculture is not intended and certain more intensive agricultural uses would be permitted only by conditional use permit.

(Code 1972, § 30-14; Code 1992, § 30-14)

Sec. 42-33. Permitted uses.

In the A Agricultural District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Agriculture and forestry.

(3) Pens for animals or poultry or those intensive agricultural operations commonly known as confinement operations where large numbers of animals or fowl are confined to a relatively small space, such as veal or poultry pens or houses, feedlots and dairying operations, with a conditional use permit. An enclosure for less than 100 fowl and enclosed pasture or range with an area in excess of 100 square feet for each small animal or 4,000 square feet for each larger animal, such as horses, ponies, cattle or sheep, shall not require a conditional use permit.

(4) Public buildings to consist of fire, police and rescue squad stations, schools and recreational facilities. Private buildings to consist of schools and recreational facilities, with a conditional use permit.

(5) Parks and playgrounds.

(6) Churches and other places of worship.

(7) Sawmills, temporary, with a conditional use permit.

(8) Planing mills, temporary, with a conditional use permit.

(9) Airports and heliports, with a conditional use permit.

(10) Preserves and conservation areas.

(11) Clubs and lodges, with a conditional use permit.

(12) Cemeteries, with conditional use permit.

(13) Minor home occupations. Major home occupations with a conditional use permit.

(14) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulatory stations; substations. Public utility generating, booster or relay stations; major transmission lines and towers; communications monopoles; railroad yards and terminals; and treatment facilities are permitted with a conditional use permit.

(15) Off-street parking and loading.

(16) Signs in accordance with the sign ordinance in chapter 4, Advertising.

(17) Accessory buildings and uses, including temporary wayside stands for seasonal sales of products raised or made on the premises; provided, that garages or other accessory structures, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(18) Industrialized building units for agricultural, institutional, security or construction purposes, with a conditional use permit. A conditional use permit shall not be required for construction trailers on active construction sites.

(19) Fraternity and sorority houses, with a conditional use permit.

(20) Campground, overnight, with a conditional use permit. Except for campground record keeping, commercial or other business activities shall be limited to the campground and its occupants and conducted only when authorized by conditional use permit which shall specify the parameters of the commercial activities.

(21) Adult day care center as an accessory use, but not accessory structure, to an existing and permitted institutional use with a conditional use permit.

(22) Family day homes serving one through five children.

(23) Child day care centers as an accessory use, but not accessory structure, to an existing and permitted institutional use with a conditional use permit.

(24) Kennels, with a conditional use permit.

(25) Rehabilitation centers, with a conditional use permit.

(26) Portable storage containers, in accordance with section 42-662.

(27) Assisted living facilities and group homes of eight or fewer individuals as exempted by Code of Virginia, § 15.2-2291.

(Code 1972, § 30-15; Code 1992, § 30-15; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 10-16-1990; Ord. of 12-17-1991(1); Ord. of 12-17-1996, Art. II; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2001-2, 5-15-2001; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-15, 6-19-2012; Ord. No. 2012-10, § 30-15, 11-20-2012)

Sec. 42-34. Area.

The minimum lot area for each permitted use except public utilities shall be one-half acre.

(Code 1972, § 30-16; Code 1992, § 30-16; Ord. of 6-20-1989)

Sec. 42-35. Setback.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. The keeping of swine or goats shall require a minimum setback of 100 feet from all zoning district boundary lines other than the A Agricultural, I-1 Limited Industrial or I-2 General Industrial Districts.

(Code 1972, § 30-17; Code 1992, § 30-17; Ord. No. 2002-2, 3-5-2002)

Sec. 42-36. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 150 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line.

(Code 1972, § 30-18; Code 1992, § 30-18; Ord. No. 2012-6, § 30-18, 6-19-2012)

Sec. 42-37. Yards.

(a) The minimum side yard for each main structure shall be a minimum of 25 feet or side lot line easement width, whichever is greater.

(b) Each main structure shall have a rear yard of 50 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

  (1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

  (2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

  (3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(Code 1972, § 30-19; Code 1992, § 30-19; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. 2012-6, § 30-19, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-38. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a school or church, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(Code 1972, § 30-20; Code 1992, § 30-20)

Sec. 42-39. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(Code 1972, § 30-21; Code 1992, § 30-21)

Secs. 42-40—42-66. Reserved.

ARTICLE III. RURAL RESIDENTIAL DISTRICT R-1A

Sec. 42-67. Statement of intent.

Sec. 42-68. Permitted uses.

Sec. 42-69. Area.

Sec. 42-70. Setback.

Sec. 42-71. Frontage.

Sec. 42-72. Yards.

Sec. 42-73. Height.

Sec. 42-74. Corner lots.

Secs. 42-75—42-91. Reserved.

Sec. 42-67. Statement of intent.

This district is intended for low-density single-family residential areas, plus certain open areas, where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage suitable environment for family life and to protect single-family areas from encroachment by potentially incompatible commercial land uses. To these ends, development shall be limited to low concentration, and permitted uses shall be limited to single unit dwellings providing homes for the residents, plus certain public and semi-public facilities that serve the residents.

(Code 1972, § 30-22; Code 1992, § 30-22; Ord. No. 2000-3, 5-2-2000)

Sec. 42-68. Permitted uses.

In the R-1A Rural Residential District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Agriculture and forestry, but not including pens, as herein defined, or the raising or keeping of swine or goats. Enclosures for horses of at least 8,000 square feet for each horse.

(3) Public buildings to consist of fire, police and rescue squad stations, schools and recreational facilities. Private buildings to consist of schools and recreational facilities, with a conditional use permit.

(4) Churches and other places of worship.

(5) Parks and playgrounds.

(6) Minor home occupations. Major home occupations with a conditional use permit.

(7) Off-street parking and loading.

(8) Signs in accordance with the sign ordinance in chapter 4, Advertising.

(9) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities necessary for provision and maintenance, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles, with a conditional use permit.

(10) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings such as carports, porches and stoops attached to the main building shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(11) Construction trailers on active construction sites.

(12) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(13) Child day care centers, with a conditional use permit.

(14) Portable storage containers, in accordance with section 42-662.

(15) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(16) Urban agriculture in accordance with section 42-663.

(Code 1972, § 30-23; Code 1992, § 30-23; Ord. of 6-20-1989; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-23, 6-19-2012; Ord. No. 2012-10, § 30-23, 11-20-2012; Ord. No. 2016-1, 2-23-2016)

Sec. 42-69. Area.

The minimum lot area for each permitted use shall be as follows:

(1) For lots containing, or intended to contain, a single permitted use served by public water and sewage disposal, 15,000 square feet.

(2) For lots containing, or intended to contain, a single permitted use served by public water systems but having individual sewage disposal, the minimum lot area shall be 17,000 square feet.

(3) For lots containing, or intended to contain, a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.

(Code 1972, § 30-24; Code 1992, § 30-24)

Sec. 42-70. Setback.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-25; Code 1992, § 30-25; Ord. No. 2002-2, 3-5-2002)

Sec. 42-71. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 100 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line.

(Code 1972, § 30-26; Code 1992, § 30-26; Ord. No. 2012-6, § 30-26, 6-19-2012)

Sec. 42-72. Yards.

(a) The minimum side yard for each main structure shall be a minimum of 15 feet or side lot line easement width whichever is greater.

(b) Each main structure shall have a rear yard of 40 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a

minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(e) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(Code 1972, § 30-27; Code 1992, § 30-27; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-27, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-73. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a school or church, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-28; Code 1992, § 30-28; Ord. of 12-17-1991(2))

Sec. 42-74. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-29; Code 1992, § 30-29)

Secs. 42-75—42-91. Reserved.

ARTICLE IV. SINGLE-FAMILY RESIDENTIAL DISTRICT R-1

Sec. 42-92. Statement of intent.

Sec. 42-93. Permitted uses.

Sec. 42-94. Area.

Sec. 42-95. Setback.

Sec. 42-96. Frontage.

Sec. 42-97. Yards.

Sec. 42-98. Height.

Sec. 42-99. Corner lots.

Secs. 42-100—42-126. Reserved.

Sec. 42-92. Statement of intent.

This district is intended for moderately low-density single-family residential areas, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, and to protect single-family areas from encroachment by potentially incompatible commercial land uses. To these ends, development shall be limited to relatively low concentration, and permitted uses shall be limited to single unit dwellings providing homes for the residents plus certain public and semi-public facilities that serve the residents.

(Code 1972, § 30-30; Code 1992, § 30-30; Ord. No. 2000-3, 5-2-2000)

Sec. 42-93. Permitted uses.

In the R-1 Single-Family Residential District, structures to be erected or land to be used shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Public buildings to consist of fire, police and rescue squad stations, schools and recreational facilities. Private buildings to consist of schools and recreational facilities, with a conditional use permit.

(3) Churches and other places of worship.

(4) Parks and playgrounds.

(5) Minor home occupations. Major home occupations with a conditional use permit.

(6) Off-street parking and loading.

(7) Signs in accordance with the sign ordinance in chapter 4, Advertising.

(8) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities necessary for provision and maintenance, including water and sewerage facilities; pumping and

regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(9) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings such as carports, porches and stoops attached to the main building shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(10) Construction trailers on active construction sites.

(11) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(12) Child day care centers, with a conditional use permit.

(13) Planned housing developments consisting of detached single-family residences, including a family and up to one unrelated individual per unit, subject to special regulation of section 42-227, with a conditional use permit.

(14) Portable storage containers, in accordance with section 42-662.

(15) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(16) Urban agriculture in accordance with section 42-663.

(Code 1972, § 30-31; Code 1992, § 30-31; Ord. of 6-20-1989; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2016-1, 2-23-2016)

Sec. 42-94. Area.

The minimum lot area for each permitted use shall be 10,000 square feet.

(Code 1972, § 30-32; Code 1992, § 30-31)

Sec. 42-95. Setback.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-33; Code 1992, § 30-33; Ord. No. 2002-2, 3-5-2002)

Sec. 42-96. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 80 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line.

(Code 1972, § 30-34; Code 1992, § 30-34; Ord. No. 2012-6, § 30-34, 6-19-2012)

Sec. 42-97. Yards.

(a) The minimum side yard for each main structure shall be a minimum of ten feet or side lot line easement width, whichever is greater.

(b) Each main structure shall have a rear yard of 35 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(e) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(Code 1972, § 30-35; Code 1992, § 30-35; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-35, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-98. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a school or church, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-36; Code 1992, § 30-36; Ord. of 12-17-1991(2))

Sec. 42-99. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-37; Code 1992, § 30-37)

Secs. 42-100—42-126. Reserved.

ARTICLE V. TWO-FAMILY RESIDENTIAL DISTRICT R-2

Sec. 42-127. Statement of intent.

Sec. 42-128. Permitted uses.

Sec. 42-129. Area.

Sec. 42-130. Setback.

Sec. 42-131. Frontage.

Sec. 42-132. Yards.

Sec. 42-133. Height.

Sec. 42-134. Corner lots.

Sec. 42-135. Single unit ownership of two-family dwellings; purpose of provisions.

Secs. 42-136—42-153. Reserved.

Sec. 42-127. Statement of intent.

This district is intended for moderate density single-family and two-family residential uses, plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and project the essential characteristics of the district and to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life. This district is predominantly residential in character, but certain public and semi-public uses shall be included to serve the residents of the district.

(Code 1972, § 30-38; Code 1992, § 30-38; Ord. No. 2004-4, 9-7-2004)

Sec. 42-128. Permitted uses.

In the R-2 Two-Family Residential District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and up to two unrelated individuals per unit; two-family dwellings, including a family and up to two unrelated individuals per unit.

(2) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities and libraries. Private buildings to consist of schools, recreational facilities and libraries, with a conditional use permit.

(3) Parks and playgrounds.

(4) Minor home occupations. Major home occupations with a conditional use permit.

(5) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(6) Assisted living facilities and group homes of eight of fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(7) Off-street parking and loading.

(8) Signs in accordance with the sign ordinance in chapter 4, Advertising.

(9) Public utilities such as poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(10) Accessory buildings; provided, that garages or other accessory structures, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(11) Adult home day care, with a conditional use permit.

(12) Churches and other places of worship.

(13) Construction trailers on active construction sites.

(14) Child day care centers, with a conditional use permit.

(15) Planned housing developments consisting of detached single-family residences and/or duplexes, including a family and up to two unrelated individuals per unit, subject to special regulations of section 42-227 with a conditional use permit.

(16) Portable storage containers, in accordance with section 42-662.

(17) Bed and breakfast inns with a conditional use permit.

(18) Urban agriculture in accordance with section 42-663.

(Code 1972, § 30-39; Code 1992, § 30-39; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 4-3-1990; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-5, 12-2-2008; Ord. No. 2008-6, 12-220-08; Ord. No. 2012-6, § 30-39, 6-19-2012; Ord. No. 2012-10, § 30-39, 11-20-2012; Ord. No. 2016-1, 2-23-2016)

Sec. 42-129. Area.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling and other permitted uses shall be 12,500 square feet.

(Code 1972, § 30-40; Code 1992, § 30-40)

Sec. 42-130. Setback.

Structures shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-41; Code 1992, § 30-41; Ord. No. 2002-2, 3-5-2002)

Sec. 42-131. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 80 feet for a single-family dwelling and 100 feet for a two-family dwelling and other permitted uses.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line.

(c) The full facades of individual units within a two-family dwelling shall be varied by changed front yard setbacks. Variation in setback shall be at least three feet.

(Code 1972, § 30-42; Code 1992, § 30-42; Ord. No. 2012-6, § 30-42, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-132. Yards.

(a) The minimum side yard for each main structure shall be a minimum of ten feet or side lot line easement width, whichever is greater.

(b) Each main structure shall have a rear yard of 25 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(e) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(f) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(Code 1972, § 30-43; Code 1992, § 30-43; Ord. of 6-20-1989; Ord. No. 2002-2, 3-5-2002; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-43, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-133. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a school or church, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-44; Code 1992, § 30-44; Ord. of 12-17-1991(2))

Sec. 42-134. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-45; Code 1992, § 30-45; Ord. of 11-20-1987, § (a))

Sec. 42-135. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot frontage for the entire two-unit structure.

(Code 1972, § 30-46; Code 1992, § 30-46; Ord. of 6-20-1989)

Secs. 42-136—42-153. Reserved.

ARTICLE VI. MULTIPLE-FAMILY RESIDENTIAL DISTRICT R-3

Sec. 42-154. Statement of intent.

Sec. 42-155. Permitted uses.

Sec. 42-156. Area and density.

Sec. 42-157. Setback.

Sec. 42-158. Frontage and lot depth.

Sec. 42-159. Yards.

Sec. 42-160. Height.

Sec. 42-161. Corner lots.

Sec. 42-162. Single unit ownership of two-family dwellings; purpose of provisions.

Sec. 42-163. Development standards for apartments.

Sec. 42-164. Planned housing developments.

Secs. 42-165—42-181. Reserved.

Sec. 42-154. Statement of intent.

This district is intended for medium density residential uses and to provide for [a] variety in housing types as well as for those public and semi-public uses and accessory uses as may be necessary or are normally associated with residential surroundings. Professional offices and certain other uses needed in the community may be permitted in appropriate locations by means of a conditional use permit.

(Code 1972, § 30-47; Code 1992, § 30-47; Ord. of 10-24-1989)

Sec. 42-155. Permitted uses.

In the R-3 Multiple-Family Residential District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and up to two unrelated individuals per unit.

(2) Two-family dwellings, including a family and up to two unrelated individuals per unit.

(3) Townhouses, including a family and up to two unrelated individuals per unit.

(4) Multiple-family dwellings, including a family and up to two unrelated individuals per unit.

(5) Planned housing developments subject to the special regulations of section 42-164, including a family and up to two unrelated individuals per unit.

(6) Owner occupied rooming and boarding houses with not more than four roomers or boarders, with a conditional use permit.

(7) A single-family owner-occupied dwelling which, as an accessory use, offers no more than five bedrooms for short-term transient occupancy for compensation and where food service for resident guests is limited to breakfast only with a conditional use permit.

(8) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities and libraries. Private buildings to consist of schools, recreational facilities and libraries, with a conditional use permit.

(9) Churches and other places of worship.

(10) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(11) Family day homes serving one through five children. Family day homes serving six through 12 children with a conditional use permit.

(12) Rest homes or housing for not more than four elderly or handicapped individuals who are physically capable of responding to emergency situations without personal assistance, with a conditional use permit.

(13) Clubs and lodges, except where activities embrace a service customarily carried on within a business district, with a conditional use permit.

(14) Parks and playgrounds.

(15) Professional offices with not more than five employees, with a conditional use permit.

(16) Minor home occupations. Major home occupations with a conditional use permit.

(17) Off-street parking and loading.

(18) Signs in accord with the sign ordinance [chapter 4, Advertising].

(19) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(20) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(21) Condominiums, including a family and up to two unrelated individuals per unit.

(22) Home adult day care center caring for not more than three individuals not related by blood or marriage, with a conditional use permit.

(23) Construction trailers on active construction sites.

(24) Child day care centers, with a conditional use permit.

(25) Portable storage containers, in accordance with section 42-662.

(26) Urban agriculture in accordance with section 42-663.

(Code 1972, § 30-48; Code 1992, § 30-48; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 4-3-1990; Ord. of 12-17-1991(1); Ord. of 9-1-1992; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-48, 6-19-2012; Ord. No. 2012-10, § 30-48, 11-20-2012; Ord. No. 2016-1, 2-23-2016)

Sec. 42-156. Area and density.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling and other permitted nonresidential uses shall be 12,500 square feet.

(c) The minimum lot area for a multiple-family dwelling shall be 15,625 square feet and density of development shall not exceed the ratio of ten dwelling units per gross acre.

(d) Special regulations for townhouses are contained in article XX.

(e) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-49; Code 1992, § 30-49; Ord. of 6-20-1989)

Sec. 42-157. Setback.

Structures shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-50; Code 1992, § 30-50; Ord. No. 2002-2, 3-5-2002)

Sec. 42-158. Frontage and lot depth.

(a) The minimum lot width at the setback line and street line shall be 80 feet for a single-family dwelling, 100 feet for a two-family dwelling and other permitted nonresidential uses, and 125 feet for a multiple-family dwelling.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line. Where permitted, multiple buildings on a single lot may be arranged in accord with approved site plans.

(c) The full facades of individual units within a two-family dwelling shall be varied by changed front yard setbacks. Variation in setback shall be at least three feet.

(Code 1972, § 30-51; Code 1992, § 30-51; Ord. of 6-20-1989; Ord. of 6-2-1998; Ord. No. 2012-6, § 30-51, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-159. Yards.

(a) The minimum side yard for each main structure shall be a minimum of ten feet or side lot line easement width, whichever is greater.

(b) Each main structure shall have a rear yard of 20 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(e) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets and for all multifamily residential development. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development for single-family, duplex or townhouse development or at least the length of the total street frontage connecting to the right-of-way adjoining other properties and to each apartment or condominium unit within the development by a hard surface connection.

(f) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(Code 1972, § 30-52; Code 1992, § 30-52; Ord. of 6-20-1989; Ord. No. 2002-2, 3-5-2002; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-52, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-160. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a school, church, library or hospital, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-53; Code 1992, § 30-53; Ord. of 12-17-1991(2))

Sec. 42-161. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) Each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-54; Code 1992, § 30-54; Ord. of 11-20-1987, § (a))

Sec. 42-162. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot at the setback line for the entire two-unit structure.

(Code 1972, § 30-55; Code 1992, § 30-55; Ord. of 6-20-1989; Ord. of 11-21-1989)

Sec. 42-163. Development standards for apartments.

(a) The development, or project, shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, particularly in larger developments, or projects where more than one building is involved, and to this end may employ such design techniques as may be

appropriate to a particular case, including use of building types, orientation, spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of access points, recreation areas, open spaces and parking areas, grading, landscaping and screening.

(b) No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous.

(c) No apartment building shall be located closer than 15 feet from a private drive, access road or open common parking area, whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five feet and private drives may be located within ten feet of any blank or windowless wall.

(d) More than one apartment building may be located on the lot, provided a minimum distance of 25 feet shall separate any two buildings, or groups of apartment buildings, from any other abutting use or building type.

(e) At least 400 square feet of commonly usable open space shall be provided for each dwelling unit. Such space shall be of such location and dimensions as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

(f) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(g) Each apartment dwelling unit shall contain at least 600 square feet of livable floor area, exclusive of garages, carports, cellars, basements, attics, open porches, patios or breezeways, except that up to ten percent of the units may be constructed with less floor area than this minimum.

(h) Apartment development requiring ingress and egress to a public street shall meet all the requirements of the town subdivision ordinance.

(i) Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-56; Code 1992, § 30-56; Ord. of 6-20-1989; Ord. No. 2002-2, 3-5-2002)

Sec. 42-164. Planned housing developments.

(a) Within an R-3 Multiple-Family Residential District, as a conditional use or in conjunction with an application for conditional zoning for R-3 Residential, and in order to encourage improved housing design, variety in housing types and best use of topography, a site plan shall be submitted for a planned housing development, together with a subdivision plan, if required by this chapter or chapter 40, and such other descriptive material or proffers as may be necessary to fully determine the development, even though such development does not comply in all respects to the dimensional requirements of the R-3 District, provided:

(1) One or more major features of the development, such as unusual natural features, yard spaces, open spaces and building types and arrangements, are such as to justify application of this section rather than a conventional application of the other regulations of the R-3 District.

(2) Materials submitted, drawings, descriptions, proffers and the like are sufficiently detailed to ensure compliance with the intent of this section.

(3) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment, which, if different from designs otherwise permitted in the R-3 District, will not adversely affect existing and future development in the surrounding area.

(4) The overall dwelling unit density shall not exceed 20 dwelling units per gross acre.

(5) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end, may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas, open spaces and parking areas, grading, landscaping and screening.

(6) Provision satisfactory to the planning commission and approved by the town attorney shall be made to ensure that nonpublic areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

(b) Procedures and general standards for approval of an application under this section shall be the same as those for a conditional use permit or for conditional zoning as described in article I, as the case may require.

(Code 1972, § 30-57; Code 1992, § 30-57; Ord. No. 2012-10, § 30-57, 11-20-2012; Ord. No. 2015-2, 9-8-2015)

Secs. 42-165—42-181. Reserved.

ARTICLE VII. RESIDENTIAL MANUFACTURED HOME SUBDIVISION DISTRICT R-MS [2]

Sec. 42-182. Statement of intent.

Sec. 42-183. Permitted uses.

Sec. 42-184. Area.

Sec. 42-185. Setback.

Sec. 42-186. Frontage.

Sec. 42-187. Yards.

Sec. 42-188. Height.

Sec. 42-189. Corner lots.

Secs. 42-190—42-216. Reserved.

Sec. 42-182. Statement of intent.

This district is intended for moderate density single-family manufactured homes in subdivisions, together with such public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential uses of this type.

(Code 1972, § 30-58; Code 1992, § 30-58; Ord. of 9-5-1995)

Sec. 42-183. Permitted uses.

In the R-MS Residential Manufactured Home Subdivision District, structures to be erected, or land to be used, may be for one or more of the following uses:

(1) Single-family dwellings, manufactured homes or doublewide manufactured homes, on permanent foundations, including a family and one unrelated individual per unit.

(2) Churches and other places of worship.

(3) Family day homes serving one through five children.

(4) Off-street parking and loading.

(5) Signs in accord with the sign ordinance in chapter 4, Advertising.

(6) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(7) Accessory structure, such as carports, toolsheds, porches and stoops, provided that no accessory structure shall be closer than three feet from any lot line or located within any easement or right-of-way, and facilities such as recreation and other amenities accessory to the subdivision as a whole, provided such facilities are approved as part of the development plan.

(8) Adult day care center, with conditional use permit.

(9) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities and libraries. Private buildings to consist of schools, recreational facilities and libraries with a conditional use permit.

(10) Construction trailers on active construction sites.

(11) Minor home occupations. Major home occupations with a conditional use permit.

(12) Child day care centers, with a conditional use permit.

(13) Portable storage containers, in accordance with section 42-662.

(14) Assisted living facilities and group homes of eight or fewer individuals as exempted by Code of Virginia, § 15.2-2291.

(Code 1972, § 30-59; Code 1992, § 30-59; Ord. of 6-20-1989; Ord. of 12-17-1991(1); Ord. of 9-5-1995; Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-59, 6-19-2012; Ord. No. 2012-10, § 30-59, 11-20-2012)

Sec. 42-184. Area.

The minimum lot area for each permitted use shall be 10,000 square feet.

(Code 1972, § 30-60; Code 1992, § 30-60)

Sec. 42-185. Setback.

Structures shall be located 30 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining

to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-61; Code 1992, § 30-61; Ord. No. 2002-2, 3-5-2002)

Sec. 42-186. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 80 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line.

(Code 1972, § 30-62; Code 1992, § 30-62; Ord. No. 2012-6, § 30-62, 6-19-2012)

Sec. 42-187. Yards.

(a) The minimum side yard for each main structure shall be a minimum of ten feet or the side lot line easement width, whichever is greater.

(b) Each main structure shall have a rear yard of 35 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(e) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(Code 1972, § 30-63; Code 1992, § 30-63; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-63, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-188. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a church, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yard shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-64; Code 1992, § 30-64; Ord. of 12-17-1991(2))

Sec. 42-189. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-65; Code 1992, § 30-65; Ord. of 11-20-1987, § (a))

Secs. 42-190—42-216. Reserved.

FOOTNOTE(S):

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State Law reference— Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.(Back)

ARTICLE VIII. MIXED USE: RESIDENTIAL—LIMITED BUSINESS DISTRICT MU-1

Sec. 42-217. Statement of intent.

Sec. 42-218. Permitted uses.

Sec. 42-219. Limitations on permitted uses.

Sec. 42-220. Area and density.

Sec. 42-221. Setback.

Sec. 42-222. Frontage and yards.

Sec. 42-223. Height.

Sec. 42-224. Corner lots.

Sec. 42-225. Single unit ownership of two-family dwellings; purpose of provisions.

Sec. 42-226. Development standards for apartments.

Sec. 42-227. Planned housing developments.

Secs. 42-228—42-247. Reserved.

Sec. 42-217. Statement of intent.

This district is intended as a transitional district for the combination of medium density residential uses and the conduct of limited business. This district will provide for a variety in housing types as well as for those public and semi-public uses and accessory uses, as may be necessary or are normally associated with residential surroundings, while including such business uses as retail stores, banks, theaters, business and professional offices, day care centers, restaurants and service stations which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This district is intended to serve as a buffer between purely residential districts and districts which allow general commercial activity. Emphasis will be placed upon planned development with binding conditions to ensure the protection of both neighboring residential areas and residences within the district.

(Code 1992, § 30-66; Ord. No. 2004-4, 9-7-2004)

Sec. 42-218. Permitted uses.

In the MU-1 Mixed Use: Residential - Limited Business District, structures to be erected, or land to be used, shall be for one or more of the following uses (Note: Activities or uses which instruct the reader to 'see' a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to 'see also' another permitted use or section of this chapter or this Code are intended to refer the reader to additional information that is relevant to that permitted use.):

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Two-family dwellings, including a family and up to two unrelated individuals per unit.

(3) Minor home occupations. Major home occupations with a conditional use permit.

(4) Townhouses, including a family and up to two unrelated individuals per unit, (see article XX, Townhouses, for townhouse provisions) with a conditional use permit.

(5) Condominiums, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(6) Multiple-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(7) Planned housing developments, including a family and up to two unrelated individuals per unit, subject to the special regulations of section 42-227, with a conditional use permit.

(8) Bed and breakfast inns, with a conditional use permit.

(9) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(10) Parks and playgrounds.

(11) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private schools, recreational facilities, libraries, museums and art galleries with a conditional use permit.

(12) Off-street parking and loading.

(13) Signs in accord with the sign ordinance in chapter 4, Advertising.

(14) Construction trailers on active construction sites.

(15) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulator stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

(16) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(17) Any use permitted in the B-1 Limited Business District, with a conditional use permit and subject to the use regulations of this district, except that uses permitted as conditional uses in the B-1 Limited Business District but permitted by right in the MU-1 District, shall not require a conditional use permit. Uses permitted in the B-1 Limited Business District with a conditional use permit are limited to the following provision exceptions.

a. Fitness center or health club shall be limited to a maximum of 2,500 square feet.

b. Rental of household items, tools and appliances shall be limited to a maximum of 2,500 square feet with all storage inside a fully enclosed building.

c. Greenhouse or nursery, commercial or retail (but not wholesale) limited to a maximum of 2,500 square feet.

(18) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health effects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(19) Miniwarehouses, with a conditional use permit.

(20) Portable storage containers, in accordance with section 42-662.

(21) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(Code 1992, § 30-67; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-67, 6-19-2012; Ord. No. 2012-10, § 30-67, 11-20-2012)

Sec. 42-219. Limitations on permitted uses.

(a) *Plans; site plan.* Before a building permit shall be used or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Similar uses permitted.* Other manufacturing uses which, in the opinion of the administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.

(c) *Enclosed buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.

(d) *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks.

(e) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(f) *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls or landscaping planting.

(g) *Drainage.* Provisions shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property, except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(h) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(Code 1992, § 30-68; Ord. No. 2004-4, 9-7-2004)

Sec. 42-220. Area and density.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling and shall be 12,500 square feet.

(c) The minimum lot area for a multiple-family dwelling shall be 15,625 square feet and density of development shall not exceed the ratio of ten dwelling units per gross acre.

(d) Special regulations for townhouses are contained in article XX.

(e) There shall be no minimum area required for businesses.

(f) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

(Code 1992, § 30-69; Ord. No. 2004-4, 9-7-2004)

Sec. 42-221. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-70; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-222. Frontage and yards.

(a) The minimum lot width at the setback line and street line shall be 80 feet for a single-family dwelling, 100 feet for a two-family dwelling, and 125 feet for a multiple-family dwelling. Commercial uses have no minimum width.

(b) All residential structures in this district shall be located on the lot with the front of the structure facing the front lot line. Where permitted, multiple buildings on a single lot may be arranged in accord with approved site plans.

(c) Commercial lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(d) The minimum side yard for each residential structure shall be a minimum of ten feet or side lot line easement width, whichever is greater.

(e) Each structure shall have a rear yard of 20 feet or more.

(f) The minimum side yard for each main structure shall be a minimum of ten feet. The side yard of corner lots shall be 30 feet or more.

(g) Single-family residences shall have a setback of a minimum of ten feet from any residential district. Main structures other than single-family residences shall have a setback of a minimum of 20 feet from any residential district.

(h) Accessory structures shall have a side and rear yard of three feet or more.

(i) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(j) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien

upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(k) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(l) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(m) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

(n) The front yard shall contain a minimum of 20 percent greenspace or landscaped area with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(o) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(p) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

(q) Sidewalks shall be required for all new development. Sidewalks shall be required whenever a new principal building is built or an existing principal building is renovated or expanded sufficiently to increase its value by 25 percent before a certificate of occupancy may be issued. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(r) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(s) The full facades of individual units within a two-family dwelling shall be varied by changed front yard setbacks. Variation in setback shall be at least three feet.

(Code 1992, § 30-71; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-71, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-223. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building such, as a school, church, library or hospital, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) For residential uses, no accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(6) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.

(Code 1992, § 30-72; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-224. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) Each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1992, § 30-73; Ord. No. 2004-4, 9-7-2004)

Sec. 42-225. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot at the setback line for the entire two-unit structure.

(Code 1992, § 30-74; Ord. No. 2004-4, 9-7-2004)

Sec. 42-226. Development standards for apartments.

(a) The development, or project, shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, particularly in larger developments, or projects, where more than one building is involved, and to this end may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation, spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of access points, recreation areas, open spaces and parking areas, grading, landscaping and screening.

(b) No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous.

(c) No apartment building shall be located closer than 15 feet from a private drive, access road or open common parking area, whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five feet and private drives may be located within ten feet of any blank or windowless wall.

(d) More than one apartment building may be located on the lot, provided a minimum distance of 25 feet shall separate any two buildings, or groups of apartment buildings, from any other abutting use or building type.

(e) At least 400 square feet of commonly usable open space shall be provided for each dwelling unit. Such space shall be of such location and dimensions as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

(f) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(g) Each apartment dwelling unit shall contain at least 600 square feet of livable floor area, exclusive of garages, carports, cellars, basements, attics, open porches, patios or breezeways, except that up to ten percent of the units may be constructed with less floor area than this minimum.

(h) Apartment development requiring ingress and egress to a public street shall meet all the requirements of the town subdivision ordinance.

(i) Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-75; Ord. No. 2004-4, 9-7-2004)

Sec. 42-227. Planned housing developments.

(a) Within a MU-1 Mixed Use: Residential - Limited Business District as a conditional use or in conjunction with an application for conditional zoning for MU-1 Mixed Use: Residential - Limited Business District, and in order to encourage improved housing design, variety in housing types and best use of

topography, a site plan shall be submitted for a planned housing development, together with a subdivision plan, if required by this chapter or the subdivision chapter, and such other descriptive material or proffers as may be necessary to fully determine the development, even though such development does not comply in all respects to the dimensional requirements of the MU-1 District, provided:

(1) One or more major features of the development, such as unusual natural features, yard spaces, open spaces and building types and arrangements, are such as to justify application of this section rather than a conventional application of the other regulations of the MU-1 District.

(2) Materials submitted, drawings, descriptions, proffers and the like are sufficiently detailed to ensure compliance with the intent of this section.

(3) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment, which, if different from designs otherwise permitted in the MU-1 District, will not adversely affect existing and future development in the surrounding area.

(4) The overall dwelling unit density does not exceed that permitted in the MU-1 District for development of comparable housing types.

(5) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end, may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas open spaces, and parking areas, grading, landscaping and screening.

(6) Provision satisfactory to the planning commission and approved by the town attorney shall be made to ensure that nonpublic areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

(b) Procedures and general standards for approval of an application under this section shall be the same as those for a conditional use permit or for conditional zoning as described in article I, as the case may require.

(Code 1992, § 30-76; Ord. No. 2004-4, 9-7-2004; Ord. No. 2012-10, § 30-76, 11-20-2012)

Secs. 42-228—42-247. Reserved.

ARTICLE IX. MIXED USE: RESIDENTIAL—LIMITED BUSINESS—LIMITED INDUSTRIAL DISTRICT MU-2

Sec. 42-248. Statement of intent.

Sec. 42-249. Permitted uses.

Sec. 42-250. limitations on permitted uses.

Sec. 42-251. Area and density.

Sec. 42-252. Setback.

Sec. 42-253. Frontage and yards.

Sec. 42-254. Height.

Sec. 42-255. Corner lots.

Sec. 42-256. Single unit ownership of two-family dwellings; purpose of provisions.

Sec. 42-257. Development standards for apartments.

Sec. 42-258. Planned housing developments.

Secs. 42-259—42-279. Reserved.

Sec. 42-248. Statement of intent.

This district is intended as a transitional district to provide for the combination of medium density residential uses and the conduct of limited business and industrial activity to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles, and for a variety of light manufacturing, fabricating and processing uses appropriately located for access by highways providing a controlled environment. Uses are to be conducted within completely enclosed buildings or within screened areas. This district is intended to serve as a buffer between purely residential districts and districts which allow general commercial and industrial activity. Emphasis will be placed upon planned development with binding conditions to ensure the protection of both neighboring residential areas and residences within the district.

(Code 1992, § 30-77; Ord. No. 2004-4, 9-7-2004)

Sec. 42-249. Permitted uses.

In the MU-2: Mixed Use Residential - Limited Business - Limited Industrial District, structures to be erected, or land to be used, may be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Two-family dwellings, including a family and up to two unrelated individuals per unit.

(3) Minor home occupations. Major home occupations with a conditional use permit.

(4) Townhouses, including a family and up to two unrelated individuals per unit, (see article XX, Townhouses, for townhouse provisions), with a Conditional Use Permit.

(5) Condominiums, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(6) Multiple-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(7) Planned housing developments, including a family and up to two unrelated individuals per unit, subject to the special regulations of section 42-258, with a conditional use permit.

(8) Bed and breakfast inns, with a conditional use permit.

(9) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(10) Parks and playgrounds.

(11) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(12) Off-street parking and loading.

(13) Signs in accord with the sign ordinance in chapter 4, Advertising.

(14) Construction trailers on active construction sites.

(15) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping or regulator stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

(16) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(17) Any use permitted in the B-1 Limited Business District, with a conditional use permit and subject to the use regulations of this district, except that uses permitted as conditional uses in the B-1 Limited Business District but permitted by right in the MU-2 District shall not require a conditional use permit. Uses permitted in the B-1 Limited Business District with a conditional use permit are limited to the following provision exceptions:

a. Fitness center or health club shall be limited to a maximum of 2,500 square feet.

b. Rental of household items, tools and appliances shall be limited to a maximum of 2,500 square feet with all storage inside a fully enclosed building.

c. Greenhouse or nursery, commercial or retail (but not wholesale) limited to a maximum of 2,500 square feet.

(18) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health effects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(19) Miniwarehouses, with a conditional use permit.

(20) Laboratories, research, experimental or testing, excluding animals and explosives, with a conditional use permit.

(21) Manufacture or assembly of medical and dental equipment, drafting and optical instruments, watches, clocks, toys, games, electrical or electronic apparatus, and communication equipment with a conditional use permit.

(22) Compounding of cosmetics, toiletries, drugs and pharmaceutical products, with a conditional use permit.

(23) Molding of candles and soap, with a conditional use permit.

(24) Manufacture of pottery or other similar ceramic products, from previously pulverized clay, and in kilns fired only by smokeless furnaces, with a conditional use permit.

(25) Monument sales establishments with incidental processing to order, but not including, shaping of headstones, with a conditional use permit.

(26) Printing, publishing and engraving establishment, photographic processing, blueprinting, photocopying and similar uses, with a conditional use permit.

(27) Radio or television broadcasting studios and offices, with a conditional use permit.

(28) Sign fabricating and painting, with a conditional use permit.

(29) Portable storage containers, in accordance with section 42-662.

(30) Assisted living facilities and group homes of eight or fewer individuals as exempted by Code of Virginia, § 15.2-2291.

(Code 1992, § 30-78; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-78, 6-19-2012; Ord. No. 2012-10, § 30-78, 11-20-2012)

Sec. 42-250. limitations on permitted uses.

(a) *Plans; site plan.* Before a building permit shall be used or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Similar uses permitted.* Other manufacturing uses which, in the opinion of the administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.

(c) *Enclosed buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.

(d) *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks.

(e) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(f) *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls or landscaping planting.

(g) *Drainage.* Provisions shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(h) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(Code 1992, § 30-79; Ord. No. 2004-4, 9-7-2004)

Sec. 42-251. Area and density.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling shall be 12,500 square feet.

(c) The minimum lot area for a multiple-family dwelling shall be 15,625 square feet and density of development shall not exceed the ratio of ten dwelling units per gross acre.

(d) Special regulations for townhouses are contained in article XX.

(e) There shall be no minimum area required for businesses.

(f) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area, if considered necessary by the health official.

(Code 1992, § 30-80; Ord. No. 2004-4, 9-7-2004)

Sec. 42-252. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-81; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-253. Frontage and yards.

(a) The minimum lot width at the setback line and street line shall be 80 feet for a single-family dwelling, 100 feet for a two-family dwelling and 125 feet for a multiple-family dwelling. Commercial uses have no minimum width.

(b) All residential structures in this district shall be located on the lot with the front of the structure facing the front lot line. Where permitted, multiple buildings on a single lot may be arranged in accord with approved site plans.

(c) Commercial lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(d) The minimum side yard for each residential structure shall be a minimum of ten feet or side lot line easement width, whichever is greater.

(e) Each structure shall have a rear yard of 20 feet or more.

(f) The minimum side yard for each main structure shall be a minimum of ten feet. The side yard of corner lots shall be 30 feet or more.

(g) Single-family residences shall have a setback of a minimum of ten feet from any residential district. Main structures other than single-family residences shall have a setback of a minimum of 20 feet from any residential district.

(h) Accessory structures shall have a side and rear yard of three feet or more.

(i) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(j) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(k) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(l) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(m) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

(n) The front yard shall contain a minimum of 20 percent greenspace or landscaped area with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(o) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(p) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

(q) Sidewalks shall be required for all new development. Sidewalks shall be required whenever a new principal building is built or an existing principal building is renovated or expanded sufficiently to increase its value by 25 percent before a Certificate of Occupancy may be issued. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(r) Handicap ramps shall be allowed to encroach in all yards if the following criteria are met:

(1) The encroachment by the ramp must be the minimum necessary to accomplish safe access;

(2) The ramp must meet the current edition of the Virginia Uniform Statewide Building Code and the Town of Christiansburg Code; and

(3) The minimum size of a building entry landing associated with the ramp shall meet Virginia Uniform Statewide Building Code requirements. The maximum building entry landing size shall be six feet by six feet.

(s) The full facades of individual units within a two-family dwelling shall be varied by changed front yard setbacks. Variation in setback shall be at least three feet.

(Code 1992, § 30-82; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-82, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Sec. 42-254. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building, such as a school, church, library or hospital, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) For residential uses, no accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(6) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.

(Code 1992, § 30-83; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-255. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) Each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1992, § 30-84; Ord. No. 2004-4, 9-7-2004)

Sec. 42-256. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot at the setback line for the entire two-unit structure.

(Code 1992, § 30-85; Ord. No. 2004-4, 9-7-2004)

Sec. 42-257. Development standards for apartments.

(a) The development, or project, shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, particularly in larger developments, or projects, where more than one building is involved, and, to this end, may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation, spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of access points, recreation areas, open spaces and parking areas, grading, landscaping and screening.

(b) No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous.

(c) No apartment building shall be located closer than 15 feet from a private drive, access road or open common parking area, whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five feet and private drives may be located within ten feet of any blank or windowless wall.

(d) More than one apartment building may be located on the lot provided a minimum distance of 25 feet shall separate any two buildings or groups of apartment buildings from any other abutting use or building type.

(e) At least 400 square feet of commonly usable open space shall be provided for each dwelling unit. Such space shall be of such location and dimensions as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

(f) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(g) Each apartment dwelling unit shall contain at least 600 square feet of livable floor area, exclusive of garages, carports, cellars, basements, attics, open porches, patios or breezeways, except that up to ten percent of the units may be constructed with less floor area than this minimum.

(h) Apartment development requiring ingress and egress to a public street shall meet all the requirements of the town subdivision ordinance.

(i) Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-86; Ord. No. 2004-4, 9-7-2004)

Sec. 42-258. Planned housing developments.

(a) Within a MU-2 Mixed Use: Residential - Limited Business - Limited Industrial District as a conditional use or in conjunction with an application for conditional zoning for MU-2 Mixed Use: Residential - Limited Business - Limited Industrial, and in order to encourage improved housing design, variety in housing types and best use of topography, a site plan shall be submitted for a planned housing development, together with a subdivision plan, if required by this chapter or the subdivision chapter, and such other descriptive material or proffers as may be necessary to fully determine the development, even though such development does not comply in all respects to the dimensional requirements of the MU-2 District, provided:

(1) One or more major features of the development, such as unusual natural features, yard spaces, open spaces and building types and arrangements, are such as to justify application of this section rather than a conventional application of the other regulations of the MU-2 District.

(2) Materials submitted, drawings, descriptions, proffers and the like are sufficiently detailed to ensure compliance with the intent of this section.

(3) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment, which, if different from designs otherwise permitted in the MU-2 District, will not adversely affect existing and future development in the surrounding area.

(4) The overall dwelling unit density does not exceed that permitted in the MU-2 District for development of comparable housing types.

(5) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end may, employ such design techniques as may be appropriate to a particular case, including use of building types, orientation and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas, open spaces and parking areas, grading landscaping, and screening.

(6) Provision satisfactory to the planning commission and approved by the town attorney shall be made to ensure that nonpublic areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

(b) Procedures and general standards for approval of an application under this section shall be the same as those for a conditional use permit or for conditional zoning as described in article I, as the case may require.

(Code 1992, § 30-87; Ord. No. 2004-4, 9-7-2004; Ord. No. 2012-10, § 30-87, 11-20-2012)

Secs. 42-259—42-279. Reserved.

ARTICLE X. LIMITED BUSINESS DISTRICT B-1

Sec. 42-280. Statement of intent.

Sec. 42-281. Permitted uses.

Sec. 42-282. Area.

Sec. 42-283. Setback.

Sec. 42-284. Yards.

Sec. 42-285. Height.

Secs. 42-286—42-303. Reserved.

Sec. 42-280. Statement of intent.

This district is intended to provide for a variety of retail shopping, office uses and miscellaneous personal and business service uses generally for the convenience of nearby residential neighborhoods. To enhance the general character of the district, its function of local and neighborhood service and its compatibility with residential surroundings, the range of permitted uses and the sizes of certain uses are limited.

(Code 1972, § 30-66; Code 1992, § 30-88; Ord. No. 2004-4, § 30-66, 9-7-2004)

Sec. 42-281. Permitted uses.

In the B-1 Limited Business District, structures to be erected, or land to be used, may be for one or more of the following uses:

(1) A single-family dwelling in association with a permitted office, business or commercial use in the same building or on the same premises for use by the proprietor or an employee of said business, including a family and one unrelated individual per unit.

(2) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(3) Convenience stores with retail sales of gasoline, but not auto repair or servicing.

(4) Bakeries, provided that the majority of products produced on the premises are sold at retail on the premises.

(5) Banks and other financial institutions.

(6) Dry cleaners, laundries and laundromats with floor area not exceeding 2,500 square feet.

(7) Barber and beauty shops.

(8) Fitness center or health club.

(9) Offices, business, professional or administrative.

(10) Clinics.

(11) Churches and other places of worship.

(12) Child day care center.

(13) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(14) Funeral homes and crematories.

(15) Clubs and lodges, with a conditional use permit.

(16) Restaurants, catering or delicatessen business.

(17) Shoe repair or tailor shop with floor area not exceeding 2,500 square feet.

(18) Printing and duplicating services, with floor area not exceeding 2,500 square feet.

(19) Rental of household items, tools and appliances.

(20) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(21) Off-street parking and loading, as required.

(22) Signs in accord with the sign ordinance in chapter 4, Advertising.

(23) Greenhouse or nursery, commercial, wholesale or retail, with a conditional use permit.

(24) Adult day care center.

(25) General hospitals.

(26) Convalescent homes, rest homes, nursing homes and housing for the elderly and handicapped.

(27) Rooming and boarding houses serving one through four persons. Rooming and boarding houses serving five through 14 persons, with a conditional use permit.

(28) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official or both for their advice as to the desirability, practicability or health effects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(29) Construction trailers on active construction sites.

(30) Family day homes, with a conditional use permit.

(31) Portable storage containers, in accordance with section 42-662.

(32) Janitorial services.

(33) Personal service establishments.

(Code 1972, § 30-67; Code 1992, § 30-89; Ord. of 9-6-1988; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 7-2-1991; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-4, § 30-67, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-89, 6-19-2012; Ord. No. 2012-10, § 30-89, 11-20-2012)

Sec. 42-282. Area.

There shall be no minimum lot area or width required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-68; Code 1992, § 30-90; Ord. No. 2004-4, § 30-68, 9-7-2004)

Sec. 42-283. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way

(Code 1972, § 30-69; Code 1992, § 30-91; Ord. of 4-3-1990; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-284. Yards.

(a) No building or structure shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way.

(b) A minimum of 20 percent of the site shall be reserved for greenspace landscaping with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height at time of planting of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas.

(c) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(d) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

(e) Sidewalks shall be required for all new development. In lieu of sidewalks, an owner-developer may provide a paved multi-use trail if approved by the town manager. The trail must be a minimum of ten feet in width and adjoin the street right-of-way. A trail must run the entire road frontage of the parcel. In the absence of unreasonable hardship, the town manager will not approve a trail for parcels whose adjoining parcels have sidewalks such that a trail connects to a sidewalk. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

Sidewalks shall be required whenever a new principal building is built or an existing principal building is renovated or expanded sufficiently to increase its value by 25 percent before a certificate of occupancy may be issued.

(Code 1972, § 30-70; Code 1992, § 30-92; Ord. of 5-2-1989; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-70, 9-7-2004; Ord. No. 2013-6, § 30-92, 5-7-2013; Ord. No. 2015-1, 4-28-2015)

Sec. 42-285. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) A public or semi-public building such, as a school, church, library or hospital, may be erected to a height of 60 feet from grade; provided, that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-71; Code 1992, § 30-93; Ord. of 12-17-1991(2); Ord. No. 2004-4, § 30-71, 9-7-2004)

Secs. 42-286—42-303. Reserved.

ARTICLE XI. CENTRAL BUSINESS DISTRICT B-2

Sec. 42-304. Statement of intent.

Sec. 42-305. Permitted uses.

Sec. 42-306. Area.

Sec. 42-307. Setback.

Sec. 42-308. Frontage, yards and height.

Secs. 42-309—42-334. Reserved.

Sec. 42-304. Statement of intent.

This district is intended to provide for an appropriate variety of uses in the traditional center for commercial, financial, professional, governmental and cultural activities and to promote a convenient and relatively compact arrangement of uses and buildings. Higher density residential uses are permitted by conditional use permit to encourage housing convenient to places of shopping and work.

(Code 1972, § 30-72; Code 1992, § 30-94; Ord. No. 2004-4, § 30-72, 9-7-2004)

Sec. 42-305. Permitted uses.

In the B-2 Central Business District, structures to be erected, or land to be used, may be for one or more of the following uses (Note: Activities or uses which instruct the reader to see a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to see also another permitted use or section of the zoning ordinance or town code are intended to refer the reader to additional information that is relevant to that permitted use.):

(1) Any use permitted in the R-3 Residential District, with a conditional use permit and subject to the use regulations of that district, but subject to the area and dimensional regulations for the B-2 Central Business District, except that uses permitted as conditional uses in the R-3 District, but permitted by right in the B-2 District shall not require a conditional use permit. A single-family dwelling, including a family and one unrelated individual per unit in association with a permitted office, business or commercial use, in the same building or on the same premises for use by the proprietor or an employee of said business shall be permitted, but not subject to said requirements.

(2) Apartments or other dwellings above street level, including a family and up to two unrelated individuals per unit, designed as an integral part of a building or group of buildings, containing offices, retail or commercial uses. Apartments or other dwellings at or below street level, including a family and up to two unrelated individuals per unit, designed as an integral part of a building or group of buildings containing offices, retail or commercial uses, with a conditional use permit. In approving such mixed use developments due consideration shall be given to such matters as fire safety, light and air, size and number of dwelling units and means of access thereto, location and number of parking spaces, location of dwellings with respect to commercial uses, and amenities provided for use of residential occupants.

(3) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(4) Bakeries.

(5) Banks and other financial institutions.

(6) Dry cleaners, laundries and laundromats.

(7) Barber and beauty shops.

(8) Fitness center or health club.

(9) Auto, truck and home appliance services.

(10) Theaters and assembly halls.

(11) Hotels and motels, tourist homes and bed and breakfast inns.

(12) Offices, business, professional or administrative.

(13) Churches and other places of worship.

(14) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(15) Hospitals, general.

(16) Funeral homes and crematories.

(17) Service stations with major repair under cover.

(18) Clubs and lodges, with a conditional use permit.

(19) Auto and truck rental, sales and service with a ten-foot front yard setback for vehicle display area. See also *Service stations* and *Commercial garages.*

(20) Restaurants, food handlers and caterers.

(21) Shoe repair or tailor shop.

(22) Plumbing and electrical supply with storage under cover.

(23) Printing and duplicating services.

(24) Rental of household items, tools and appliances.

(25) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles, with a conditional use permit.

(26) Parking garages with a conditional use permit.

(27) Off-street parking and loading.

(28) Signs in accord with the sign ordinance [chapter 4, Advertising].

(29) Dancehalls, with a conditional use permit.

(30) Commercial garage and/or towing service, with major repair and related storage under cover, with a conditional use permit. See also *Auto and truck rental, sales and services* and *Service stations.*

(31) Radio and television stations and studios or recording studios.

(32) Industrialized building units, temporary only, for business, institutional, security or construction purposes, with a conditional use permit. A conditional use permit shall not be required for construction trailers on active construction sites.

(33) The following listed uses, provided not more than five persons are engaged in actual production work, with a conditional use permit:

a. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs and the manufacture of small parts, such as coils, condensers, transformers and crystal holders.

b. Commercial cabinet or woodworking shops; blacksmith shops, and welding or machine shops.

c. Pharmaceutical, medical or dental laboratories.

(34) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.

(35) Rooming and boarding houses serving one through four persons. Rooming and boardinghouses serving five through 14 persons, with a conditional use permit.

(36) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health affects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the

administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(37) Child day care centers or family day homes, with a conditional use permit.

(38) Tattoo parlors and body piercing establishments, with approval of the county health department.

(39) Portable storage containers, in accordance with section 42-662.

(40) Janitorial services.

(41) Personal service establishments.

(42) Farmers' markets, with a conditional use permit.

Note: The following activities or uses serve only as a cross reference to permitted uses listed above which may or may not have conditions attached to the use. The listing of the following cross reference in no way implies that they are a permitted use or activity unless permitted elsewhere within this section. ed.:

Amusement activities, see *Public billiard, game rooms.*

Appliance service, see *Auto, truck and home appliance service.*

Bed and breakfast, see *Hotels, motels.*

Dressmaking, see *Shoe repair and tailor shop.*

Electrical supply, see *Plumbing and electrical supply.*

Garages, see *Commercial garages* and *Service stations.*

Home appliance service, see *Auto, truck and home appliance service.*

Tailoring shop, see *Shoe repair or tailor shop.*

Tourist homes, see *Hotels, motels.*

(Code 1972, § 30-73; Code 1992, § 30-95; Ord. of 10-24-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-4, § 30-73, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-95, 6-19-2012; Ord. No. 2012-10, § 30-95, 11-20-2012)

Sec. 42-306. Area.

There shall be no minimum lot area or width required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official and except that townhouses shall not exceed a density of 20 dwelling units per acre and multiple-family dwellings shall not exceed a density of 30 dwelling units per acre. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-74; Code 1992, § 30-96; Ord. No. 2004-4, § 30-74, 9-7-2004)

Sec. 42-307. Setback.

There shall be no setback requirements, except within the area formed by a straight line connecting two points, one in each street, on the adjacent street right-of-way line 20 feet distant from the intersection

of the two street right-of-way lines which border the property and as provided in article XVII for special setback regulations pertaining to the widening of highways and streets.

(Code 1972, § 30-75; Code 1992, § 30-97; Ord. No. 2004-4, § 30-75, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-308. Frontage, yards and height.

(a) There shall be no minimum frontage, front yard setback, side yard setback or rear yard regulations, except that no building or structure shall be located closer than ten feet to the boundary of a residential district. However, no building or structure shall be located within any easement or right-of-way. Additionally, gas station pump island locations shall comply with Virginia Department of Transportation setbacks. There shall be no height regulation with the exception that structures greater than 70 feet shall require conditional use permit approval. Town water tanks shall be exempt from the conditional use permit requirement.

(b) Sidewalks shall be required for all new development. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

Sidewalks shall be required whenever a new principal building is built or an existing principal building is renovated or expanded sufficiently to increase its value by 25 percent before a certificate of occupancy may be issued.

(Code 1972, § 30-76; Code 1992, § 30-98; Ord. of 6-20-1989; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-76, 9-7-2004; Ord. No. 2012-6, § 30-98, 6-19-2012; Ord. No. 2015-1, 4-28-2015)

Secs. 42-309—42-334. Reserved.

ARTICLE XII. GENERAL BUSINESS DISTRICT B-3

Sec. 42-335. Statement of intent.

Sec. 42-336. Permitted uses.

Sec. 42-337. Area.

Sec. 42-338. Setback.

Sec. 42-339. Frontage and yards.

Sec. 42-340. Height.

Secs. 42-341—42-368. Reserved.

Sec. 42-335. Statement of intent.

This district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This district shall include such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns and garages and service stations. In view of the extensive application of the district and the variety of conditions which may be anticipated, residential uses are permitted with a conditional use permit.

(Code 1972, § 30-77; Code 1992, § 30-99; Ord. No. 2004-4, § 30-77, 9-7-2004)

Sec. 42-336. Permitted uses.

In the B-3 General Business District, structures to be erected, or land to be used, may be for one or more of the following uses (Note: Activities or uses which instruct the reader to see a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to see also another permitted use or section of the zoning ordinance or town code are intended to refer the reader to additional information that is relevant to that permitted use.)

(1) Any principal use permitted in the R-3 Multiple-Family Residential District, with a conditional use permit, except that uses permitted as conditional uses in the R-3 District, but permitted as of right in the B-3 District, shall not require a conditional use permit. Dwellings are subject to the same requirements as in the R-3 District, except that a single-family dwelling in association with a permitted office, business or commercial use, in the same building or on the same premises for use by the proprietor or an employee of said business shall be permitted, but not subject to said requirements, including a family and one unrelated individual per unit; and for multifamily dwellings, the density of development shall not exceed the ratio of 20 dwelling units per gross acre.

(2) Animal hospital, pet shop or pet grooming establishment.

(3) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(4) Bakeries.

(5) Banks and other financial institutions.

(6) Dry cleaners, laundries and laundromats.

(7) Barber and beauty shops.

(8) Fitness center or health club.

(9) Auto, truck and home appliance services. Also see *Service stations* and *Commercial garages.*

(10) Theaters and assembly halls.

(11) Hotels and motels, tourist homes and bed and breakfast inns.

(12) Offices, business, professional or administrative.

(13) Churches and other places of worship.

(14) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(15) Hospitals, general.

(16) Funeral homes and crematories.

(17) Service stations with major repair under cover. Also see *Commercial garage.*

(18) Clubs and lodges, with a conditional use permit.

(19) Auto and truck rental, sales and service. Also see *Service stations* and *Commercial garages.*

(20) Restaurants, food handlers and caterers.

(21) Shoe repair or tailor shop.

(22) Plumbing and electrical supply with storage under cover.

(23) Printing and duplicating services.

(24) Rental of household items, tools and appliances.

(25) Lumber and building materials store, wholesale or retail, but not a lumberyard or manufacturer of brick or concrete blocks.

(26) Self-service storage compartments commonly known as miniwarehouses.

(27) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulatory stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

(28) Off-street parking and loading; parking garages, with a conditional use permit.

(29) Signs in accord with the sign ordinance in chapter 4, Advertising.

(30) Dancehalls, with a conditional use permit.

(31) Mobile home parks, with a conditional use permit. Also see article XVIII, Mobile Home Parks.

(32) Mobile home sales, single- or double-wide, with a conditional use permit.

(33) Machinery and equipment sales, service and storage (but not junk), with a conditional use permit.

(34) Commercial garage and/or towing service, with major repair and related storage under cover, with a conditional use permit. Also see *Auto, truck sales and home appliance services* and *Service stations.*

(35) Contractors equipment storage yard or plant or rental of equipment commonly used by contractors (but not material storage), with a conditional use permit.

(36) Radio and television stations and studios or recording studios.

(37) Industrialized building units for business, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.

(38) The following listed uses, provided not more than 50 persons are engaged in actual production work, with a conditional use permit:

a. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs and the manufacture of small parts, such as coils, condensers, transformers and crystal holders.

b. Commercial cabinet or woodworking shops; blacksmith shops and welding or machine shops.

c. Pharmaceutical, medical or dental laboratories.

(39) Carnival or fairgrounds, with a conditional use permit.

(40) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.

(41) Greenhouse or nursery, commercial, wholesale or retail.

(42) Convalescent homes, rest homes, nursing homes and housing for the elderly and handicapped.

(43) Rooming and boarding houses serving one through four persons. Rooming and boarding houses serving five through 14 persons, with a conditional use permit.

(44) Child day care center.

(45) Campground, overnight, with a conditional use permit. Other permitted B-3 uses located upon the same property as the campground are permitted, provided that non-campground users do not traverse the campground areas to have access to these non-campground uses. Provided further that a fence or other suitable barricade and screening separates the campground from adjacent properties or uses.

(46) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health effects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(47) Recycling, post-collection separation facilities, with a conditional use permit and a plan of operation approved by the administrator. In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impacts of the facility.

(48) Auction house, business, with a conditional use permit.

(49) Family day homes, with a conditional use permit.

(50) Kennels with a conditional use permit.

(51) Automobile upholstery shops, with a conditional use permit.

(52) Railroad yards and terminals, with a conditional use permit.

(53) Farmers' markets or flea markets, with a conditional use permit.

(54) Automobile auctions, with a conditional use permit.

(55) Tattoo parlors and body piercing establishments with approval of the county health department.

(56) Portable storage containers, in accordance with section 42-662.

(57) Janitorial services.

(58) Exterminating services with a conditional use permit.

(59) Personal service establishments.

Note: The following activities or uses serve only as a cross reference to permitted uses listed above which may or may not have conditions attached to the use. The listing of the following cross reference in no way implies that they are a permitted use or activity unless permitted elsewhere within this section.

Appliance service, see *Auto, truck and home appliance services.*

Bed and breakfast inns, see *Hotels, motels.*

Building material sales, see *Lumber and building materials sales.*

Equipment sales, service, etc., see *Machinery and equipment sales and services.*

Pet shops, see *Animal.*

Tourist homes, see *Hotels, motels.*

(Code 1972, § 30-78; Code 1992, § 30-100; Ord. of 9-6-1988; Ord. of 10-24-1989; Ord. of 7-2-1991; Ord. of 12-3-1991; Ord. of 12-17-1991(1); Ord. of 6-15-1993; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2001-4, 8-7-2001; Ord. No. 2004-4, § 30-78, 9-7-2004; Ord. No. 2005-1, 1-18-2005; Ord. No. 2006-1, 1-17-2006; Ord. No. 2006-6, 12-19-2006; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-3, § 30-100, 2-12-2012; Ord. No. 2012-6, § 30-100, 6-19-2012; Ord. No. 2012-10, § 30-100, 11-20-2012)

Sec. 42-337. Area.

There shall be no minimum area required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official and except that residential uses shall comply with the lot area and width requirements of the R-3 District. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-79; Code 1992, § 30-101; Ord. No. 2004-4, § 30-79, 9-7-2004)

Sec. 42-338. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-80; Code 1992, § 30-102; Ord. of 4-3-1990; Ord. No. 2001-5, 11-6-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-80, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-339. Frontage and yards.

(a) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(b) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(c) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(d) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(e) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

(f) A minimum of 20 percent of the site shall be reserved for greenspace landscaping with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas.

(g) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(h) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

(i) Sidewalks shall be required for all new development. In lieu of sidewalks, an owner or developer may provide a paved multi-use trail if approved by the town manager. The trail must be a minimum of ten feet in width and adjoin the street right-of-way. A trail must run the entire road frontage of the parcel. In the absence of unreasonable hardship, the town manager will not approve a trail for parcels whose adjoining parcels have sidewalks such that a trail connects to a sidewalk. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

Sidewalks shall be required whenever a new principal building is built or an existing principal building is renovated or expanded sufficiently to increase its value by 25 percent before a certificate of occupancy may be issued.

(Code 1972, § 30-81; Code 1992, § 30-103; Ord. of 5-2-1989; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. No. 2001-5, 11-6-2001; Ord. No. 2004-4, § 30-81, 9-7-2004; Ord. No. 2013-6, § 30-103, 5-7-2013; Ord. No. 2015-1, 4-28-2015)

Sec. 42-340. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(Code 1972, § 30-82; Code 1992, § 30-105; Ord. No. 2004-4, § 30-82, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Secs. 42-341—42-368. Reserved.

ARTICLE XIII. LIMITED INDUSTRIAL DISTRICT I-1

Sec. 42-369. Statement of intent.

Sec. 42-370. Permitted uses.

Sec. 42-371. Limitations on permitted uses.

Sec. 42-372. Area.

Sec. 42-373. Setback.

Sec. 42-374. Frontage and yards.

Sec. 42-375. Coverage.

Sec. 42-376. Height.

Secs. 42-377—42-395. Reserved.

Sec. 42-369. Statement of intent.

This district is intended to provide for a variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by highways and providing a controlled environment within which signing is limited, uses are to be conducted generally within completely enclosed buildings or within screened areas, and a moderate amount of landscaping is required. In order to preserve the land for industry, to reduce extraneous traffic and avoid future conflicts between

industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

(Code 1972, § 30-83; Code 1992, § 30-105; Ord. No. 2004-4, § 30-83, 9-7-2004)

Sec. 42-370. Permitted uses.

In the I-1 Limited Industrial District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Retail and service establishments as follows:

a. Automobile service station.

b. Banks and savings and loan offices.

c. Business and office supply establishments.

d. Clinics, medical or dental.

e. Churches and other places of worship.

f. Employment service or agency.

g. Janitorial or exterminating service.

h. Offices and office buildings, studios and the like, business, professional or administrative.

i. Restaurant or cafeteria, drive-in or otherwise.

j. Security service office or station.

k. Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing or distributing use.

(2) Generally those light manufacturing uses similar to those listed below which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odor, heat, glare, or electrical impulse than that which is generally associated with light industries of the types specifically permitted below:

a. Manufacture or assembly of spacecraft or component parts, medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, electrical or electronic apparatus and communication equipment.

b. Manufacture or assembly of boats, boat trailers, bolts, buttons, nuts, screws and rivets, firearms, photographic and metering equipment, electrical appliances, tools, dies, machinery and hardware products, sheet metal products, heating, cooling and ventilating equipment, and vitreous enameled products.

c. Beverage blending or bottling, bakery products, candy manufacture, tobacco products, dairy products and ice cream, fruit and vegetable processing and canning, meat and poultry products, but not distilling of beverages or slaughtering of poultry or animals, or processing or bulk storage of grain or feeds for animals or poultry.

d. Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, shoes and leather products, printing and finishing of textiles and fibers into fabric goods.

e. Manufacture of boxes, furniture, cabinets, baskets and other wood products of similar nature.

f. Compounding of cosmetics, toiletries, drugs and pharmaceutical products.

g. Molding of candles and soap.

h. Manufacture of pottery or other similar ceramic products, from previously pulverized clay, and in kilns fired only by smokeless furnaces.

In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use or may require a conditional use permit.

(3) Agriculture and forestry use as permitted in the A Agricultural District.

(4) Dwellings for resident watchmen and caretakers employed on the premises, including a family and one unrelated individual per unit; other single-family or two-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(5) Automobile and truck or recreation vehicle assembling, painting, upholstering, repairing, rebuilding or reconditioning, body or fender work, but not auto salvage or junk, with a conditional use permit.

(6) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; treatment facilities; pumping and regulatory stations. Communications monopoles and towers and major transmission are permitted with a conditional use permit.

(7) Greenhouse or nursery, commercial, wholesale or retail.

(8) Laboratories, research, experimental or testing, excluding animals and explosives.

(9) Lumber and building materials store, wholesale or retail, but not a lumberyard or manufacture of brick or concrete blocks.

(10) Monument sales establishments with incidental processing to order, but not including shaping of headstones.

(11) Printing, publishing and engraving establishment, photographic processing, blueprinting, photocopying and similar uses.

(12) Private club, lodge, meeting hall, labor union or fraternal organization or sorority, with a conditional use permit.

(13) Public buildings to consist of fire, police and rescue squad stations and recreational facilities. Private buildings to consist of recreational facilities, with a conditional use permit.

(14) Radio or television broadcasting studios and offices.

(15) Railroad spur tracks or mainline.

(16) Rug and carpet cleaning and storage with incidental sales of rugs and carpets.

(17) Sign fabricating and painting.

(18) Tire rebuilding or recapping.

(19) Wholesale merchandising or storage warehouse or distribution warehouse, but not a truck or truck freight terminal.

(20) Off-street parking and loading.

(21) Signs in accord with the sign ordinance in chapter 4, Advertising.

(22) Accessory buildings and uses, including, but not limited to, the following:

a. Dwellings accessory to a farm of ten acres or more, including a family and up to two unrelated individuals per unit.

b. Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barbershops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs and sundries.

c. Storage of supplies, merchandise, equipment or goods normally carried in stock, used or produced in connection with a permitted office, business, commercial or industrial use subject to applicable district regulations.

(23) Industrialized building units for permitted business, agricultural, limited industrial, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.

(24) Miniwarehouses.

(25) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official or both for their advice as to the desirability, practicability or health affects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(26) Plumbing and electrical supply with storage under cover.

(27) Portable storage containers, in accordance with section 42-662.

(28) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses, and similar forms of public amusement, with a conditional use permit.

(Code 1972, § 30-84; Code 1992, § 30-106; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-2, 5-18-2004; Ord. No. 2004-4, § 30-84, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-2, § 30-106, 2-21-2012; Ord. No. 2012-6, § 30-106, 6-19-2012; Ord. No. 2012-10, § 30-106, 11-20-2012)

Sec. 42-371. Limitations on permitted uses.

(a) *Plans; site plan.* Before a building permit shall be used or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Similar uses permitted.* Other manufacturing uses which, in the opinion of the administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.

(c) *Enclosed buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.

(d) *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks. The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(e) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and, to this end, may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(f) *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls or landscaping planting.

(g) *Drainage.* Provision shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property, except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(h) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(Code 1972, § 30-85; Code 1992, § 30-107; Ord. No. 2004-4, § 30-85, 9-7-2004)

Sec. 42-372. Area.

(a) For permitted uses utilizing individual sewerage disposal systems, the required area shall be determined and approved by the health official.

(b) Required lot area for dwellings shall adhere to the requirements of the R3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(Code 1972, § 30-86; Code 1992, § 30-108; Ord. of 6-20-1989; Ord. No. 2004-4, § 30-86, 9-7-2004)

Sec. 42-373. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-87; Code 1992, § 30-109; Ord. of 4-3-1990; Ord. of 6-2-1998; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-87, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-374. Frontage and yards.

(a) The minimum lot width at the setback line shall be 100 feet.

(b) The minimum side yard for each main structure shall be a minimum of 40 feet. The side yard of corner lots shall be 30 feet or more.

(c) Each main structure shall have a rear yard of not less than 40 feet.

(d) No building or structure shall be located closer than 40 feet to the boundary of a residential district.

(e) Residential development shall comply with all frontage, lot, yard and development standards for similar development in the R-3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(Code 1972, § 30-88; Code 1992, § 30-110; Ord. of 6-20-1989; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-88, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2012-6, § 30-110, 6-19-2012)

Sec. 42-375. Coverage.

Impervious surfaces may cover up to 80 percent of the area of the lot. The front yard shall contain a minimum of 20 percent greenspace or landscaped area.

(Code 1972, § 30-89; Code 1992, § 30-111; Ord. No. 2004-4, § 30-89, 9-7-2004)

Sec. 42-376. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) The height limit may be increased up to 70 feet provided the building is set back from all lot lines at least ten feet for each five feet of height over 35 feet.

(2) Cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(Code 1972, § 30-90; Code 1992, § 30-112; Ord. No. 2004-4, § 30-90, 9-7-2004)

Secs. 42-377—42-395. Reserved.

ARTICLE XIV. GENERAL INDUSTRIAL DISTRICT I-2

Sec. 42-396. Statement of intent.

Sec. 42-397. Permitted uses.

Sec. 42-398. Limitations.

Sec. 42-399. Area.

Sec. 42-400. Setback.

Sec. 42-401. Frontage and yards.

Sec. 42-402. Coverage.

Sec. 42-403. Height.

Secs. 42-404—42-434. Reserved.

Sec. 42-396. Statement of intent.

The purpose of this district is to provide for a wide variety of industrial operations, including open storage of products, supplies and equipment, but to restrict or prohibit those industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district. Certain potentially hazardous industries are permitted only after public hearings and review to ensure protection of the public interest and surrounding property and persons. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

(Code 1972, § 30-91; Code 1992, § 30-113; Ord. No. 2004-4, § 30-91, 9-7-2004)

Sec. 42-397. Permitted uses.

In the I-2 General Industrial District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Any manufacturing, processing, storing or distributing use permitted in the I-1 Limited Industrial District.

(2) Agriculture and forestry use as permitted in the A Agricultural District.

(3) Dwellings for resident watchmen and caretakers employed on the premises, including a family and one unrelated individual per unit; other single-family or two-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(4) Retail and service establishments as follows:

a. Automobile service station.

b. Banks and savings and loan offices.

c. Business and office supply establishments.

d. Clinics, medical or dental.

e. Employment service or agency.

f. Janitorial or exterminating service.

g. Offices and office buildings, studios and the like, business, professional or administrative.

h. Restaurant or cafeteria, drive-in or otherwise.

i. Security service office or station.

j. Temporary stands, or outdoor areas or temporary vehicle parking, for retail or wholesale trade.

k. Trade or business school, including instruction in heavy construction or materials handling equipment or similar vehicles and equipment.

l. Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing or distributing use.

m. Veterinary or dog or cat hospitals.

n. Adult businesses as regulated in section 42-398(f), with a conditional use permit.

(5) Off-street parking and loading and parking garages.

(6) Signs in accord with the sign ordinance in chapter 4, Advertising.

(7) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; treatment facilities; pumping and regulatory stations; substations. Public utility generating, booster or relay stations; major transmission lines and towers; communications monopoles or towers; railroad yards and terminals are permitted with a conditional use permit.

(8) Industrialized building units for business, agricultural, industrial, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.

(9) The following uses and any similar industrial uses which are not likely to create any more offensive noise, vibrations, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted, and manufacture, compounding, processing, packaging or treatment of the following products or similar products. In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use. Where doubt remains following such engineering report, the proposal shall be considered as a potentially hazardous use and shall require conditional use permit approval.

a. Abrasive wheels, stones, paper, cloth and related products.

b. Adhesives, but not glue or size manufacture.

c. Agricultural or farm implements, manufacture, sale, storage or repair.

d. Aircraft and aircraft parts.

e. Aluminum extrusion, rolling, fabrication and forming.

f. Automobile, motorcycle, bus, tractor truck, pickup or panel truck manufacture, assembly, rental or repair, but not a salvage or wrecking yard.

g. Bag manufacture or cleaning.

h. Barrel or box manufacturing.

i. Blacksmith shop.

j. Building materials (cement, lime in bags or container, sand, gravel, stone, lumber, structural or reinforcing steel, pipe and the like) storage and sales, open or enclosed, but not manufacture or steel fabricating or junk storage.

k. Candles, including wax or tallow manufacture.

l. Ceramics and ceramic products.

m. Coal, flour or grain elevator; coal or wood yard.

n. Concrete products or central mixing and proportioning plant.

o. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors.

p. Engine testing (internal combustion engines), but not jet engines or rockets.

q. Equipment sales, rental, service and storage, but not junk.

r. Excelsior, wood fiber.

s. Fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building, but not manufacture or processing.

t. Flour, storage, blending and packaging, but not milling.

u. Galvanizing or plating (hot dip).

v. Glass and glass products.

w. Ink manufacture from primary raw materials (including colors and pigments).

x. Lumberyard.

y. Meat products, manufacture, but not slaughtering of animals and poultry or smoking and curing of meat.

z. Monuments and architectural stone.

aa. Oils, shortenings and fats (edible), and storage.

bb. Paper and paperboard (from paper machine only), but not pulp mills.

cc. Petroleum and other inflammable liquids, aboveground bulk storage up to 80,000 gallons, but not refining.

dd. Plumbing and electrical supplies, manufacture, sale or storage.

ee. Railroad switching and classification yards, repairs and cleaning shops, roundhouses, powerhouses, interlocking towers and fueling, sanding and watering stations.

ff. Recycling, post-collection separation facilities with a zoning permit application and plan of operation approved by the administrator and subject to the foregoing conditions. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare. In addition, any landscaping or screening provisions of this article shall be mandatory.

gg. Sand and gravel processing, but not extraction or stone crushing or grinding.

hh. Sawmill (including cooperage stock mill), stationary and planing mill.

ii. Soap products, but not soap manufacture.

jj. Structural iron and steel fabrication.

kk. Terminal, truck, with any petroleum storage to not exceed 80,000 gallons.

ll. Terminal, truck freight. (Note: changed from prior listing as truck terminal, freight.)

mm. Terminal, truck freight, with any petroleum storage to not exceed 80,000 gallons.

nn. Tobacco products, cigars, cigarettes.

oo. Wallboard and plaster, building, insulation and composition flooring.

pp. Welding and soldering shops; machine shop.

qq. Well drilling establishment, water, gas or oil; offices, storage or service of supplies and equipment.

rr. Wire rope and cable.

ss. Wood chip and fiber board.

(10) Accessory buildings and uses, including, but not limited to, the following:

a. Dwellings accessory to a farm of ten acres or more, including a family and up to two unrelated individuals per unit.

b. Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barbershops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs and sundries.

c. Storage of supplies, merchandise, equipment or goods normally carried in stock, used or produced in connection with a permitted office, business, commercial or industrial use subject to applicable district regulations.

(11) Potentially hazardous uses permitted as conditional uses. The following uses or the manufacture, compounding, processing, packaging or treatment of products not specifically listed above or below, but which may have accompanying hazards, such as fire, explosion, noise, vibration, dust or the emission of smoke, odor, toxic gases or other pollutants, may, if not in conflict with any state or town law or ordinance, be located in the I-2 General Industrial District, only after the location and nature of such use shall have been approved by the town council as a conditional use permit, as provided in this chapter. In cases of doubt regarding the nature of a process or use, the town council may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use. The town council shall review the plans and statements and shall not permit such buildings, structures or uses until there has been shown that the public health, safety and general welfare will be properly protected, and that necessary safeguards will be provided for the protection of streams or other water areas and surrounding property and persons. The town council, in reviewing the plans and statements, shall consult with other agencies created for the promotion of public health and safety, and shall pay particular attention to protection of the town, the county and its neighbors from the harmful effects of air or water pollution of any type.

a. Airport or heliport.

b. Bleaching products, dyestuff or textile bleaching.

c. Cider and vinegar.

d. Cleaning and polishing preparations, dressings and blackings, processing.

e. Film, photographic.

f. Flour, feed and grain milling or grain drying.

g. Foundries or forge plant, pneumatic drop and forging hammering.

h. Incinerator, industrial or public.

i. Livestock market.

j. Match manufacturer.

k. Paint, oil, shellac, turpentine or varnish.

l. Petroleum and other inflammable liquids, aboveground bulk storage over 80,000 gallons, but not refining.

m. Pickles, sauerkraut, vegetable relish and sauces.

n. Plastic material and synthetic resins, processing only.

o. Sand and gravel extraction, or similar major excavations.

p. Sandblasting or cutting.

q. Septic storage tanks, aboveground; in conjunction with a commercial septic service for the temporary storage and collection of septic effluent prior to transfer of such effluent to a sanitary disposal facility.

r. Soap manufacture.

s. Starch manufacture.

t. Terminal, truck with any petroleum storage exceeding 80,000 gallons.

u. Terminal, truck freight with any petroleum storage exceeding 80,000 gallons.

(12) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health effects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(13) Public buildings to consist of fire, police and rescue squad stations and recreational facilities. Private buildings to consist of recreational facilities with a conditional use permit.

(14) Auction house, business.

(15) Auction house, industrial.

(16) Kennels, with a conditional use permit.

(17) Laboratories, research, experimental or testing, excluding animals and explosives.

(18) Portable storage containers, in accordance with section 42-662.

(19) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.

(Code 1972, § 30-92; Code 1992, § 30-114; Ord. of 4-3-1990; Ord. of 7-2-1991; Ord. of 7-16-1991; Ord. of 12-17-1991(1); Ord. of 6-15-1993; Ord. of 6-2-1998; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-2, 5-18-2004; Ord. No. 2004-4, § 30-92, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-114, 6-19-2012; Ord. No. 2012-10, § 30-114, 11-20-2012; Ord. No. 2014-7, 12-9-2014)

Sec. 42-398. Limitations.

(a) *Plans; site plan.* Before a building permit shall be issued or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Landscaping; traffic hazards.* The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of three feet and to within 50 feet of the corner of any intersecting streets.

(c) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and, to this end, may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(d) *Drainage.* Provisions shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(e) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(f) *Adult businesses.* In addition to all other requirements, any adult business shall conform to the following requirements:

(1) The business shall be located at least 500 feet away from any residential or agricultural zoning district, and at least 500 feet from the property line of any land used for any of the following:

a. A residence;

b. A nursing home, assisted living facility or similar institution;

c. An adult day care center;

d. A child day care center;

e. A public or private school, college or university;

f. A public park;

g. A public library, museum or cultural center;

h. A church or other place of worship;

i. A hotel, motel or boarding house;

j. Any other adult business.

(2) Adult merchandise shall not be visible from any point outside the establishment.

(3) Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 42-1.

(4) The business shall not begin service to the public or any outside activity before 6:00 a.m. Hours of operation for any adult movie theater, adult nightclub or other business providing adult entertainment shall not extend after 2:00 a.m. Hours of operation for any adult bookstore, adult video store, adult model studio, adult store or any other adult business, except an adult motel, shall not extend after 12:00 midnight.

(5) In any adult business other than an adult motel or adult movie theater, there shall be no viewing of videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices, internet sites or files transmitted over the internet, or similar media characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 42-1, while on the premises.

(6) Adult merchandise shall be located in a separate room or other area inaccessible to persons under 18 years of age.

(7) All owners, managers, employees and entertainers shall be at least 18 years of age.

(8) The owner or operator shall install, operate and maintain a security camera and video tape system designed by a security specialist. Surveillance cameras shall continuously monitor all entrances, parking areas and all areas of the establishment where the adult business is conducted, except

for the sleeping rooms of an adult motel. Such cameras shall provide clear imagery of the establishment's patrons and their vehicles. Tapes recording activities in the areas under surveillance shall be preserved for a period of four months. Authorized representatives of the town police department or the town planning office shall have access to such tapes, upon request.

(9) The owner or operator shall provide adequate lighting for all entrances, exits and parking areas serving the adult business, and all areas of the establishment where the adult business is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. The term "adequate lighting" means sufficient lighting for clear visual and security camera surveillance.

(Code 1972, § 30-93; Code 1992, § 30-115; Ord. No. 2004-4, § 30-93, 9-7-2004)

Sec. 42-399. Area.

(a) For permitted uses utilizing individual sewage disposal systems, the required area shall be determined and approved by the health official.

(b) Required lot area for dwellings shall adhere to the requirements of the R-3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(Code 1972, § 30-94; Code 1992, § 30-116; Ord. of 6-20-1989; Ord. No. 2004-4, § 30-94, 9-7-2004)

Sec. 42-400. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way which is 50 feet or greater in width or 55 feet or more from the centerline of any street right-of-way less than 50 feet in width. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-95; Code 1992, § 30-117; Ord. of 4-3-1990; Ord. No. 2001-5, 11-6-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-95, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-401. Frontage and yards.

(a) For permitted uses, the minimum side or rear yard adjoining or adjacent to a residential district shall be 40 feet. The side yard of corner lots shall be 30 feet or more.

(b) Residential development shall comply with all frontage, lot, yard and development standards for similar development in the R-3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(c) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(d) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such

time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(e) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(f) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(Code 1972, § 30-96; Code 1992, § 30-118; Ord. of 6-20-1989; Ord. No. 2001-5, 11-6-2001; Ord. No. 2004-4, § 30-96, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-402. Coverage.

Impervious surfaces may cover up to 80 percent of the area of the lot. The front yard shall contain a minimum of 20 percent greenspace or landscaped area.

(Code 1972, § 30-97; Code 1992, § 30-119; Ord. No. 2004-4, § 30-97, 9-7-2004)

Sec. 42-403. Height.

There shall be no height restrictions in the I-2 General Industrial District with the exception that structures greater than 70 feet shall require conditional use permit approval. Town water tanks shall be exempt from the conditional use permit requirement.

(Code 1972, § 30-98; Code 1992, § 30-120; Ord. No. 2004-4, § 30-98, 9-7-2004; Ord. No. 2012-6, § 30-120, 6-19-2012)

Secs. 42-404—42-434. Reserved.

ARTICLE XV. FLOODPLAIN DISTRICTS, FP

Sec. 42-435. Purpose.

Sec. 42-436. Applicability.

Sec. 42-437. Compliance.

Sec. 42-438. Abrogation and greater restrictions.

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Sec. 42-444. Floodway district.

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Sec. 42-447. Existing structures in floodplain districts.

Sec. 42-448. Definitions.

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Sec. 42-435. Purpose.

The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

(1) Regulating uses, activities and development, which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.

(2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.

(3) Requiring all those uses, activities and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage.

(4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(Code 1972, § 30-99; Code 1992, § 30-121; Ord. No. 2004-4, § 30-99, 9-7-2004)

Sec. 42-436. Applicability.

These provisions shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(Code 1972, § 30-100; Code 1992, § 30-122; Ord. No. 2004-4, § 30-100, 9-7-2004)

Sec. 42-437. Compliance.

No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered, except in full compliance with the terms and provisions of this article and any other applicable ordinance and regulations which apply to uses within the jurisdiction of this article.

(Code 1972, § 30-101; Code 1992, § 30-123; Ord. No. 2004-4, § 30-101, 9-7-2004)

Sec. 42-438. Abrogation and greater restrictions.

This article supersedes any ordinance currently in effect in floodprone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

(Code 1972, § 30-102; Code 1992, § 30-124; Ord. No. 2004-4, § 30-102, 9-7-2004)

Sec. 42-439. Establishment and description of districts.

(a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the county and the town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 25, 2009, as amended (maps may be viewed on the official FEMA website).

(1) The floodway district is delineated for purposes of this article using the criteria that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. These areas included in this district are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.

(2) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map. The special floodplain district shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which 100-year flood elevations have been provided.

(3) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the flood insurance study. For these areas, 100-year flood elevations and floodway information from other federal, state or other acceptable source shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as:

a. Corps of Engineers—Floodplain information reports.

b. U.S. Geological Survey—Floodprone quadrangles.

c. U.S.D.A., Soil Conservation Service—Flood hazard analyses.

d. Known highway marks from past floods.

e. Tennessee Valley Authority flood reports.

f. Other sources.

Then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic analyses which shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town.

(b) *Overlay concept.*

(1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) In any conflict between the provisions or requirements of any of the floodplain districts and those of any underlying district the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

(3) In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable.

(Code 1972, § 30-103; Code 1992, § 30-125; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-103, 9-7-2004; Ord. No. 2009-7, § 30-103, 9-15-2009)

Sec. 42-440. Official floodplain districts zoning map.

The boundaries of the floodplain districts are established as shown on the Flood Boundary and Floodway and/or Flood Insurance Rate Map which is declared to be a part of this article and which shall be kept on file at the town municipal offices (and may also be viewed on the official FEMA website).

(Code 1972, § 30-104; Code 1992, § 30-126; Ord. No. 2004-4, § 30-104, 9-7-2004; Ord. No. 2009-7, § 30-104, 9-15-2009)

Sec. 42-441. District boundary changes.

The delineation of any of the floodplain districts may be revised by the town council where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or individual documents the need for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Code 1972, § 30-105; Code 1992, § 30-127; Ord. No. 2004-4, § 30-105, 9-7-2004)

Sec. 42-442. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning administrator. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence, if he so desires.

(Code 1972, § 30-106; Code 1992, § 30-128; Ord. No. 2004-4, § 30-106, 9-7-2004)

Sec. 42-443. District provisions.

(a) *General.* All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances,

such as the Virginia Uniform Statewide Building Code and the town subdivision regulations. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.

(b) *Alterations or relocation of channels or floodways.* Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within this jurisdiction a permit from the U. S. Army Corps of Engineers, the Virginia Marine Resources Commission and certification from the Virginia Department of Environmental Quality is necessary (a joint permit application is available from any of these organizations). Further, notification of the proposal shall be given to all affected adjacent jurisdictions, the division of dam safety and floodplain management (department of conservation and recreation), and the Federal Insurance Administration.

(c) *Site plans and building permits.* All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(1) For structures that have been elevated, the elevation of the lowest floor (including basement).

(2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.

(3) The elevation of the 100-year flood.

(4) Topographic information showing existing and proposed ground elevations.

(d) *Manufactured homes and recreational vehicles.* All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code. All recreational vehicles placed on sites must either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(3) Meet all the requirements for manufactured homes.

(e) *Design criteria for utilities and facilities.*

(1) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems), shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

(2) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.

(3) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The town council, or its designated agent, may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(4) *Utilities.* All utilities, such as gas lines, electrical and telephone systems, being placed should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

(5) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(f) *Residential construction.* New construction or additions of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.

(g) *Nonresidential construction.* New construction or additions of any commercial, industrial or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Buildings located in all A1-30, AE and AH Zones may be floodproofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE, plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(Code 1972, § 30-107; Code 1992, § 30-129; Ord. No. 2004-4, § 30-107, 9-7-2004; Ord. No. 2009-7, § 30-107, 9-15-2009)

Sec. 42-444. Floodway district.

(a) In the floodway district no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.

(b) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

(c) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the town's endorsement, for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

(d) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(e) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring, elevation and encroachment standards are met.

(f) Permitted uses. In the floodway district the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

(1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and

nature preserves, game farms, fish hatcheries, trap and skeet game ranges and hunting and fishing areas.

(3) Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.

(4) Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

(Code 1972, § 30-108; Code 1992, § 30-130; Ord. No. 2004-4, § 30-108, 9-7-2004; Ord. No. 2009-7, § 30-108, 9-15-2009)

State Law reference— Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.

Sec. 42-445. Flood-fringe and approximated floodplain districts.

(a) In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

(b) Until a regulatory floodway is designated, no new construction, substantial improvements or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the town.

(c) Development activities in Zones A1-30, AE and AH on the town's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with the town's endorsement, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

(Code 1972, § 30-109; Code 1992, § 30-131; Ord. No. 2004-4, § 30-109, 9-7-2004; Ord. No. 2009-7, § 30-109, 9-15-2009)

Sec. 42-446. Variances; additional factors to be considered.

(a) In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and the following factors:

(1) The danger of life and property due to increased flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development or activity within the floodway district that will cause any increase in flood levels during the 100-year flood.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(12) Such other factors which are relevant to the purpose of this article.

(b) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

(c) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in:

(1) Unacceptable or prohibited increases in flood heights;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Creating nuisances;

(5) Causing fraud or victimization of the public; or

(6) Conflict with local laws or ordinances.

(d) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.

(e) Variances shall be issued only after the board of zoning appeals has held a public hearing on the request for variance in accordance with local and state requirements for such hearings.

(f) The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:

(1) Increases risks to life and property; and

(2) Will result in increased premium rates for flood insurance.

(g) A record shall be maintained of the above notification as well as all variance actions, including justification for issuance of the variances. Any variances which are issued shall be noted in the annual report submitted to the Federal Insurance Administrator.

(Code 1972, § 30-110; Code 1992, § 30-132; Ord. No. 2004-4, § 30-110, 9-7-2004)

Sec. 42-447. Existing structures in floodplain districts.

A structure, or use of a structure or premises, which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

(1) Existing structures and/or uses located in the floodway district shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).

(2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure, and/or use, located in any floodplain district to any extent, or amount of less than 50 percent of its market value, shall conform to the VA USBC.

(3) The modification, alteration, repair, reconstruction or improvement of any kind to a structure, and/or use, regardless of its location in a floodplain district to an extent, or amount of 50 percent or more of its market value, shall be undertaken only in full compliance with this article and shall require the entire structure to conform to the VA USBC.

(4) Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

(Code 1972, § 30-111; Code 1992, § 30-133; Ord. No. 2004-4, § 30-111, 9-7-2004; Ord. No. 2009-7, § 30-111, 9-15-2009)

Sec. 42-448. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the Federal Emergency Management Agency designated 100-year water surface elevation.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Board of zoning appeals means the board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this article.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the town.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means:

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland or tidal waters; or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsistence of land along the shore of a lake, or other body of water, as a result of erosion or undermining, caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a of this definition.

(3) Mudflows which are proximately caused by flooding, as defined in this article, and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood Insurance Rate Map (FIRM) means an official map of the town, on which is delineated both the special hazard areas and the risk premium zones applicable to the town.

Flood proofing means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodplain or *flood-prone area* means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freeboard means a factor of safety usually expressed in feet, above a flood level for purposes of floodplain management. The term "freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization in the watershed.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program, as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not

built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR § 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

New construction, for the purposes of determining insurance rates, means structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by the town and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the town.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet, or less, when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

Shallow flooding area means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in this article.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure, for floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. The term "structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term "structure" includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended

for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage refers to damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement.

(1) The term "substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

(2) The term "substantial improvement" includes structures which have incurred substantial damage regardless of the actual repair work performed.

(3) The term "substantial improvement" does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a *historic structure.*

Violation means the failure of a structure or other development to be fully compliant with the Town's flood plain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. The term "watercourse" includes specifically designated areas in which substantial flood damage may occur.

(Code 1972, § 30-114; Code 1992, § 30-134; Ord. No. 2004-4, § 30-112, 9-7-2004; Ord. No. 2009-7, § 30-112, 9-15-2009)

Sec. 42-449. Municipal liability.

(a) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodplain districts, or that land uses permitted within such districts, will be free from flooding or flood damages.

(b) Records of actions associated with administering this article shall be kept on file and maintained by the zoning administrator. This article shall not create liability on the part of the town, or any officer or employee thereof, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1972, § 30-114; Code 1992, § 30-136; Ord. No. 2004-4, § 30-114, 9-7-2004; Ord. No. 2009-7, § 30-114, 9-15-2009)

Secs. 42-450—42-468. Reserved.

ARTICLE XVI. NONCONFORMING USES

Sec. 42-469. Nonconforming use may be continued.

Sec. 42-470. Changes in district boundaries.

Sec. 42-471. Change of nonconforming use.

Sec. 42-472. Extension of use within existing building.

Sec. 42-473. Buildings nonconforming in height, yard area or bulk.

Sec. 42-474. Discontinuance of nonconforming use.

Sec. 42-475. Destruction of a nonconforming use.

Sec. 42-476. Intermittent use.

Sec. 42-477. Existence of a nonconforming use.

Sec. 42-478. Nonconforming lots.

Sec. 42-479. Nonconforming lots; eminent domain.

Sec. 42-480. Nonconforming dwellings in business and industrial districts.

Secs. 42-481—42-498. Reserved.

Sec. 42-469. Nonconforming use may be continued.

Except as otherwise provided herein, the lawful use of land or buildings existing at the effective date of this chapter may be continued although such use does not conform to the provisions hereof. Except as provided in this article, such nonconforming use may not be enlarged, extended, reconstructed or structurally altered, except in compliance with the provisions of this chapter.

(Code 1972, § 30-115; Code 1992, § 30-137; Ord. No. 2004-4, § 30-115, 9-7-2004)

Sec. 42-470. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

(Code 1972, § 30-116; Code 1992, § 30-138; Ord. No. 2004-4, § 30-116, 9-7-2004)

Sec. 42-471. Change of nonconforming use.

If no structural alterations are made, a nonconforming use of land or of a building may be changed to another nonconforming use of the same or of a more restricted classification. Removal and replacement of a nonconforming mobile home shall be permitted as a change of use under this section if said replacement is completed within two years of the removal. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(Code 1972, § 30-117; Code 1992, § 30-139; Ord. of 11-5-1991; Ord. No. 2004-4, § 30-117, 9-7-2004)

Sec. 42-472. Extension of use within existing building.

The nonconforming use of a building may be hereafter extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of the enactment of this chapter.

(Code 1972, § 30-118; Code 1992, § 30-140; Ord. No. 2004-4, § 30-118, 9-7-2004)

Sec. 42-473. Buildings nonconforming in height, yard area or bulk.

A building nonconforming only as to height, yard areas or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect. The nonconforming status of such building as to height, yard areas or bulk shall not be affected by a discontinuance of internal use.

(Code 1972, § 30-119; Code 1992, § 30-141; Ord. No. 2004-4, § 30-119, 9-7-2004)

Sec. 42-474. Discontinuance of nonconforming use.

No building, or portion thereof, used in whole, or in part, for a nonconforming use in a residential district which remains idle or unused for a continuous period of two years, whether or not the equipment or fixtures are removed, shall again be used, except in conformity with the regulations of the district in which such building or land is located.

(Code 1972, § 30-120; Code 1992, § 30-142; Ord. No. 2004-4, § 30-120, 9-7-2004)

Sec. 42-475. Destruction of a nonconforming use.

Where a conforming structure devoted to a nonconforming activity is damaged or where a nonconforming structure is damaged, either may be repaired or restored, provided that any such repair or restoration shall be completed within 24 months from the date of destruction.

(Code 1972, § 30-121; Code 1992, § 30-143; Ord. No. 2004-4, § 30-121, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-476. Intermittent use.

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

(Code 1972, § 30-122; Code 1992, § 30-144; Ord. No. 2004-4, § 30-122, 9-7-2004)

Sec. 42-477. Existence of a nonconforming use.

When evidence available to the administrator is deemed by him to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the board of zoning appeals after public notice and hearing and in accordance with the rules of the board.

(Code 1972, § 30-123; Code 1992, § 30-145; Ord. No. 2004-4, § 30-123, 9-7-2004)

Sec. 42-478. Nonconforming lots.

Any lot lawfully of record at the time of adoption of this amendment which is less in area or width than the minimum required by this chapter may be used if the requirements of this chapter regarding setbacks, side and rear yards and health requirements are complied with.

(Code 1972, § 30-124; Code 1992, § 30-146; Ord. No. 2004-4, § 30-124, 9-7-2004)

Sec. 42-479. Nonconforming lots; eminent domain.

A lot of record or structure which, solely as a result of an eminent domain proceeding, no longer conforms to the requirements of these regulations and restrictions as to area, frontage and dimensions of lots or yards, shall not be deemed a nonconforming lot or structure for the purpose of this chapter.

(Code 1972, § 30-125; Code 1992, § 30-147; Ord. No. 2004-4, § 30-125, 9-7-2004)

Sec. 42-480. Nonconforming dwellings in business and industrial districts.

A dwelling nonconforming as to use in a business or industrial district shall be considered as a conforming use in application of the height, area and bulk requirements of this chapter.

(Code 1972, § 30-126; Code 1992, § 30-148; Ord. No. 2004-4, § 30-126, 9-7-2004)

Secs. 42-481—42-498. Reserved.

ARTICLE XVII. WIDENING OF HIGHWAYS AND STREETS

Sec. 42-499. Purpose of article.

Sec. 42-500. Adoption of certain reports by reference.

Sec. 42-501. Same—setback requirements.

Sec. 42-502. Interpretation of setback lines.

Secs. 42-503—42-519. Reserved.

Sec. 42-499. Purpose of article.

The purpose of this article shall be to establish varying setback lines on specific streets which do not necessarily conform to the regular setback lines as established in each of the zoning districts. These streets, for the most part, are those streets designated in a study conducted by the Virginia Department of Transportation and adopted by the town council as thoroughfares and as such are scheduled to be widened and reconstructed to varying widths. The setback lines shall be established in order to provide an adequate setback for future building construction in the areas along these streets where additional rights-of-way and construction easements are planned.

(Code 1972, § 30-128; Code 1992, § 30-150; Ord. No. 2004-4, § 30-128, 9-7-2004)

Sec. 42-500. Adoption of certain reports by reference.

The Virginia Department of Transportation six-year improvement program and any transportation improvement program adopted by the town council shall be made a part of this chapter, by reference.

(Code 1972, § 30-129; Code 1992, § 30-151; Ord. No. 2004-4, § 30-129, 9-7-2004)

Sec. 42-501. Same—setback requirements.

Building setback lines on the streets enumerated in section 42-500 shall be measured from the future right-of-way lines or the lines shown as construction limits in the area functional plans of the town, whichever of the lines shall require the most setback, when such streets have approved local, state and/or federal funding.

(Code 1972, § 30-131; Code 1992, § 30-153; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-131, 9-7-2004)

Sec. 42-502. Interpretation of setback lines.

If no distance or other means is given to determine a setback line accurately, the location of the line shall be determined by the use of the scale shown in the plans as contained in the area functional plans of the town.

(Code 1972, § 30-133; Code 1992, § 30-155; Ord. No. 2004-4, § 30-133, 9-7-2004)

Secs. 42-503—42-519. Reserved.

ARTICLE XVIII. MOBILE HOME PARKS

Sec. 42-520. Required permits; application for conditional use permit.

Sec. 42-521. Design generally.

Sec. 42-522. Lots and parking.

Sec. 42-523. Streets.

Sec. 42-524. Water facilities.

Sec. 42-525. Sanitary facilities and sewage disposal systems.

Sec. 42-526. Garbage and trash disposal.

Sec. 42-527. Electrical connections.

Secs. 42-528—42-545. Reserved.

Sec. 42-520. Required permits; application for conditional use permit.

The location of mobile home parks shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit issued by the town council. The application for the conditional use permit shall include, but shall not be limited to, a site plan of the mobile home park drawn to scale by a certified land surveyor or professional engineer showing:

(1) Street or roadway layout.

(2) Water layout.

(3) Sanitary sewer or septic tank layout.

(4) Groundwater drainage plan.

(5) Lot layout.

(6) Position of trailers on lots.

(7) Landscape plan, recreation and service facilities.

(Code 1972, § 30-134; Code 1992, § 30-156; Ord. No. 2004-4, § 30-134, 9-7-2004)

Sec. 42-521. Design generally.

(a) The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties, and no mobile home space shall be designed for direct access to a street outside the boundaries of the park.

(b) The topography of the site shall be such as to facilitate drainage, and adequate drainage facilities shall be provided. The overall design shall evidence a reasonable effort to preserve the natural amenities of the site, particularly mature trees.

(c) Each mobile home park shall provide not less than one multiple purpose developed recreational area of at least 10,000 square feet in area for the use of occupants of the park. Any part of the mobile home park not used for buildings or other structures, off-street parking, recreation uses, drives and pedestrian walks, central laundry drying yards or garbage and trash collection stations, or other uses, shall be planted with appropriate ground cover, trees, flowers, shrub and grass lawns, all of which shall be properly maintained. Where no trees exist, at least two shade trees shall be planted and properly maintained on each mobile home site.

(Code 1972, § 30-135; Code 1992, § 30-157; Ord. No. 2004-4, § 30-135, 9-7-2004)

Sec. 42-522. Lots and parking.

Each mobile home space or lot within a park shall have a central water and sewer system designed to accommodate one mobile home and shall have a minimum width of 40 feet, minimum depth of 125 feet

and a minimum area, excluding the area underneath the mobile home, of 3,000 square feet. Each lot, or space, must front on a street, road or right-of-way. Parking spaces for mobile homes shall be arranged so as to provide a distance of 15 feet or more between individual units, but shall be no closer than 7½ feet to the individual lot line of the mobile home space or 30 feet to the front of lot or mobile home space. Additional parking area shall be designated for accessory storage of boats and boat trailers, camping equipment and other recreational vehicles.

(Code 1972, § 30-136; Code 1992, § 30-158; Ord. No. 2004-4, § 30-136, 9-7-2004)

State Law reference— Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.

Sec. 42-523. Streets.

Each mobile home park must adjoin a town maintained public street. All streets within the park must be dedicated as a public street and have a right-of-way width of at least 50 feet, with a hard surface pavement at least 30 feet wide in the center of the right-of-way and with adequate ditches and drainage on either side of the pavement. Streets must be adequately lighted at night.

(Code 1972, § 30-137; Code 1992, § 30-159; Ord. No. 2004-4, § 30-137, 9-7-2004)

Sec. 42-524. Water facilities.

The owner of the mobile home park shall be required to install water mains and fire hydrants within the park of a size and number to be determined by the town adequate to furnish fire protection to the entire park in addition to furnishing domestic water needs to the park. Individual meters may be required for each trailer space, if deemed necessary by the town.

(Code 1972, § 30-138; Code 1992, § 30-160; Ord. No. 2004-4, § 30-138, 9-7-2004)

Sec. 42-525. Sanitary facilities and sewage disposal systems.

(a) Each mobile home within the park must be equipped with modern sanitary facilities to include commode, washbasin, shower or bath and kitchen sink. Each home shall be required to connect to the town sanitary sewer system which shall be extended throughout the park, at the expense of the owner of the park. If it is physically impossible to extend the town system throughout the park, the owner shall then provide each trailer space with a septic tank and drainfield which shall be approved by the health department. Size, location and grade of all sewer lines in the park must be approved by the town.

(b) Existing septic systems in parks already established at the time of passage of this chapter may be continued in service until such time as they become inoperative or hazardous to health, at which time the owner of the park shall be required to provide for connecting such inoperative system to the town's sanitary sewer system.

(Code 1972, § 30-139; Code 1992, § 30-161; Ord. No. 2004-4, § 30-139, 9-7-2004)

Sec. 42-526. Garbage and trash disposal.

Mobile home parks must avail themselves of the town garbage collection service and shall abide by all ordinances and regulations pertaining to same. Where community refuse containers are provided as accessory uses to the mobile home park, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(Code 1972, § 30-140; Code 1992, § 30-162; Ord. No. 2004-4, § 30-140, 9-7-2004)

Sec. 42-527. Electrical connections.

Each mobile home space shall be provided with electrical outlets installed in accordance with the National Electrical Code.

(Code 1972, § 30-142; Code 1992, § 30-164; Ord. No. 2004-4, § 30-142, 9-7-2004)

Secs. 42-528—42-545. Reserved.

ARTICLE XIX. PROVISIONS FOR APPEAL [3]

DIVISION 1. - GENERALLY

DIVISION 2. - BOARD OF ZONING APPEALS

FOOTNOTE(S):

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State Law reference— Appeals, Code of Virginia, § 15.2-22(Back)

DIVISION 1. GENERALLY

Secs. 42-546—42-565. Reserved.

Secs. 42-546—42-565. Reserved.

DIVISION 2. BOARD OF ZONING APPEALS [4]

Sec. 42-566. Membership; terms; removal and disqualification of members; officers.

Sec. 42-567. Powers and duties.

Sec. 42-568. Rules and regulations.

Sec. 42-569. Procedure for appeal.

Sec. 42-570. Public hearing.

Sec. 42-571. Appeal from decision of board.

Secs. 42-572—42-590. Reserved.

Sec. 42-566. Membership; terms; removal and disqualification of members; officers.

(a) A board of zoning appeals consisting of five members shall be appointed by the circuit or corporation court of the county or town. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(b) The term of office shall be for five years.

(c) Members may be removed for cause by the appointing authority upon written charges and after a public hearing.

(d) Members may be reappointed to succeed themselves.

(e) Members of the board shall hold no other public office in the locality, except that one may be a member of the local planning commission.

(f) A member whose term expires shall continue to serve until his successor is appointed and qualifies.

(g) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

(h) The board shall choose annually its own chair and a vice-chair who shall act in the absence of the chair.

(Code 1972, § 30-143; Code 1992, § 30-165; Ord. No. 2004-4, § 30-143, 9-7-2004)

State Law reference— Created, membership, Code of Virginia, § 15.2-2308.A.

Sec. 42-567. Powers and duties.

The board of zoning appeals shall have the following powers and duties:

(1) To hear and decide appeals from any order, requirement, decision and determination made by an administrative officer in the administration or enforcement of this chapter or any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the zoning administrator was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

(2) To hear and decide applications for special exceptions upon which the board is specifically authorized to pass under this chapter. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being, and will continue to be, complied with.

No variance may be granted except after notice and hearing, as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

(3) To revoke a variance previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing, as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

(4) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the chapter will result in unnecessary hardship; provided, that the spirit of the chapter shall be observed and substantial justice done, as follows:

a. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation or development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant; provided, that all variances shall be in harmony with the intended spirit and purpose of the chapter. No such variance shall be authorized by the board unless it finds:

1. That the strict application of the chapter would produce undue hardship.

2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

b. No such variance shall be authorized except after notice and hearing, as required by Code of Virginia, § 15.2-2204, and amendments thereto. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

c. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.

d. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being, and shall continue to be, complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the

ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

(5) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice, as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(6) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the town council.

(Code 1972, § 30-144; Code 1992, § 30-166; Ord. No. 2004-4, § 30-144, 9-7-2004; Ord. No. 2012-6, § 30-166, 6-19-2012)

State Law reference— Powers and duties of boards, Code of Virginia, § 15.2-2309.

Sec. 42-568. Rules and regulations.

(a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

(b) The meeting of the board shall be held at the call of its chairperson or at such times as a quorum of the board may determine.

(c) The chairperson or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(d) The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(e) A quorum shall be at least three members.

(f) A favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

(Code 1972, § 30-145; Code 1992, § 30-167; Ord. No. 2004-4, § 30-145, 9-7-2004)

Sec. 42-569. Procedure for appeal.

(a) An appeal to the board may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the zoning administrator. Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a

reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner, as shown on the current real estate tax assessment books or current real estate tax assessment records, shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. Such appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and the board a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in the furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record on application and on notice to the zoning administrator and for good cause shown.

(b) Appeals shall be mailed to the board of zoning appeals in care of the zoning administrator, and a copy of the appeal shall be mailed to the secretary of the planning commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

(c) Appeals requiring an advertised public hearing shall be paid for by the appellant.

(d) In no event shall a written order, requirement, decision or determination made by the zoning administrator, or other administrative officer, be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer, unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply, in any case, where, with the concurrence of the attorney for the town council, modification is required to correct clerical or other nondiscretionary errors.

(Code 1972, § 30-146; Code 1992, § 30-168; Ord. No. 2004-4, § 30-146, 9-7-2004)

State Law reference— Appeals to board, Code of Virginia, § 15.2-2311.

Sec. 42-570. Public hearing.

The board shall fix a reasonable time for the hearing of an application or appeal, shall give public notice thereof as well as due notice to the parties in interest and shall decide the same within 60 days. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from the chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairperson, or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(Code 1972, § 30-147; Code 1992, § 30-169; Ord. No. 2004-4, § 30-147, 9-7-2004)

State Law reference— Appeal procedure, Code of Virginia, § 15.2-2312.

Sec. 42-571. Appeal from decision of board.

(a) Any persons jointly or severally aggrieved by any decision of the board of zoning appeals or any taxpayer, officer, department, board or bureau of the town may file with the clerk of the circuit or corporation court of the county a petition that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

(b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals, or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The town council, the landowner and the applicant before the board of zoning appeals shall be necessary parties to the proceedings. The court may permit intervention by any other person, or persons, jointly or severally aggrieved by any decision of the board of zoning appeals.

(d) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portion thereof, as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(e) If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(f) In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to Code of Virginia, § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

(g) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, or application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing, to the satisfaction of the court, that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance.

(h) Costs shall not be allowed against the locality, unless it shall appear to the court that it acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person, or persons, who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality may request that the court hear the matter on the question of whether the appeal was frivolous.

(Code 1972, § 30-148; Code 1992, § 30-170; Ord. No. 2004-4, § 30-148, 9-7-2004)

State Law reference— Certiorari review of decision of board. Code of Virginia, § 15.2-2314.

Secs. 42-572—42-590. Reserved.

FOOTNOTE(S):

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State Law reference— Board of zoning appeals, Code of Virginia, §§ 15.2-2308—15.2-2309.(Back)

ARTICLE XX. TOWNHOUSES

Sec. 42-591. Statement of intent.

Sec. 42-592. Definitions.

Sec. 42-593. Permitted areas.

Sec. 42-594. Area and density.

Sec. 42-595. Front yard.

Sec. 42-596. Frontage and access.

Sec. 42-597. Side yard.

Sec. 42-598. Rear yard.

Sec. 42-599. Height.

Sec. 42-600. Separation requirements.

Sec. 42-601. Off-street parking requirements.

Sec. 42-602. Plats.

Secs. 42-603—42-622. Reserved.

Sec. 42-591. Statement of intent.

It is the intent of this section that townhouses, in areas where they are permitted, may be appropriately intermingled with other compatible types of multifamily housing. They shall constitute groupings of not less than three, nor more than ten, efficient, economical, comfortable and convenient arrangements of buildings and yards. Townhouse development shall meet the requirements of the town subdivision ordinance (Chapter 40 of this Code) and of the underlying zoning district, except as otherwise provided for within this article.

(Code 1972, § 30-149; Code 1992, § 30-171; Ord. of 6-20-1989; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-149, 9-7-2004)

Sec. 42-592. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common area. If a townhouse development includes common areas in addition to the townhouse lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the townhouses in the townhouse development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for recreational and parking purposes of the owners of the individual townhouse lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual townhouse lots. Maintenance to townhouse exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

Lot, townhouse corner, means a townhouse end lot within a development abutting properties not part of the overall townhouse development, or a townhouse lot on the corner of two intersecting streets.

Lot, townhouse end, means an interior lot containing the end townhouse dwelling within a structure containing a group of townhouse units.

Lot, townhouse interior, means any lot other than a townhouse end or corner lot.

Townhouse means one of a series of from three to ten attached single-family dwellings designed to be offered for lease or sale as a unit, separated from one another by continuous vertical walls without openings from foundation through the roof. The lots or assigned land area, utilities and other improvements for each townhouse may be designed to permit individual and separate ownership of such lots and dwelling units.

Townhouse group structure means the structure containing a series of from three to ten townhouses.

(Code 1992, § 30-172; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-150, 9-7-2004)

Sec. 42-593. Permitted areas.

Townhouses shall be permitted in the residential zoning district known as Multiple-Family Residential, R-3 district, as defined in this chapter.

(Code 1972, § 30-151; Code 1992, § 30-173; Ord. No. 2004-4, § 30-151, 9-7-2004)

Sec. 42-594. Area and density.

The minimum lot area for a townhouse shall be 1,800 square feet. The maximum density of townhouses shall be ten units per gross acre.

(Code 1972, § 30-152; Code 1992, § 30-174; Ord. No. 2004-4, § 30-152, 9-7-2004)

Sec. 42-595. Front yard.

(a) The minimum setback from any public street right-of-way shall be 30 feet and the minimum building setback from any common area shall be ten feet. The full facades of individual townhouse units within a townhouse group structure shall be varied by changed front yard setbacks and variations in materials or designs so that no more than two abutting townhouses will have the same front yard setback. Variation in setback shall be at least three feet.

(b) The front yard shall contain a minimum of 20 percent greenspace or landscaped area for all common areas and each individual townhouse lot. For individual townhouse lots, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(Code 1972, § 30-153; Code 1992, § 30-175; Ord. of 9-5-1995; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-153, 9-7-2004; Ord. No. 2012-6, § 30-175, 6-19-2012)

Sec. 42-596. Frontage and access.

(a) The minimum lot width at the setback line shall be 18 feet for a townhouse interior lot, 30 feet for a townhouse end lot and 40 feet for a townhouse corner lot.

(b) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access. These easements shall be in addition to side yard requirements set forth in section 42-597. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(Code 1972, § 30-154; Code 1992, § 30-176; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-154, 9-7-2004; Ord. No. 2012-6, § 30-176, 6-19-2012)

Sec. 42-597. Side yard.

The minimum side yard setback for each townhouse end lot interior to the townhouse development shall be ten feet for the end residence within each townhouse group structure and the minimum side yard for townhouse corner lots not adjoining a side street shall be 20 feet. An accessory building not exceeding 100 square feet, not exceeding 12 feet in height and not located within any easement or right-of-way may be constructed in any side yard, provided it is located at least three feet from all property lines and no closer to the front than the townhouse structure.

(Code 1972, § 30-155; Code 1992, § 30-177; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-155, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-598. Rear yard.

There shall be a minimum rear yard of 20 feet or more on all lots. Rear yards shall be screened with a privacy type fence or wall of seven feet minimum height and extending not less than 12 feet from the rear building wall. An accessory building not exceeding 100 square feet, not exceeding 12 feet in height and not located within any easement or right-of-way may be constructed in any rear yard, provided it is at least three feet from all property lines.

(Code 1972, § 30-156; Code 1992, § 30-178; Ord. of 6-20-1989; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-156, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-599. Height.

The maximum height of all townhouses shall be limited to 35 feet above street grade or lot grade at the setback line, whichever is greatest.

(Code 1972, § 30-157; Code 1992, § 30-179; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-157, 9-7-2004)

Sec. 42-600. Separation requirements.

Each townhouse shall be structurally separated from adjacent townhouses, as required by all applicable state and/or local fire and building regulations.

(Code 1972, § 30-158; Code 1992, § 30-180; Ord. No. 2004-4, § 30-158, 9-7-2004)

Sec. 42-601. Off-street parking requirements.

(a) Required off-street parking spaces of at least two spaces per townhouse shall be provided on the individual lots or within a common parking area maintained by the nonprofit commons association or the developer-owner, as described in sections 42-592 and 42-596. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(b) No individual townhouse driveway shall have direct access onto a public through street, or street serving properties, other than within the development. Such direct access determination shall be made by the administrator in consultation with the town engineer and appropriate highway and street reference sources.

(Code 1972, § 30-159; Code 1992, § 30-181; Ord. of 6-20-1989; Ord. of 9-5-1995; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-159, 9-7-2004)

Sec. 42-602. Plats.

Whenever any townhouse is proposed by a developer, and before any permit for the erection of a townhouse shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the townhouse plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No townhouses shall be sold until a final plat for the townhouse development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(Code 1972, § 30-160; Code 1992, § 30-182; Ord. No. 2004-4, § 30-160, 9-7-2004)

Secs. 42-603—42-622. Reserved.

ARTICLE XXI. SITE PLAN REVIEW

Sec. 42-623. Site plan review required for certain uses.

Sec. 42-624. Purpose of site plan review.

Sec. 42-625. Requirements for site plans, content and form.

Sec. 42-626. Procedures, administrative site plan review.

Sec. 42-627. Appeal from administrator's decision.

Sec. 42-628. Procedures for approval of site plans for conditional use permits which require approval by the town council.

Sec. 42-629. Temporary site plan.

Sec. 42-630. Amendments and additions to site plans approved by the town council.

Sec. 42-631. Revocation of permits.

Sec. 42-632. Agreement and bond.

Sec. 42-633. Approval and extension.

Sec. 42-634. Right of developer to continue project.

Sec. 42-635. Inspection and supervision of improvements.

Secs. 42-636—42-658. Reserved.

Sec. 42-623. Site plan review required for certain uses.

(a) For the purposes of assuring careful use of difficult topography and good arrangement, appearance, function and harmony with surroundings and adjacent uses and the objectives of the comprehensive plan, and compliance with the requirements of these regulations, site plans for the following uses shall be submitted and reviewed in accordance with the requirements and procedures of this article:

(1) Uses permitted by approval of a conditional use permit.

(2) Cluster subdivisions or subdivisions which average lot area.

(3) Planned housing developments.

(4) Mobile home parks or subdivisions.

(5) Any other use except detached single-family dwellings and duplexes.

(6) Any parking lot or parking facility which is to contain more than ten spaces.

(b) Unless specifically stated to the contrary, a use noted as subject to site plan review shall be subject to administrative site plan review under the provisions of this article. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of this article and the requirements of the subdivision regulations.

(Code 1972, § 30-161; Code 1992, § 30-183; Ord. No. 2004-4, § 30-161, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-624. Purpose of site plan review.

The purpose of site plan review is to promote the orderly development of the town by means of improved project design which will ensure that new development is appropriately functional, harmonious with its environment and consistent with the comprehensive plan and the intent of these regulations generally, and, to this end, to provide for a review of proposed development plans with respect to:

(1) The compatibility of the development with respect to its environment and the layout and design of features which may affect compatibility, such as building location, project open space, grading and treatment of slopes and stream valleys, screening, lighting and landscaping.

(2) The capacity of the design to provide for convenient and safe internal and external movement of vehicles and pedestrians.

(3) The protection of public safety and the location and adequacy of necessary utilities, drainage and erosion and sediment controls.

(Code 1972, § 30-162; Code 1992, § 30-184; Ord. No. 2004-4, § 30-162, 9-7-2004)

Sec. 42-625. Requirements for site plans, content and form.

(a) *Preliminary site plans.* Site plans shall include proposals for developments or subdivisions including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject. The preliminary site plans shall be clearly drawn to scale as specified below and shall show the following:

(1) The proposed title of the project, owner or owners of the land, and name of the engineer, architect, designer, or landscape architect, and the developer.

(2) The north point, scale, and date.

(3) Location of the project by an insert map indicating the north arrow and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns, and magisterial districts or other landmarks sufficient to clearly identify the location of the property.

(4) Existing zoning and zoning district boundaries and proposed changes in zoning, if any, and including floodplain districts.

(5) The boundaries of the property involved, municipal boundaries, the general location of all existing easements and property lines, existing streets, buildings, or waterways, major tree masses and other existing physical features in or adjoining the project.

(6) Uses of adjoining properties and names of owners.

(7) Topography of the project area with contour intervals of two feet or less, unless waived by the administrator as clearly unnecessary to review the project or proposal.

(8) The approximate location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures, existing and planned, in or near the project.

(9) The general location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas (including number of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.

(10) The general location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.

(11) Location with respect to each other and to lot lines, number of floors, number of dwelling units and approximate height of all proposed buildings and structures, accessory and main, or major excavations.

(12) Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary.

(13) General location, height, and material of all fences, walls, screen planting, and landscaping.

(14) General location, character, size, height, and orientation of proposed signs.

(15) A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross or net as required by district regulations.

(16) A traffic impact statement whenever a proposed site plan substantially affects transportation on town streets through traffic generation of either:

(i) 100 vehicles trips per peak hour by residential development, or

(ii) 250 vehicles trips per peak hour by non-residential development, or

(iii) 2,500 vehicle trips per day by non-residential development.

The data and analysis contained in the traffic impact statement shall comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

(17) Overlot grading plan.

(18) General notes per the Town of Christiansburg Site Plan and Development Plan Check List.

(19) Location and size of parking and loading spaces (including ADA compliant spaces with accessible route).

(20) Location, height, and orientation of proposed outside lighting for parking areas.

(21) Sidewalk location, including appropriate detail for sidewalk.

(22) Inclusion of location for dumpster pad with screening, accompanied by appropriate detail.

(23) A tabulation of the total area, impervious surfaces, greenspace, landscaping and tree required and provided per district regulations.

(24) A tabulation of interior parking lot greenspace and trees required and provided for parking lots with 20 or more parking spaces.

(25) Owner/developer certification statement.

(26) Responsible land disturber certification statement for erosion and sediment control plan, an agreement in lieu of an erosion sediment control plan, or a land-disturbing permit. This individual shall be in charge of and responsible for the land disturbing activities for the project.

(27) Town manager approval block.

The administrator may establish additional requirements for preliminary site plans, and in special cases, may waive a particular requirement if, in his opinion, the inclusion of that requirement is not essential to a proper decision on the project. Site plans may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall indicate where the several sheets join. Site plans shall be prepared to a scale of one inch equals 50 feet, or such other scale as may be approved by the administrator as appropriate to a particular case.

(b) *Final site plans.* The final site plan shall be based on good engineering judgment, signed and sealed by a licensed professional engineer, licensed architect, licensed professional land surveyor or a licensed professional landscape architect and comply with all laws, regulations, and ordinances

including, but not limited to, those governing the approval of subdivisions and in addition to all the requirements for preliminary site plans, shall include the following:

(1) All of the features required on the preliminary site plan or preliminary development plan with sufficiently accurate dimensions, finished floor elevations, construction specifications and computations to support the issuance of construction permits.

(2) All existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types and grades and where connection is to be made to the utility system.

(3) Provisions for the adequate disposition of natural and storm water shall be clearly shown on the plans and shall provide positive drainage away from all buildings and structures, and such drainage shall not be directed toward buildings or structures on adjacent properties. In addition, well organized calculations and documentation that support the design and ensure an adequate review shall be included with the final site plan or development plan.

(4) All drainage system components and stormwater management systems, including the location, sizes, types and grades of ditches, inlets, catchbasins, pipes and connections to existing and proposed drainage systems. Drainage system components shall be designed in accordance with the latest edition of the Virginia Department of Transportation Drainage Manual and in accordance with all instructional and informational memorandums. Stormwater management facilities and components shall be designed in accordance with the latest edition of the department of environmental quality stormwater management handbook.

(5) Provisions to manage stormwater normally directed into inlets and pipes, when such inlets and pipes may be exceeded in capacity or restricted due to sediment buildup or some other blockage. As a result of inlets and pipes being unable to convey the design flow, the provisions shall include, but not be limited to, grading that avoids flooding of buildings and structures in accordance with good engineering design practices as deemed acceptable by the town engineer.

(6) Provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.

(7) Existing topography with two-foot contour intervals or such intervals as approved by the administrator. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary, but not more than 50 feet apart in both directions.

(8) Proposed finished grading by contours supplemented where necessary by spot elevations.

(Code 1972, § 30-163; Code 1992, § 30-185; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-163, 9-7-2004; Ord. No. 2012-6, § 30-185, 6-19-2012; Ord. No. 2012-10, § 30-185, 11-20-2012; Ord. No. 2013-10, 12-17-2013)

Sec. 42-626. Procedures, administrative site plan review.

(a) When these regulations require site plan review for certain uses for which town council action is not required, a preliminary site plan for any of the specified uses shall be submitted to the administrator for review of the plans for compliance with these regulations and the requirements for preliminary site plans. The administrator shall transmit said plans to such other staff and agencies as he may consider necessary for the review. The applicant is advised to review his plans in general or sketch form with the administrator prior to drafting for submittal.

(b) The administrator shall examine the preliminary site plan with respect to: the requirements of this chapter in effect upon the date of submittal; the traffic and circulation patterns, internal and external and relation to major thoroughfares; utilities, drainage and community facilities, existing or proposed; surrounding development, existing or future; considerations of topography, floodplains, the natural

environment, the preservation of trees or historic sites, provision for open space; and in general with the objective of ensuring a durable, harmonious, and appropriate use of the land in accord with the objectives of the comprehensive plan. The plans shall be returned to the applicant with relevant comments in accordance with Code of Virginia § 15.2-2259. The applicant is responsible for revising the site plan in a timely manner addressing all relevant comments to the satisfaction of the town manager, town engineer, or zoning administrator prior to approval. The town's comments or commitments on a preliminary site plan that has not achieved final approval shall be valid for a period of six months from the date that the comments are rendered for the town's first review comments, four months from the date comments are rendered for the town's second review comments, and two months from the date comments are rendered for the third and any subsequent review comments, unless extended for a period of 15 days due to extenuating circumstances by the administrator, not to exceed 30 days. Additionally, if the comments have not been addressed to the satisfaction of the town manager, town engineer, and zoning administrator and a final site plan approval rendered within two years from the date of site plan submission, the preliminary site plan shall be deemed to have been voluntarily withdrawn by the applicant. Any subsequent submission shall begin the review process anew and shall require compliance with the provisions of this chapter (and any other applicable laws and regulations) in effect at the time of subsequent submission.

(c) If specified conditions or comments are met in revised plans within the time periods specified and the plans meet the requirements of a final site plan, the town manager shall approve the final site plan. The town manager may approve additional minor changes, if, in his opinion such changes do not substantially affect the original submittal and comments or conditions attached thereto.

(d) In any case where the town manager or administrator is of the opinion that a proposed project subject to administrative site plan review is of such scale and impact that a decision on the site plan should be reached only after a review by the town council or the planning commission, he may refer the plan to the council or the commission or both of them for an advisory recommendation.

(e) Nothing in this section shall be interpreted to permit a grant of a variance or exception to the regulations of this chapter or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.

(f) There shall be a charge for the examination and approval or disapproval of every site plan by the town. At the time of filing the preliminary site plan, the developer or his agent shall deposit with the town cash or checks payable to the treasurer in the amount as set forth herein or as established in the latest edition of the town development fee schedule, which may be amended from time to time by town council.

(g) The town shall require as-built plans of public improvements, including geotechnical investigations. As-built plans may be required for other site improvements as deemed necessary by the town.

(Code 1972, § 30-164; Code 1992, § 30-186; Ord. No. 2004-3, 6-15-2004; Ord. No. 2004-4, § 30-164, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2009-3, 5-19-2009; Ord. No. 2012-4, § 30-186, 6-5-2012; Ord. No. 2012-6, § 30-186, 6-19-2012; Ord. No. 2013-10, 12-17-2013)

Sec. 42-627. Appeal from administrator's decision.

In any case where the applicant or other party who has a substantial interest in a proposed project is aggrieved by a decision of the administrator regarding a site plan, said applicant or party in interest may file a written notice of appeal with the town manager who shall place the matter on the agenda of the next regular meeting of the town council, provided said appeal is filed within ten working days of the decision. Upon hearing the appeal, the town council may reverse or affirm, wholly or partly, or may modify the decision of the administrator and may take such action as it believes appropriate.

(Code 1972, § 30-165; Code 1992, § 30-187; Ord. No. 2004-4, § 30-165, 9-7-2004)

Sec. 42-628. Procedures for approval of site plans for conditional use permits which require approval by the town council.

(a) A preliminary site plan, or plans, shall be filed with the town council through the administrator. The preliminary site plan shall comply with section 42-625 and the applicable written requirements of this chapter, and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the council. At its option, the town council may refer the application to the planning commission for an advisory recommendation.

(b) Approval by the town council of a preliminary site plan for a conditional use permit shall be valid as specified in section 42-8. Following preliminary approval by the council, a final site plan in the form of a final plat shall be prepared and filed. The final plat may be approved by the administrator and shall comply with the specifications of the council and the requirements of this article and applicable laws, regulations and ordinances governing the subdivision of land. Permits shall be issued in accord with the approved and filed plat.

(Code 1972, § 30-166; Code 1992, § 30-188; Ord. No. 2004-4, § 30-166, 9-7-2004)

Sec. 42-629. Temporary site plan.

(a) A temporary site plan may be approved by the administrator for a proposed development or land use for a period not to exceed one year, where development is in progress and all buildings are of a temporary nature. The drainage, erosion and sediment control practices, parking, screening, fencing, services and utility requirements of this chapter and this article may be modified for the purpose of a temporary plan.

(b) Prior to the approval of such temporary site plan, a cash bond or letter of credit approved by the town attorney may be required to guarantee that all structures erected under the plan will be removed at the expiration of the period for which the permit was issued.

(c) Items to be shown on a temporary site plan shall be the same as required for preliminary site plans above except as these may be waived by the administrator.

(Code 1972, § 30-167; Code 1992, § 30-189; Ord. No. 2004-4, § 30-167, 9-7-2004)

Sec. 42-630. Amendments and additions to site plans approved by the town council.

(a) The procedure for amendment of the boundaries of or the extent of land use for an approved conditional use permit shall be the same as for a new application, except that minor amendments of an approved site plan and conditions attached to an approved conditional use permit, or other site plan approved by the town council, may be approved by the administrator, provided such change or amendment:

(1) Does not alter a recorded plat,

(2) Does not conflict with the specific requirements of this chapter,

(3) Does not change the general character or content of an approved development plan or use,

(4) Has no appreciable effect on adjoining or surrounding property,

(5) Does not result in any substantial change of major external access points,

(6) Does not increase the approved number of dwelling units or height of buildings, and

(7) Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

(b) Amendments to conditions approved with conditional zoning are covered in article I of this chapter.

(Code 1972, § 30-168; Code 1992, § 30-190; Ord. No. 2004-4, § 30-168, 9-7-2004; Ord. No. 2013-10, 12-17-2013)

Sec. 42-631. Revocation of permits.

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this article, except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

(Code 1972, § 30-169; Code 1992, § 30-191; Ord. No. 2004-4, § 30-169, 9-7-2004)

Sec. 42-632. Agreement and bond.

Prior to approval of a building permit, there shall be executed, by the owner or developer, an agreement to construct such required physical improvements as are located within public rights-of-way or easements, or as are connected to any public facility in form and substance as approved by the town; and, the administrator may require a bond with surety or conditions acceptable to the town attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions or agencies responsible for such improvements. The aforesaid agreement, bond or conditions shall be provided for completion of all work covered thereby, maintenance thereof or for subsequent defects therein, within the time to be determined by the administrator, which time may be extended by the administrator upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions and acceptability of any bond hereunder shall be determined by the town attorney.

(Code 1972, § 30-170; Code 1992, § 30-192; Ord. No. 2004-4, § 30-170, 9-7-2004)

Sec. 42-633. Approval and extension.

Final approval of a site plan submitted under the provisions of this article shall expire in accordance with the minimum time provided for in Code of Virginia, § 15.2-2261. A single one-year extension may be given upon written request by the applicant to the administrator made within 90 days before the expiration of the approved site plan. The administrator shall acknowledge the request and shall make a decision regarding the requested extension within 30 days after receipt of the request.

(Code 1972, § 30-171; Code 1992, § 30-193; Ord. No. 2004-4, § 30-171, 9-7-2004; Ord. No. 2013-10, 12-17-2013)

Sec. 42-634. Right of developer to continue project.

Subject to the time limits and conditions specified in this chapter, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged so long as he proceeds toward completion with reasonable care and diligence and in accordance with the terms of the approval.

(Code 1972, § 30-172; Code 1992, § 30-194; Ord. No. 2004-4, § 30-172, 9-7-2004)

Sec. 42-635. Inspection and supervision of improvements.

(a) The owner or developer shall have one set of approved plans, profiles and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by the administrator or inspectors.

(b) Upon satisfactory completion of all installation of the required improvements, the owner shall receive an approval from the administrator, upon application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements, or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.

(c) The installation of improvements, as required in this article, shall, in no case, serve to bind the town to accept such improvements for the maintenance, repair or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

(Code 1972, § 30-173; Code 1992, § 30-195; Ord. No. 2004-4, § 30-173, 9-7-2004)

Secs. 42-636—42-658. Reserved.

ARTICLE XXII. MISCELLANEOUS PROVISIONS

Sec. 42-659. Averaging lot area and cluster subdivision.

Sec. 42-660. Reference to Virginia Condominium Act.

Sec. 42-661. Multiunit residential development, street and utility requirements.

Sec. 42-662. Portable storage containers.

Sec. 42-663. Urban agriculture; zoning permit required.

Secs. 42-664—42-682. Reserved.

Sec. 42-659. Averaging lot area and cluster subdivision.

(a) *Averaging and clustering permitted.* Averaging of lot areas for detached single-family dwellings or clustering of lots and provision of public or private common open space in a subdivision is permitted in the A Agricultural and R-1A, R-1 and R-2 Residential Districts by the terms of this chapter. Average lot area in a subdivision and minimum area and dimensions for any lot are specified herein. Use of a design which incorporates averaging or which includes common open space shall be at the option of the owner, or his agent. These design alternatives are intended to encourage permanent reservation of open space and an efficient and improved use of the land to provide good building sites by taking advantage of topography and minimizing grading or destruction of natural vegetation. Plans shall not

be approved where the clear purpose of the design is to subvert the purposes of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the subdivision.

(b) *Procedures; site plan required.* A preliminary site plan complying with the requirements of article XXI and the rules of the planning commission, adopted thereunder, shall accompany an application for averaging lot areas or a permitted cluster subdivision under this section. Procedures for review and decision shall be those specified for administrative site plan review under article XXI. In addition, the proposed development shall follow all applicable procedures, standards and requirements governing the subdivision of land.

(c) *Minimum project area.* The minimum area of the subdivision shall be sufficient to accommodate at least five lots of minimum average area.

(d) *Resubdivision.* No resubdivision or sale, by any means, shall be permitted in a subdivision approved under this section, which resubdivision or sale would in any way create a violation of this chapter.

(e) *Floodplain and water areas.* No more than 30 percent of the required minimum area of any lot shall be located in a floodplain area and no part of the area of any lot shall be covered by any body of water, except that no more than 30 percent of the required minimum area of any lot may be covered by the waters of a lake, pond or canal planned and approved as a part of, and wholly, within the subdivision.

(f) *Reduction of lot area, lot width and yard areas permitted.* Where proposed building site outlines are shown on an application for averaging lot area or cluster subdivision, the minimum lot area, lot width, lot depth and yard dimensions shall be as follows, provided that public water and sewer services are utilized in the R-1A, R-1, R-2 and R-3 Residential Districts and MU-1 and MU-2 Mixed Use Districts:

Zoning District	Minimum Average Lot Area (in sq. ft.)	Minimum Lot Area (in sq. ft.)	Minimum in Feet				
			Lot Width	Lot Depth	Front Yard	Side Yard	Rear Yard
A	21,780	18,500	100	175	35	20	40
R-1A	15,000	12,500	80	125	30	12	35
R-1	10,000	8,500	75	100	30	10	30
R-2	10,000	8,500	70	100	25	8	20
R-3	10,000	8,500	70	100	25	8	20
MU-1	10,000	8,500	75	100	30	10	30
MU-2	10,000	8,500	75	100	30	10	30

Minimum lot size in the A Agricultural District is subject to health department approval where either public water or public sewers are not provided.

(g) *Compatibility with developed properties.* An average lot area or cluster subdivision shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end, may employ such design techniques as may be appropriate to a particular case, including coordination of yard dimensions, location of lots of various sizes, location of buildings with respect to project boundary lines, location of open spaces and maintenance of vegetation.

(h) *Public facilities and open spaces.* Land or easements for public facilities or open space shall be dedicated, conveyed or granted in accordance with the requirements of this article and laws and ordinances governing the subdivision of land.

(i) *Maintenance of common ownership properties.* Provisions shall be made for the designation, ownership and maintenance of common ownership properties in accordance with the requirements of article XXI.

(j) *Preservation of landscape amenities.* The preservation of natural vegetation, and particularly mature trees, on steep slopes and in stream valleys, should be recognized as a primary design consideration in review and approval of an application under this section. Failure to exercise due care in maintenance of landscape amenities in accordance with approved plans shall be considered a violation of this chapter.

(Code 1972, § 30-174; Code 1992, § 30-196; Ord. of 11-21-1989; Ord. No. 2004-4, § 30-174, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-660. Reference to Virginia Condominium Act.

(a) Nothing in this chapter shall be interpreted to prohibit condominiums as such by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently under any provision in this chapter which would permit a physically identical project or development under a different form of ownership.

(b) All condominium projects or developments hereafter constructed shall comply with the provisions of this chapter, including the requirements for approval of site plans. Whenever an existing project or development is to be converted to condominium ownership involving certain land areas to be held as common elements, limited or otherwise, a site plan shall be filed showing the extent and ownership of such holdings. Nothing in this requirement shall be interpreted to abridge any rights said project or development may hold as a nonconforming use.

(c) Any declaration of restrictions to be filed in connection with any project covered by the provisions of this chapter shall comply in all respects with the provisions of the Virginia Condominium Act not in direct conflict with the requirements of this chapter.

(Code 1972, § 30-175; Code 1992, § 30-197; Ord. No. 2004-4, § 30-175, 9-7-2004)

State Law reference— Condominium Act, Code of Virginia, § 55-79.39 et seq.

Sec. 42-661. Multiunit residential development, street and utility requirements.

Any residential development, whether for sale or rent, consisting of two or more structures which require ingress and egress to a public street shall meet all requirements of the town subdivision ordinance.

(Code 1972, § 30-176; Code 1992, § 30-198; Ord. No. 2004-4, § 30-176, 9-7-2004)

Sec. 42-662. Portable storage containers.

Portable storage containers are allowed in all zoning districts subject to the following regulations and restrictions:

(1) *Permits and time limitations.* Permits shall be required for all portable storage containers. Portable storage containers shall be allowed up to 14 days in any one year period with the exception that portable storage containers used in conjunction with an approved permitted construction, reconstruction or remodeling project shall be allowed for a maximum of 180 total days in any one year period.

(2) *Capacity.* Portable storage containers shall not exceed 1,360 cubic feet.

(3) *Permitted areas.* Only one portable storage container shall be permitted per single-family residential structure, duplex or vacant lot. Only one portable storage container shall be permitted per 25 units in multifamily residential developments. Portable storage containers shall not be allowed in required greenspace or parking areas with the exception that portable storage containers utilized for construction, reconstruction or remodeling may be within required parking areas.

(4) *Setbacks.* Portable storage containers are not to be located within public street rights-of-way in any district other than the B-2 Central Business District or on any private property without the permission of the property owner. Portable storage containers are allowed within public street right-of-way in the B-2 Central Business District only with the permission of the town manager. Portable storage containers that are utilized for more than 14 days shall comply with setbacks of the respective zoning district with the exception of the B-2 Central Business District with permission of the town manager.

(5) *Stacking.* Portable storage containers shall not be stacked in any district other than the I-2 General Industrial District.

(6) *Utilities.* Portable storage containers shall not be connected to any utilities with the exception that portable storage containers for an approved development project may be connected to electric.

(7) *Advertising.* Portable storage containers shall not have any advertisement other than that which identifies the container supplier and their telephone number or advertisements for the business utilizing the container not to exceed six square feet on no more than two sides of the portable storage container.

(8) *Maintenance and aesthetics.* Portable storage containers shall not have any graffiti and be in a condition free from rust, peeling paint and other forms of deterioration.

(9) *Exemptions.* Portable storage containers shall not require a permit located on, and necessary for, an approved development project, however shall still be subject to provisions (3), (4), (5), (6), (7) and (8) of this section. Portable storage containers shall not require a permit for permitted distribution and storage purposes in the B-3 General Business District, I-1 Limited Industrial District and the I-2 General Industrial District, provided that provisions (3), (4) (5), (6), (7) and (8) of this section are met.

(Code 1992, § 30-199; Ord. No. 2007-1, 4-3-2007)

Sec. 42-663. Urban agriculture; zoning permit required.

The Town of Christiansburg may allow the keeping of no more than a total of six chicken hens or chicks and no more than two beehive stands in association with one single-family residence, per parcel in town as an allowed by right urban agriculture use with an approved urban agriculture zoning permit. The urban agriculture zoning permit shall be valid only for the keeping of no more than six chicken hens or chicks and no more than two beehive stands. Pens and beehive stands shall have setbacks of 15 feet from all property lines and 50 feet from dwellings on adjacent properties and no closer to the street right-of-way than the primary dwelling. Such permits shall be valid for chicken hens, chicks, and bees only and shall not be valid for the keeping of roosters, ducks, geese, quail, turkeys, ostriches, peacocks, or any other nondomesticated pet.

All approved urban agriculture uses are required to contain the hens and/or chicks and not allow them to roam at large. Chickens shall be kept in a fully enclosed, secure area not to exceed a total of 128 square feet, hereinafter known as a pen. Pens shall include a coop (enclosed structure) containing a minimum of two square foot per hen and an open run area containing a minimum of eight square feet per hen. The materials used for pens shall be uniform and kept in good condition in order to protect the safety of the chickens. Pens may be portable and shall meet setbacks at all times. All approved urban agriculture uses shall maintain the premises in a clean and sanitary manner and are required to present measures for food storage and containment and disposal of waste prior to approval and shall maintain compliance with all presented measures. The operation of an urban agriculture use shall not include the slaughtering or butchering of chicken hens or chicks.

All approved urban agriculture uses are subject to inspection by the zoning administrator or designee for compliance. All applicants for urban agriculture are responsible for obtaining permission of the property owner and approval of urban agriculture zoning permits does not constitute waiver of any restrictive covenants.

Applicants for an urban agriculture zoning permit shall submit the following for review and approval of the zoning administrator:

(1) Site drawing showing the size and location of all proposed structures and use areas, the setback distances from street rights-of-way, property lines and nearby dwellings, and any provisions for screening;

(2) Management plan addressing protection from predators, use of feeding and bedding materials, management and disposal of wastes, and other factors deemed relevant for the protection of the public health.

The town manager or zoning administrator shall have authority to approve urban agriculture zoning permits and may revoke such permits for noncompliance. A permit shall be valid for one year and require a $25.00 fee. The permit is renewable on an annual basis, with the appropriate fee. Should the town manager or zoning administrator have questions regarding compliance with an urban agriculture zoning permit, the town manager or zoning administrator may seek an advisory opinion or recommendation from the planning commission regarding compliance with the permit. The keeping of a garden for the production of fruit or vegetables shall not require an urban agriculture zoning permit and shall be allowed by right in all zoning districts.

(Ord. No. 2016-1, 2-23-2016)

Secs. 42-664—42-682. Reserved.

ARTICLE XXIII. TELECOMMUNICATIONS STRUCTURES

Sec. 42-683. Telecommunications structures.

Sec. 42-683. Telecommunications structures.

(a) *Telecommunications facilities.* The guidelines set forth in this section shall govern the location of all communications monopoles and/or towers and the installation of antennas and accessory equipment structures for such; provided, however, that the town council may waive any of the requirements or prescribe such reasonable conditions in connection therewith as to ensure that the installation will conform to sound planning.

(1) *Location.* Communications monopoles and towers, with a related unmanned equipment building, shall be permitted in zoning districts, as indicated in the permitted uses section of each district, subject to obtaining a zoning and use permit as provided herein and subject to public hearing requirements of section 42-11(c), and to the requirements and limitations set forth in this section, and in any zoning district on property owned or controlled by the town.

(2) *Aesthetics; lighting.*

a. The height of monopoles and towers shall not exceed the allowable heights, as specified in the definitions of this chapter. Monopoles shall not exceed 75 feet in total height, including antennas in residential districts.

b. Monopoles or towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FCC or FAA, be painted a neutral color.

c. At a facility site, the design of the buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the facilities to the natural setting and the built environment. The related unmanned equipment structure shall not contain more than 750 square feet of gross floor area or be more than 12 feet in height, and shall be located in accordance with the requirements of the zoning district in which located.

d. Monopoles or towers shall not be artificially lighted, unless required by the FCC or FAA. If lighting is required, the town council may review the available lighting alternatives and approve the design that would cause the least disturbance to surrounding views.

e. No advertising of any type shall be allowed on any monopole or tower.

f. Satellite and microwave dishes attached to monopoles shall not exceed two feet in diameter and six feet in diameter when attached to towers.

g. Stealth technology may be required, as appropriate.

(3) *Federal requirements.* All monopoles or towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate monopoles or towers. If such standards and regulations are changed, then the owners of the monopoles or towers governed by this article shall bring such structures into compliance with such revised standards, as required. Failure to bring monopoles or towers into compliance with such revised standards and regulations shall constitute grounds for the removal of the monopole or tower, at the owner's expense.

(4) *Building codes.* To ensure the structural integrity of monopoles or towers, the owner of such shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

(5) *Information required.* Each applicant requesting a zoning and use permit for a new monopole or tower shall submit five copies of a scaled site plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and sealed by appropriate

licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, height requirements, setbacks, drives, parking, fencing, landscaping, easements, adjacent uses and other information deemed necessary to assess compliance with the regulations of this article. Additionally, the applicant shall provide actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed monopole or tower. The photograph with the simulated image shall include the foreground, the midground and the background of the site. An engineering report, certifying that the proposed monopole or tower is compatible for collocation with a minimum of three similar users, including the primary user, must accompany the application. The applicant shall provide copies of their collocation policy. Each applicant shall also submit a copy of their master plan for provisional locations of future monopoles or towers anticipated for future service.

(6) *Availability of suitable existing monopoles, towers or other structures.* No new monopole or tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of town council that no existing monopole, tower, or structure can accommodate the proposed antenna. Evidence submitted to demonstrate that no existing monopole, tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing monopoles, towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

b. Existing monopoles, towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing monopoles, towers or structures do not have sufficient structural strength to support applicant's proposed antenna or related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the existing antenna, or the antenna on the existing monopole, tower or structure would cause interference with the applicant's proposed antenna.

e. The applicant demonstrates that there are other limiting factors that render existing monopoles, towers or structures unsuitable.

(7) *Setbacks.* Monopoles, towers, guys and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures as well as setback requirements of chapter 32, Telecommunications. Additionally, monopoles and towers shall have a setback no less than the total height of the structure. Increased setbacks may be required as a condition of the conditional use permit.

(8) *Security fencing.* Monopoles or towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with appropriate anti-climbing device.

(9) *Landscaping.* Monopole or tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaping strip of at least four feet wide outside the perimeter of the compound. Existing mature tree growth and natural land form on the site shall be preserved to the maximum extent possible. In locations where the visual impact of the monopole or tower would be minimal, the landscaping requirement may be reduced or waived by town council.

(10) *Removal of abandoned monopoles or towers.* Any monopole or tower that is not operational for a continuous period of 90 days shall be considered abandoned, and the owner of such monopole or tower shall remove same within 90 days of receipt of notice from the building official or town manager notifying the owner of such removal requirement. Removal includes the removal of the monopole or tower, all subterranean tower and fence footers, underground cables and support buildings. The buildings may remain with the approval of the landowner. If there are two or more users of a single monopole or tower, then this provision shall not become effective until all users cease using the monopole or tower. If the monopole or tower is not removed per this section, the

town may require the landowner to have it removed. In all cases, the site shall be returned as closely as possible to its original condition.

(11) *Bonding.* Every applicant for a zoning and use permit for a monopole or tower shall, as a condition for the issuance of the zoning and use permit, file with the building official a continuing bond in the penal sum of not less than $10,000.00, and conditioned for the faithful observance of the provisions of this chapter and all amendments thereto, and of all the laws and ordinances relating to monopoles and towers.

(12) *Applicant responsibility.* Any applicant for communications structures to be located on property owned by the town assumes responsibility for such structures and indemnifies and saves harmless the town from any and all damages, judgments, costs or expenses which the town may incur by reason of the removal or the causing to be removed any monopole or tower, as provided for in this article. Any applicant for communications structures on property belonging to the town shall enter into contract with the town for such location of structures.

(b) *Amateur radio towers.* The guidelines set forth in this section shall govern the location of all amateur radio towers and the installation of antennas and accessory equipment structures for such. Any amateur radio towers not meeting the requirements and limitations set forth shall require for a conditional use permit approval.

(1) *Location.* Amateur radio towers shall be permitted in zoning districts, as indicated in the permitted uses section of each district, subject to obtaining a zoning and use permit as provided herein, and to the requirements and limitations set forth in this section. Amateur radio towers shall be located in the rear yard.

(2) *Aesthetics; lighting.*

a. The height of amateur radio towers shall not exceed the allowable heights, as specified in the definitions of this chapter.

b. Amateur radio towers shall either maintain a natural metal color or stealth appearance.

c. No advertising of any type shall be allowed on any amateur radio tower.

d. Satellite and microwave dishes attached to amateur radio towers shall not exceed two feet in diameter.

(3) *Federal requirements.* All amateur radio towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate amateur radio towers. If such standards and regulations are changed, then the owners of the amateur radio towers governed by this article shall bring such structures into compliance with such revised standards, as required. Failure to bring amateur radio towers into compliance with such revised standards and regulations shall constitute grounds for the removal of the amateur radio tower, at the owner's expense.

(4) *Building codes.* To ensure the structural integrity of amateur radio towers, the owner of such shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

(5) *Information required.* Each applicant requesting a zoning and use permit for a new amateur radio tower shall submit one copy of a scaled site plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and sealed by a licensed surveyor, engineer or other appropriate licensed professional, showing the location and dimensions of all improvements, setbacks and other information deemed necessary to assess compliance with the regulations of this article.

(6) *Setbacks.* Amateur tower guys and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures. Amateur radio towers greater than 25 feet in height while collapsed shall utilize the zoning district setback requirements for primary structures as well

as setback requirements of chapter 32, Telecommunications. Amateur radio towers less than 25 feet in height while collapsed shall utilize the zoning district setback requirements for accessory structures as well as setback requirements of chapter 32, Telecommunications.

(Code 1992, § 30-200; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, § 30-177, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2007-1, § 30-199, 4-3-2007; Ord. No. 2010-8, 12-21-2010; Ord. No. 2012-10, § 30-200, 11-20-2012)