TOWN OF ABINGDON

Zoning & Subdivision Ordinance

Public Hearing Draft

November 28, 2022

TABLE OF CONTENTS

Article I. – In General. 1
Section 1-1. Title. 1
Section 1-2. Authority. 1
Section 1-3. Purpose. 1
Section 1-4. Applicability. 2
Section 1-5. Conformity with Ordinance Required. 3
Section 1-6. Interpretation. 3
Section 1-7. Vested Rights. 4
Section 1-8. Figures and References in Ordinance. 4
Section 1-9. Severability. 4
Section 1-10. Effective Date of Ordinance. 4

Article II. – Administration. 5
Division 1. Director of Community Development or designee and Subdivision Agent. 5
Section 2-1-1. Appointment; Powers; and Duties. 5

Division 2. Planning Commission. 5
Section 2-2-1. Appointment and Membership. 5
Section 2-2-2. Powers and Duties. 5
Section 2-2-3. Meetings and Procedures. 5

Division 3. Board of Zoning Appeals. 6
Section 2-3-1. Appointment; Terms; Membership; Compensation; Removal. 6
Section 2-3-2. Powers and Duties. 6
Section 2-3-3. Meetings and Procedures. 7

Division 4. Historic Preservation Review Board. 8
Section 2-4-1. Creation. 8
Section 2-4-2. Appointment; Terms; and Membership. 8
Section 2-4-3. Powers and Duties. 8
Section 2-4-4. Meetings and Procedures. 9

Division 5. Enforcement. 10
Section 2-5-1. Authority. 10
Section 2-5-2. Complaints and Inspection. 11
Section 2-5-3. Correction Letter, Notice of Violation, and Stop Work Order. 11
Section 2-5-4. Remedies and Penalties for Violation. 12

Division 6. Fees and Taxes. 12
Section 2-6-1. Fees and Expenses. 12
Section 2-6-2. Delinquent Taxes and Charges. 12

Article III. – Permits and Applications. 13
Division 1. In General. 13
Section 3-1-1. Preapplication Meeting. 13
Section 3-1-2. Minimum Submission Standards for Applications. 13
Section 3-1-3. Forms. 13
Section 3-1-4. Ownership Disclosure. 13
Section 3-1-5. Oath Required. 13

Division 2. Zoning Text and Map Amendments. 14
Section 3-2-1. In General. 14
Section 3-2-2. Standards and Procedures. 14

Division 3. Conditional Zoning and Proffers. 16
Section 3-3-1. Purpose and Intent. 16
Section 3-3-2. In General. 16
Section 3-3-4. Effect of Condition; Period of Validity. 16
Section 3-3-5. Record of Conditional Zoning. 16

Division 4. Special Use Permits. 16
Section 3-4-1. Purpose and Intent. 16
Section 3-4-2. Applicability. 17
Section 3-4-3. Standards and Procedures. 17
Section 3-4-4. Effect of Decision; Period of Validity. 18
Section 3-4-5. Revocation. 18

Division 5. Variances. 18
Section 3-5-1. Purpose and Intent. 18
Section 3-5-2. Standards and Procedures. 18
Section 3-5-3. Effect of Decision; Period of Validity. 19

Division 6. Certificates of Appropriateness and Other Historic Permissions. 20
Section 3-6-1. Purpose and Intent. 20
Section 3-6-2. Applicability. 20
Section 3-6-3. Standards and Procedures. 21
Section 3-6-4. Period of Validity. 26
Section 3-6-5. Waiver of Requirements. 26

Division 7. Site Plans. 27
Section 3-7-1. Purpose and Intent. 27
Section 3-7-2. Applicability. 27
Section 3-7-3. Preliminary Site Plan Specifications and Contents. 28
Section 3-7-4. Final Site Plan Specifications and Contents. 30
Section 3-7-5. Site Plan Review Process. 31
Section 3-7-6. Amendment of Site Plans. 32
Section 3-7-7. Compliance with Approved Site Plan Required. 32
Section 3-7-8. Period of Validity. 33
Section 3-7-9. Waiver of Requirements. 34

Division 8. Zoning Verification. 34
Section 3-8-1. Applicability. 34
Section 3-8-2. Procedure and Standards. 34

Division 9. Written Determinations. 35
Section 3-9-1. Purpose and Intent. 35
Section 3-9-2. Procedure and Standards. 35

Division 10. Appeals. 35
Section 3-10-1. Appeals of Zoning Administrator Determinations and Decisions. 35
Section 3-10-2. Appeals to Board of Zoning Appeals Procedure. 36
Section 3-10-3. Appeals Concerning Certificates of Appropriateness. 36
Section 3-10-4. Appeals of Board of Zoning Appeals, Planning Commission, or Town Council. 36
Section 3-10-5. Construction in Violation of Ordinance without Appeal to the Board of Zoning Appeals. 37
Section 3-10-6. Stay of Proceedings. 37

Division 11. Public Hearings and Notifications. 37
Section 3-11-1. Public Hearing Required. 37
Section 3-11-2. Advertisement and Mailings. 37
Section 3-11-3. Posting Notice on Property. 39
Section 3-11-4. Waiver of Notice. 39

Division 12. Amendment of Conditions. 39
Section 3-12-1. Effect of Amendment of Conditions. 39

Division 13. Reconsiderations. 39
Section 3-13-1. Timeframe for Reapplication. 39

Article IV. – Zoning Districts. 40
Division 1. Establishment and Purpose. 40
Section 4-1-1. General. 40
Section 4-1-2. Purpose and Intent of Primary Zoning Districts. 40
Section 4-1-3. References to District Names. 42

Division 2. District Dimensional Standards. 42
Section 4-2-1. AFOS Agricultural, Forestal, and Opens Space District Standards. 42
Section 4-2-2. Residential District Standards. 44
Section 4-2-3. Business District Standards. 48
Section 4-2-4. Office and Institutional District Standards. 49
Section 4-2-5. Limited Industrial District Standards. 51

Division 3. General Requirements for Primary Zoning Districts. 52
Section 4-3-1. Corner Lots. 52
Section 4-3-2. Height Regulations. 52
Section 4-3-3. Yard Space Encroachment. 53

Article V. – Special and Overlay Districts. 54
Division 1. Establishment and Purpose. 54
Section 5-1-1. General. 54
Section 5-1-2. Purpose and Intent of Special and Overlay Districts. 54

Division 2. Old and Historic District. 56
Section 5-2-1. Boundaries. 56
Section 5-2-2. Designation of Historic Districts and Landmarks. 57
Section 5-2-3. OH Subdistricts Established. 58
Section 5-2-4. Purpose and Intent of OH Subdistricts. 58
Section 5-2-5. Area, Setback, Frontage, Yard, and Height Regulations. 58
Section 5-2-6. Certificate of Appropriateness Required to Erect, Construct, Reconstruct, Alter, Restore, Move, or Demolish a Building. 59
Section 5-2-7. Maintenance of Historic Properties. 59

Division 3. Historic District Entrance Corridor Overlay District. 62
Section 5-3-1. Boundaries. 62
Section 5-3-2. Permitted Uses. 62
Section 5-3-3. Area Regulations. 62
Section 5-3-4. Certificate of Appropriateness Required to Erect, Construct, Reconstruct, Alter, Restore, Move, or Demolish a Building. 62
Section 5-3-5. Administration. 62
Section 5-3-6. Review Process. 63

Division 4. Planning Technology District . 63
Section 5-4-1. Site Plans and Applications Required. 63
Section 5-4-2. Site Development Regulations. 64

Division 5. Planned Unit Development District. 65
Section 5-5-1. Site Plans and Applications Required. 65
Section 5-5-2. Use Regulations. 65
Section 5-5-3. PUD Dimensional and Design Requirements. 65
Section 5-5-4. Open Space and Low-Income Housing Incentives. 67
Section 5-5-5. Management, Ownership, and Termination. 68

Division 6. Airport Safety Overlay Districts. 69
Section 5-6-1. Additional Definitions. 69
Section 5-6-2. Establishment of Airport Safety Zones. 70
Section 5-6-3. Zone Height Limitations. 70
Section 5-6-4. Use Restrictions. 71
Section 5-6-5. Restrictions Adjacent to Airports. 71
Section 5-6-6. Additional Requirements for Nonconforming Uses, Lots, and Structures. 71
Section 5-6-7. Permits and Variances. 71

Division 7. Flood Hazard Overlay District. 72
Section 5-7-1. Authority and Purpose. 72
Section 5-7-2. Applicability. 72
Section 5-7-3. Compliance and Liability. 73
Section 5-7-4. Abrogation and greater Restrictions. 73
Section 5-7-5. Severability. 73
Section 5-7-6. Penalty for Violations. 73
Section 5-7-7. Designation of the Administrator. 74
Section 5-7-8. Duties and Responsibilities of the Administrator. 74
Section 5-7-9. Records. 75

Section 5-7-10. Use and Interpretation of FIRMs. 75
Section 5-7-11. Jurisdictional Boundary Changes. 76
Section 5-7-12. District Boundary Changes. 76
Section 5-7-13. Interpretation of District Boundaries. 76
Section 5-7-14. Letters of Map Revision. 77
Section 5-7-15. Establishment of Flood Hazard Zones. 77
Section 5-7-16. District Provisions. 78
Section 5-7-17. Elevation and Construction Standards. 81
Section 5-7-18. Existing Structures in the Floodplain. 83
Section 5-7-19. Procedures for Considering Variances in the Flood Hazard Districts. 84

Article VI. – Use Permissions. 86
Section 6-1. Organization and Intent. 86
Section 6-2. Abbreviations in Use Matrix. 86
Section 6-3. Uses Not Provided. 86
Section 6-4. Primary Zoning Districts Use Matrix. 86
Section 6-5. Old and Historic Zoning District Use Matrix. 94

Article VII. – Use Performance Standards. 100
Division 1. General Standards for Specific Uses. 100
Section 7-1-1. Purpose and Intent. 100

Division 2. Standards for Specific Uses. 100
Section 7-2-1. Accessory building. 100
Section 7-2-2. Accessory dwelling unit. 101
Section 7-2-3. Adult use. 101
Section 7-2-4. Agriculture. 102
Section 7-2-5. Agriculture, intensive. 103
Section 7-2-6. Agritourism. 103
Section 7-2-7. Automobile repair service. 104
Section 7-2-8. Automobile sale, rental/leasing. 104
Section 7-2-9. Bed and breakfast. 104
Section 7-2-10. Campground, public or private. 105
Section 7-2-11. Car wash. 105
Section 7-2-12. Construction material sales. 106
Section 7-2-13. Cottage Housing Development. 106
Section 7-2-14. Drive through facility. 110
Section 7-2-15. Dwelling, manufactured. 111
Section 7-2-16. Dwelling, multifamily. 111
Section 7-2-17. Dwelling, townhouse. 111
Section 7-2-18. Equipment sales/rental and supplies, heavy. 112
Section 7-2-19. Family health care structure, temporary. 113
Section 7-2-20. Gasoline station. 113
Section 7-2-21. Home occupation. 113
Section 7-2-22. Kennel, Commercial. 115
Section 7-2-23. Manufactured home park. 115
Section 7-2-24. Mixed use structure. 116
Section 7-2-25. Mobile vending. 117
Section 7-2-26. Outdoor sales, seasonal. 117

Section 7-2-27. Outdoor storage. 118
Section 7-2-28. Parking lot, commercial. 118
Section 7-2-29. Public park and recreation area. 118
Section 7-2-30. Sawmill, portable. 119
Section 7-2-31. Shopping center. 119
Section 7-2-32. Short-term rental. 119
Section 7-2-33. Solar energy, medium-scale. 121
Section 7-2-34. Solar energy, small-scale. 123
Section 7-2-35. Stable, commercial. 125
Section 7-2-36. Stable, private. 125
Section 7-2-37. Store, general. 125
Section 7-2-38. Temporary construction trailer. 125
Section 7-2-39. Tradesperson services. 126
Section 7-2-40. Utility service, major/minor. 126
Section 7-2-41. Veterinary clinic. 126
Section 7-2-42. Warehousing and distribution. 126
Section 7-2-43. Wireless facility, broadcasting or communication tower. 126
Section 7-2-44. Wireless facility, small cell. 131

Article VIII. – Community Design Standards. 133

Division 1. Lighting. 133
Section 8-1-1. Purpose and Intent. 133
Section 8-1-2. Applicability. 133
Section 8-1-3. Standards. 134
Section 8-1-4. Compliance. 135

Division 2. Landscaping, Walls, and Fences. 135
Section 8-2-1. Purpose and Intent. 135
Section 8-2-2. Application of Landscape, Wall, and Fence Standards. 135
Section 8-2-3. Landscape Plan Requirements. 135
Section 8-2-4. Landscaping Requirements by Zoning District. 136
Section 8-2-5. Screening. 137
Section 8-2-6. Parking Lot Landscaping. 138
Section 8-2-7. Tree and Plant Standards. 139
Section 8-2-8. Tree Protection Standards. 139
Section 8-2-9. Walls and Fences. 140
Section 8-2-10. Compliance. 142

Division 3. Parking and Loading. 143
Section 8-3-1. Purpose and Intent. 143
Section 8-3-2. Generally. 143
Section 8-3-3. Location in Relation to Use. 143
Section 8-3-4. Joint Use of Spaces. 143
Section 8-3-5. Reduction. 144
Section 8-3-6. Old and Historic District and the Entrance Corridor Parking or Unloading Waiver 144
Section 8-3-7. Design Standards. 144
Section 8-3-8. Obligations of Owner. 145
Section 8-3-9. Schedule of Required Spaces. 146
Section 8-3-10. Interpretation of Specific Requirements for Table 8.3.9. 148

Section 8-3-11. Off-Street Loading Requirements. 149
Section 8-3-12. Interpretation of Specific Requirements for Table 8.3.11. 149
Section 8-3-13. Design Standards. 150

Division 4. Signs. 150
Section 8-4-1. Purpose and Intent. 150
Section 8-4-2. Administration. 151
Section 8-4-3. Exemptions. 153
Section 8-4-4. Prohibited. 154
Section 8-4-5. General. 155
Section 8-4-6. Districts. 157
Section 8-4-7. Nonconforming Signs. 160
Section 8-4-8. Enforcement. 160

Article IX. – Nonconforming, Uses, Lots, and Structures. 161
Section 9-1. Intent. 161
Section 9-2. Generally. 161
Section 9-3. Nonconforming Lots of Record. 161
Section 9-4. Nonconforming Uses. 162
Section 9-5. Nonconforming Structures, Buildings, and Improvements. 163
Section 9-6. Repairs and Maintenance. 164

Article X. – Subdivision. 165
Division 1. In General. 165
Section 10-1-1. Title. 165
Section 10-1-2. Recording of Ordinance. 165
Section 10-1-3. Amendments. 165
Section 10-1-4. Repeal. 165
Section 10-1-5. Applicability. 165
Section 10-1-6. Circumvention. 166
Section 10-1-7. Exemptions. 166

Division 2. Design Requirements. 166
Section 10-2-1. Suitability of Land. 166
Section 10-2-2. Lots. 167
Section 10-2-3. Remnants. 167
Section 10-2-4. Streets. 167
Section 10-2-5. Access. 170
Section 10-2-6. Blocks. 171
Section 10-2-7. Other Improvements. 171
Section 10-2-8. Easements. 172
Section 10-2-9. Monuments. 172
Section 10-2-10. Exceptions. 173

Division 3. Improvement Plans, Obligations, and Procedures. 173
Section 10-3-1. Improvement Plans. 173
Section 10-3-2. Obligation of Improvements. 174
Section 10-3-3. Procedure for Plan Approval and Revisions. 175

Division 4. Guarantees. 175
Section 10-4-1. Required to be Guaranteed. 175
Section 10-4-2. Types of Guarantees. 176
Section 10-4-3. Amount. 176
Section 10-4-4. Release. 176
Section 10-4-5. Extensions for Completion. 178
Section 10-4-6. Default. 178

Division 5. Platting Requirements, Generally. 178
Sections 10-5-1. Approval Required Before Sale. 178
Section 10-5-2. Changes to Plats. 178
Section 10-5-3. Separate Ownership. 178
Section 10-5-4. Recording. 179
Section 10-5-5. Variations and Exceptions. 179

Division 6. Boundary Line Adjustment and Minor Subdivision Approval. 180
Section 10-6-1. Preliminary Plat, Boundary Line Adjustment, or Minor Subdivision. 180
Section 10-6-2. Final Plat, Boundary Line Adjustment, or Minor Subdivision. 180
Section 10-6-3. Final Approval Procedure for Boundary Line Adjustment and Minor Subdivisions. 182

Division 7. Major Subdivision Approval. 183
Section 10-7-1. Preliminary Plat, Major Subdivision. 183
Section 10-7-2. Final Plat, Major Subdivision. 186
Section 10-7-3. Final Approval Procedure for Major Subdivisions. 188

Division 8. Vacation of Plats. 189
Section 10-8-1. Vacation. 189

Division 9. Enforcement, Violations, and Fees. 190
Section 10-9-1. Enforcement. 190
Section 10-9-2. Violation and Penalty. 191
Section 10-9-3. Fees. 191

Article XI. – Definitions. 192
Section 11-1. Word Usage. 192
Section 11-2. General and Use Definitions. 192
Section 11-3. Flood Hazard Overlay Definitions. 224

Tables

Table 3.7.3 Example Uses with 100 trip-ends per hours 30
Table 4.2.1 AFOS District Requirements 42
Table 4.2.2 Residential District Requirements 44
Table 4.2.3 Business District Requirements 48
Table 4.2.4 OI District Requirements 49
Table 4.2.5 M-1 District Requirements 51
Table 5.4.2 PTD Site Development Regulations 64
Table 5.7.14 Flood Hazard Zones and Permitted Uses 80
Table 6.4 Primary Zoning Districts Use Matrix 87
Table 6.5 Old and Historic District Use Matrix 94
Table 7.2.13 Cottage Housing Development Requirements 107
Table 8.3.9 Minimum Off-Street Parking Requirements 146
Table 8.3.11 Minimum Off-Street Loading Requirements 149
Table 8.4.6(A) Maximum Sign Dimensions: AFOS District 157
Table 8.4.6(B) Maximum Sign Dimensions: R-1, R-2, R-3, R-4 Residential Districts 158
Table 8.4.6(C) Maximum Sign Dimensions: B-1, B-2, B-3, M-1, OI, and PTD Districts 158

Figures

Figure 4.1 AFOS District Regulations Example 43
Figure 4.2 R-1 District Regulations Example: Single-family 46
Figure 4.3 R-3 District Regulations Example: Townhouse 47
Figure 4.4 OI District Regulations Example 50
Figure 4.5 Corner Lots 52
Figure 4.6 Yard and Yard Encroachments 53
Figure 5.1 PUD Incentives 67
Figure 7.1 ADU Example 101
Figure 7.2 Cottage Housing Parking Examples 109
Figure 8.1 Lighting Height and Shielding Examples 134
Figure 8.2 Entrance Corridor ROW Landscaping 136
Figure 8.3 Parking Lot Landscape Buffers 138
Figure 8.4 Parking Lot Planting Islands 138
Figure 8.5 Walls and Fences Height Example 141
Figure 8.6 Walls and Fences Appearance Example 141
Figure 8.7 Parking Lot Design Standards 145
Figure 8.8 Loading Space Standards 150
Figure 8.9 Calculating Sign Area 155
Figure 8.10 Projecting Signs 156
Figure 8.11 AFOS and Residential District Freestanding Sign Examples 159
Figure 8.12 B-1, B-2, B-3, B-1, OI, and PTD Wall Sign Examples 159
Figure 10.1 Cul-de-Sac Dimensional Standards 169

ARTICLE I. – In General.

Section 1-1. Title.[1]

This chapter, the full title of which is "Zoning and Subdivision Ordinance of the Town of Abingdon, Virginia," shall be permitted, for convenience, to be referred to as the "Zoning and Subdivision Ordinance" or "Ordinance." The accompanying map, titled "Zoning Map of the Town of Abingdon, Virginia," shall be permitted to be referred to as the "Zoning Map."

Section 1-2. Authority.[2]

(a) Pursuant to the Code of Virginia, § 15.2-2280 et seq., the Town of Abingdon, Virginia, is given the authority to classify and regulate land development under its jurisdiction.

(b) Pursuant to the Code of Virginia, § 15.2-2240, et seq., the Town of Abingdon, Virginia, is authorized to adopt regulations to assure the orderly subdivision of land and its development.

Section 1-3. Purpose.[3]

The purpose of this Ordinance is to implement the Town of Abingdon Comprehensive Plan; promote the health, safety, and general welfare of the public; and of further accomplishing the objectives of § 15.2-2200, as amended, of the Code of Virginia. This Ordinance has been designed to give reasonable considerations to:

(1) Provide for adequate light, air, convenience of access and safety from fire, flood, impounding structure failure, crime, and other dangers;

(2) Reduce or prevent congestion in the public streets;

(3) Facilitate the creation of a convenient, attractive, and harmonious community;

(4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;

(5) Protect against destruction of, or encroachment upon, historic areas and working waterfront development areas;

(6) Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, impounding structure failure, panic or other dangers;

(7) Encourage economic development activities that provide desirable employment and enlarge the tax base;

(8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;

[1] Editor's Note: Existing ordinance does not supply a standalone section for title of the ordinance or zoning map. Removed from Article 1, Authority and proposed as a separate section.

[2] Editor's Note: Existing ordinance combines authority and purpose into one article without separate sections and uses incorrect references.

[3] Editor's Note: Purpose expanded to include all items supplied in the Code of Virginia for the purpose of Zoning Ordinances and the purpose of Subdivision Ordinances.

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(9) Protect the approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
(10) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the Town as well as reasonable proportion of the current and future needs of the planning district within which the Town is located;
(11) Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard;
(12) Provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 or state and federal fair housing laws, as applicable;
(13) Protect surface water and ground water as defined in the Code of Virginia § 62.1-255, as amended;
(14) Establish standards and procedures for the orderly division, subdivision and resubdivision of lots, tracts and parcels of land for residential and commercial purposes pursuant to the Code of Virginia § 15.2-2240 et. seq., as amended;
(15) Ensure proper legal description and proper monumenting of subdivided land;
(16) Ensure the purchasers of lots, tracts, and parcels of land purchase a commodity that is suitable for the intended use; and,
(17) Provide standards for development, ensuring appropriate ingress, egress, public facilities, services, and utilities.

Section 1-4. Applicability. [4]

(a) Pursuant to the Code of Virginia, § 15.2-2281, the provisions of this Ordinance shall apply to all property within the incorporated territory of the Town of Abingdon, Virginia, with the exception that any property held in fee simple ownership and used by the United States of America or the Commonwealth of Virginia shall not be subject to the provisions contained herein.
(b) Pursuant to the Code of Virginia, § 15.2-2284, the zoning regulations and districts as herein set forth have been drawn with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of properties for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services; and the conservation of natural resources, the preservation of flood plains, the protection of life and property from impounding structure failures, the preservation of agriculture and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the Town.

[4] Editor's Note: The existing ordinance contains a section on Authority which is similar to both Virginia State Code § 15.2-2280 and § 15.2-2284. This proposed section and the proposed section on authority, both reference the Code of Virginia and utilize text from the Code of Virginia rather than the existing ordinance text.

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Section 1-5. Conformity with Ordinance Required.[5]

Except as otherwise provided in this Ordinance or as modified through a zoning approval, land, buildings, structures or premises shall only be used or occupied, erected, constructed, moved, enlarged or altered, nor shall land be subdivided, unless in conformity with this Ordinance's regulations.

Section 1-6. Interpretation.[6]

(a) The Director of Community Development or designee shall interpret this Ordinance based upon the following criteria:
  (1) Provisions shall be considered the minimum required to promote the public health, safety, convenience and general welfare;
  (2) Unless otherwise specified, the standards of this Ordinance are the minimum required;
  (3) When regulations of this Ordinance conflict with each other, other Ordinances of the Town code, or state or federal law, the more restrictive regulations or standards shall govern;
  (4) This Ordinance does not abolish easements, covenants or other private agreements; however, pursuant to the Code of Virginia, § 15.2-2315, where this Ordinance's requirements vary with the requirements of any other lawfully adopted statute, regulation, or ordinance, the most restrictive, or the higher standard, shall control to the extent necessary to resolve the conflict;
  (5) A building, structure or use which was not legally existing on _____ (date of revised ordinance adoption) shall not be made lawful solely by adoption of this Ordinance;
  (6) Where this Ordinance's requirements are vague or unclear, the Director of Community Development or designee shall be responsible for their interpretation; and,
  (7) Conditions imposed or accepted as part of a zoning approval prior to _____ (date of revised ordinance adoption) shall remain in effect. However, as stated in the Code of Virginia § 15.2-2261.1, if there is a conflict between conditions imposed through those land use decisions and this Ordinance, the conditions shall apply. If there is no condition that addresses a specific use or development standard of this Ordinance, this Ordinance's requirements shall govern.

(b) The Zoning Map associated with this text and showing the division of the territory into districts shall be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:
  (1) Where district boundaries are fixed by dimensions or otherwise shown or described, there shall be no uncertainty.
  (2) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys, or railroad tracks, such centerline or lines at right angles to such centerlines shall be construed to be such boundaries, as the case may be.

[5] Editor's Note: Added as a new section. Section 24-1 of the existing ordinance states that permits issued by public employees that conflict with this ordinance shall be null and void. This is not included in the ordinance because these permits are considered affirmative governmental acts and courts usually do not overturn them, therefore, voiding a permit under these circumstances could create legal ramifications for the Town.

[6] Editor's Note: The zoning map interpretation (Section 25-4) is supplied here along with the interpretation of the ordinance.

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(3) Where a district boundary is indicated to follow a river, creek or branch, or other body of water, said 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 shoreline, such boundary shall be construed as moving with the actual shoreline.

(4) 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 said map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals, which shall determine the boundary.

Section 1-7. Vested Rights.[7]

The provisions of this Ordinance shall not impair a vested right of a property owner. The Director of Community Development or designee shall be authorized to make determinations on whether a property owner's rights are deemed vested in a land use. The Subdivision Agent shall be authorized to make determinations on whether a property owner's rights are deemed vested in a division. Vested rights determinations shall be made in accordance with the Code of Virginia § 15.2-2307.

Section 1-8. Figures and References in Ordinance.[8]

(a) Where figures are contained in this Ordinance, they are provided for demonstrative purposes only and are not a substantive part of this Ordinance.

(b) If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute or regulation.

Section 1-9. Severability.[9]

Should any Section or any provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

Section 1-10. Effective Date of Ordinance.[10]

The effective date of the Zoning and Subdivision Ordinance shall be from and after the date of its passage, _____ (date of adoption of revised ordinance), and legal application, and its provisions shall be in force thereafter until repealed or amended.

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[7] Editor's Note: Proposed as a section to address all vested rights within the Zoning and Subdivision Ordinance and not just Historic District vested rights. Further updated to reflect the Code of Virginia.
[8] Editor's Note: Proposed as a new section.
[9] Editor's Note: Maintained from existing Ordinance, Section 25-6.
[10] Editor's Note: Date of adoption will be inserted after formal adoption.

ARTICLE II. – Administration.

Division 1. Director of Community Development or designee and Subdivision Agent.

Section 2-1-1. Appointment; Powers; and Duties.[1]

(a) This Ordinance, with the exception of the Subdivision Article, and the Zoning Map shall be administered, interpreted, and enforced by the Director of Community Development or designee (Administrator), who shall be appointed by the Town Council. The Administrator shall serve at the pleasure of the Town Council and shall have such duties as are conferred on them by this Ordinance and the Code of Virginia § 15.2-2286(4). The Administrator may also hold another office in the Town.

(b) The Subdivision Agent (Agent) shall be appointed by the Town Council to administer and enforce the Subdivision Article of this Ordinance.

(c) In the performance of these duties, the Administrator/Agent may call for opinions or decisions, either verbal or written, from other departments or state agencies.

(d) The Administrator/Agent may designate a Deputy Administrator/Agent or other designee to assist in these duties.

(e) In addition to the regulations contained herein, the Administrator/Agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this Ordinance.

Division 2. Planning Commission.[2]

Section 2-2-1. Appointment and Membership.

The Planning Commission shall be created, organized, removed, and compensated pursuant to the Code of Virginia, § 15.2-2210 and § 15.2-2212, as amended and as outlined in Chapter 2 of the Town Code.

Section 2-2-2. Powers and Duties.

The Planning Commission shall perform the duties pursuant to the Code of Virginia, § 15.2-2221, § 15.2-2230 et seq, and § 15.2-2285 as amended, as outlined in Chapter 2 of the Town Code, and shall approve or deny Certificates of Appropriateness in the Historic District Entrance Corridor Overlay district as outlined in Article III of this Ordinance.

Section 2-2-3. Meetings and Procedures.

(a) The Planning Commission shall conduct meetings pursuant to the Code of Virginia § 15.2-2214 through § 15.2-2217, as amended and as outlined in Chapter 2 of the Town Code.

[1] Editor's Note: Utilizes existing Section 25-2 regarding the Administrator but expands to include the Subdivision Agent and other Code of Virginia text.

[2] Editor's Note: Chapter 2 of Town Code supplies authority, powers, duties, officers, meetings, and voting requirements for the Planning Commission. To prevent text conflicts the text references the Code of Virginia and the Town Code instead of enumerating these items.

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(b) Pursuant to the Code of Virginia § 15.2-2287.1, as amended, members are required, prior to or at a hearing on a matter, to make a full public disclosure of any business or financial relationship that such member has, or has had within the 12-month period prior to such hearing and shall be ineligible to vote or participate in any way upon the matter.[3]

Division 3. Board of Zoning Appeals.[4]

Section 2-3-1. Appointment; Terms; Membership; Compensation; Removal.

Pursuant to the Code of Virginia, § 15.2-2308, et seq., as amended, a Board of Zoning Appeals (BZA) shall be created and organized as follows:

(1) A BZA consisting of five members shall be appointed by the circuit court.

(2) The term of office shall be for five years; except, that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years and one for one year. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(3) At least 30 days in advance of the expiration or a term of office, or promptly if a vacancy occurs, the secretary of the BZA shall notify the court. A member whose term expires shall continue to serve until the successor is appointed and qualifies.

(4) Members of the BZA shall hold no other public office in the locality except that one may be a member of the Planning Commission, and any member may be appointed to serve as an officer of election.

(5) The BZA shall receive such compensation and traveling expenses as the Town Council may establish.

(6) Any BZA member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed them, after a hearing held after at least 15 days' notice.

Section 2-3-2. Powers and Duties.[5]

(a) Pursuant to the Code of Virginia § 15.2-2309, as amended, the BZA shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204, as amended:

(1) Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Ordinance as outlined in Article III, Division II.

[3] Editor's Note: This item is not provided in the Town Code but because it is required in the Code of Virginia it is being included here.

[4] Editor's Note: This Division incorporates the existing text sections 22-1, 22-2, and 22-3. Additional existing text in section 22 regarding appeal procedure is proposed in Article III. The membership of the BZA can be extended to included alternates that may stand in when regular members will be absent. The Town should consider if they desire adding the measure.

[5] Editor's Note: The existing ordinance enumerates the specific terms for award of a variance in section 22-2-2. The proposed text simplifies by providing reference to Code of Virginia § 15.2-2309 and § 15.2-2201 instead of listing the terms.

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(2) Variance. To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201, as amended, from the terms of this Ordinance when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and if the applicant proves through a preponderance of evidence that a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, provided that the spirit of this Ordinance shall be observed and substantial justice done.

(3) Boundary Interpretations. 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 any such question, and after public hearing with notice as required by the Code of Virginia § 15.2-2204, as amended, the BZA may interpret the map in such way as to carry out the intent and purpose of this Ordinance for the particular section or district in question.

(b) The provisions of this Section shall not be construed as granting the BZA the power to rezone property, substantially change the locations of district boundaries as established by this Ordinance, or to base decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

Section 2-3-3. Meetings and Procedures.

(a) The BZA shall adopt such rules and regulations as it may consider necessary.

(b) Meetings of the BZA shall be held at the call of its chairperson or at such time as a quorum of the BZA may determine.

(c) A quorum shall be at least three members. A favorable vote of three members of the BZA 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 on which the BZA is required to pass.

(d) The BZA shall choose annually its own chairperson and vice-chairperson. The vice-chairperson shall act in the absence of the chairperson and may administer oaths and compel the attendance of witnesses.

(e) The BZA 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 BZA and shall be public record.

(f) All meetings of the BZA shall be open to the public.

(g) The BZA may adopt policies regarding ex parte communication that are in accordance with the Code of Virginia § 15.2-2308.1.

(h) Pursuant to the Code of Virginia § 15.2-2287.1, members are required, prior to or at a hearing on a matter, to make a full public disclosure of any business or financial relationship that such member has, or has had within the 12-month period prior to such hearing and shall be ineligible to vote or participate in any way upon the matter.

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Division 4. Historic Preservation Review Board.[6]

Section 2-4-1. Creation.

For the purpose of making effective the provisions of the Old and Historic (OH) District, a Historic Preservation Review Board (HPRB) is hereby established and empowered to consider and review all alterations, additions, and changes within the boundaries of the OH District as defined by this Ordinance (as visible from the public right of way unless otherwise noted), whether or not brought before it by an application for a Certificate of Appropriateness or other permit.

Section 2-4-2. Appointment; Terms; and Membership.

(a) The HPRB shall consist of five members appointed by the Town Council, one of whom shall be a resident of the OH District and all of whom shall have a demonstrated interest, competence, or knowledge in historic preservation. All members must be residents and qualified voters of the Town; provided, the Town Council may in its discretion appoint any non-resident of the Town who is otherwise qualified under this Section and holds or is employed by a person or firm holding a current business license issued by the Town.

(b) At least one HPRB member shall be either a registered architect with a demonstrated interest in historic preservation or an architectural historian meeting the professional qualifications standards of the Code of Federal Regulations, Appendix A of title 36, part 61. Similarly, at least one additional HPRB member shall have professional training or equivalent experience in any one of the following disciplines: architecture, history, architectural history, American studies, archaeology, or planning.

(c) The HPRB members shall be appointed for three-year terms and serve until their respective successors are appointed. If at any time hereafter all five positions on the HPRB are vacant, the HPRB members shall be appointed for three-year staggered terms, one member to serve for one year, two members to serve for two years, two members to serve for three years and all members to serve three-year terms thereafter.

(d) The Town Council shall have the discretion to appoint members to serve consecutive terms. Members may serve any number of terms but not more than two terms consecutively.

(e) Vacancies caused by death, resignation or otherwise shall be filled:
   (1) Promptly and in any event not more than 90 days following the date on which the vacancy occurs; and
   (2) For the unexpired term in the same manner original appointments are made.

(f) The Town Council shall have the discretion to remove members for habitual failure to attend meetings.

Section 2-4-3. Powers and Duties.[7]

(a) The HPRB shall approve, approve with modifications, or deny applications for Certificates of Appropriateness for the construction, reconstruction, exterior alteration, demolition, or

[6] Editor's Note: The proposed text is drafted utilizing existing text sections 8-6 through 8-9. The text has been rearranged and revised for clarity. Existing text detailing application requirements, procedure for meetings and decisions, and appeals are proposed in Article III.

[7] Editor's Note: Powers and duties as outlined in existing ordinance Article 8 are utilized and additional duties (items 5 through 9) and procedure for guideline modification are provided as best practice from similar localities.

relocation of Historic Landmarks or structures within the OH District, except as waived under Article III, Division 6. The HPRB shall have the following duties, which it may exercise in its discretion but shall exercise upon direction from Town Council:

(1) Hear and decide on each project brought before it, to the end that buildings, structures or other resources of historic, architectural, or cultural significance are preserved insofar as they are appropriate and incongruous projects are prohibited.
(2) See to the enforcement of its decisions through the Administrator and the Town's inspection department.
(3) In reviewing each project, the HPRB must follow the suggestions and requirements of the design review guidelines, as such document now exists and may hereafter be revised and amended by the HPRB.
(4) Periodically review the design review guidelines in the context of the experience gained since the last review of that kind and make all such revisions that seem, in their judgment, to be necessary or advisable provided that such guidelines shall be consistent with the Secretary of the Interior Standards for Historic Preservation, the purposes intent of the OH District, and with such standards, rules, regulations, and procedures as Town Council may establish. Procedure to modify the design review guidelines includes:
    a. The Town shall circulate the proposed or modified design review guidelines to interested parties and post them on its website for a 60-day public comment period.
    b. If the HPRB makes any policy changes to the design review guidelines after receiving public comment, a new 60-day period for public comment shall commence.
    c. The HPRB may vote to develop or modify design review guidelines only after the 60-day period for public comment.
    d. After the HPRB adopts or modifies the design review guidelines, the Town shall cause them to be published on the Town's website and by other means in its discretion.
(5) Assist and advise the Town Council, the Planning Commission, other Town departments and agencies, property owners and individuals in matters involving historic resources.
(6) Review and propose additional areas or structures to be included in or removed from the OH District, Historic District Entrance Corridor Overlay District, or designated as a Historic Landmark.
(7) From time-to-time conduct, or cause to be conducted, a survey of historic resources.
(8) Upon request of the Town Council, conduct studies deemed necessary to consider additional historic districts or subdistricts, and means of preservation and utilization of historic assets in the Town.
(9) Cooperate with, and enlist assistance from, the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties, both public and private, in its efforts to preserve, restore, and conserve historic sites, landmarks, buildings, and structures within the Town.

Section 2-4-4. Meetings and Procedures.

(a) The HPRB shall adopt and make available for public inspection written bylaws for procedural matters, written notice of public meetings, and other matters not covered by this Article that include at a minimum:
    (1) Provision for regularly scheduled meetings at least four times a year;

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(2) A requirement that a quorum be present to conduct business;
(3) Rules of procedure for considering applications;
(4) A requirement for written minutes for all meetings;
(5) Minimum attendance requirements for all board members; and
(6) Requirements that board members attend training sessions.

(b) The HPRB shall elect its chairperson and vice-chairperson from its membership. In the absence of the chairperson the vice chairperson shall preside.
(c) The chairperson shall conduct the meetings in accordance with its written bylaws and all applicable provisions of the Code of Virginia, 1950, as amended.
(d) The Administrator, or designee, shall serve as secretary and shall keep and make available for public inspection the minutes of the meetings and a permanent record of all resolutions, motions, transactions, and decisions, including exemptions from review by the HPRB.
(e) Each member is required to attend at least one informational or educational meeting per year which has been approved by the state department of historic resources as pertaining to the work and functions of the board or historic preservation.
(f) A quorum of three members present is required before the HPRB may take any official action.
(g) Each member of the HPRB shall have the right to one vote on each issue, to be exercised in person at a meeting and not by proxy, and the decision of the majority shall be final, subject only to the rights of appeal set out in this Ordinance.
(h) Each meeting shall be open to the public and an agenda shall be made available to the public prior to the meeting.
(i) The Administrator shall serve as advisor to the board. In addition, when adequate review of any proposed action would normally involve a professional discipline not represented on the board, the board must seek and secure appropriate professional advice before rendering its decision on the particular action.

Division 5. Enforcement.[8]

Section 2-5-1. Authority.

(a) As authorized by the Code of Virginia § 15.2-2286(A)(4), as amended, the Administrator or designee shall be responsible for enforcing the provisions of this Ordinance. As provided in Article 1, conformity with the Ordinance is required.
(b) Failure to comply with the requirements of the Ordinance constitutes a violation thereof and is declared to be unlawful.
(c) Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Administrator under this Ordinance in monitoring discharges, shall be guilty or liable of this Article.

[8] Editor's Note: Existing ordinance section 24-2 regarding penalties and violation of the ordinance have been incorporated in this Division but are rearranged for clarity and updated with current Code of Virginia standards and references.

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Section 2-5-2. Complaints and Inspection.

(a) Any person who alleges that violation of the Ordinance has occurred may file a complaint with the Administrator or designee. Such complaint shall stipulate the cause and basis thereof and the location of the alleged violation.

(b) The Administrator or designee shall properly record the complaint, investigate the facts thereof, and take action thereon as provided by the Ordinance.

(1) An investigation letter to identify if a violation exists, including specific dates by which the potential violator must respond, shall be issued. The Administrator may enter upon or inspect any land or structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Administrator may enter upon land in accordance with the Code of Virginia § 15-2.2286(A)(16), as amended.

Section 2-5-3. Investigation Letter, Notice of Violation, Correction Plan and Stop Work Order.

(a) Upon completion of investigation and becoming aware of any violation of the provisions of this Ordinance, the Administrator may issue a written investigation letter, notice of violation and/or a stop work order to the person committing or permitting the violations.

(b) An investigation letter indicates the Administrator has identified a potential violation and asks the violator to respond to the Administrator to determine if a violation has occurred and if so, what corrections will be made.

(c) A correction plan, if a violation exists, including potential remedies shall be provided by the violator within a reasonable time. The letter shall also provide the basis by which the defects shall be corrected and respected. This letter shall be reviewed for accuracy and an agreement established with the violator. If agreement is not established the Administrator will provide a notice of violation.

(d) A notice of violation shall be issued to the violator (owner or tenant) for any uncorrected violation remaining from a correction notice by registered or certified mail or hand delivered.

(e) Further action may not be required for corrected violations. However, the Administrator may request legal proceedings be instituted for prosecution when a responsible party is served with three or more separate notices of violation for the same property within 5 consecutive years.

(f) Stop work orders may be issued and posted at the property when any work subject to a Certificate of Appropriateness is started without authorization by the Administrator as provided in Article III of this Ordinance. Any such stop work order shall remain in effect until the party proposing to do the work secures appropriate authorization. The party subject to the stop work order may appeal the action of the Administrator to the HPRB.

(g) Appeals of notice of violation shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article III, Division II.

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Section 2-5-4. Remedies and Penalties for Violation.[9]

Upon becoming aware of any violation and making a determination of validity of any of the provisions of this Ordinance, the Administrator may institute appropriate action or proceedings if the violation is not corrected as permitted by law, including injunction, abatement to restrain, correction, or abatement pursuant to Virginia Code § 15.2-2286 and § 15.2-2209.

Division 6. Fees and Taxes.

Section 2-6-1. Fees and Expenses.[10]

(a) The Town Council shall establish, by ordinance, a schedule of fees, charges and expenses, and collection procedures for zoning permits, special use permits, variances, appeals, amendments, site plan reviews, and other matters pertaining to this Ordinance.

(b) The schedule of fees shall be available for inspection in the office of the Administrator and may be altered or amended by the Town Council by ordinance amendment.

Section 2-6-2. Delinquent Taxes and Charges.[11]

Pursuant to the Code of Virginia § 15.2-2286(B), as amended, prior to the initiation of an application or appeal, the applicant shall produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the Town have been paid in full, unless otherwise authorized by the treasurer.

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[9] Editor's Note: Both criminal and civil penalties are referenced in the existing ordinance; the penalty amounts, and other text have been updated to reflect the Code of Virginia limits.

[10] Editor's Note: The existing ordinance outlines in section 25-1-5 and 25-1-6 that fees for ordinance amendments and map amendments will be authorized by the Town Council. These as well as all fees associated with the ordinance should be enumerated in a schedule of fees and adopted by ordinance as outlined here.

[11] Editor's Note: This is a new item provided according to the Code of Virginia.

ARTICLE III. – Permits and Applications.

Division 1. In General.[1]

Section 3-1-1. Preapplication Meeting.

Prior to the submittal of any application, a preapplication meeting must be held between the applicant and the Administrator, unless otherwise waived by the Administrator. During this meeting, the applicant may submit concept plans for preliminary review, comment, and recommendation by the Administrator.

Section 3-1-2. Minimum Submission Standards for Applications.

(a) The Administrator shall establish minimum standards for submission requirements of all applications associated with the Zoning and Subdivision Ordinance. Applications shall contain all information required to meet the minimum standards.
(b) Upon written request by an applicant, the Administrator or their agent may waive or modify a submission requirement or requirements upon a determination that the information is not necessary to evaluate the merits of the application.
(c) Additional information may be required as deemed reasonably necessary by the Administrator.

Section 3-1-3. Forms.

Petitions or applications for amendments (to the Ordinance or Official Zoning Map), variances, special uses, or zoning permits, and any other request requiring action shall be made on forms provided by the Town.

Section 3-1-4. Ownership Disclosure.

An applicant must disclose all equitable ownership of the real estate included in an application. In the case of corporate ownership, the name of stockholders, officers and directors shall be provided, and in any case the names and addresses of all of the real parties of interest in accordance with the Code of Virginia § 15.2-2289, as amended.

Section 3-1-5. Oath Required.

Petitions or applications for amendments (to the Zoning and Subdivision Ordinance or Official Zoning Map), variances, or special use, shall be sworn to under oath before a notary public, or other official before whom oaths may be taken.

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[1] Editor's Note: This Division combines several sections from the existing ordinance for better organization of items that are required with all permits. Code of Virginia references and best practice items are added.

Division 2. Zoning Text and Map Amendments.[2]

Section 3-2-1. In General.

Pursuant to the Code of Virginia § 15.2-2286(7), as amended, whenever public necessity, convenience, general welfare, or good zoning practice requires, the Town Council may, from time to time, amend, supplement or change, by Ordinance, the boundaries of the districts or the regulations established in this Ordinance. Such change shall require a majority vote of the Town Council.

Section 3-2-2. Standards and Procedures.

(a) Initiation of change.

(1) Pursuant to the Code of Virginia § 15.2-2286(7), as amended, any amendment to this Ordinance or the Zoning Map may be initiated by:

a. Resolution of the Town Council.
b. Resolution of the Planning Commission; or
c. 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 and Subdivision Ordinance amendment or Zoning Map amendment (rezoning), addressed to the Town Council or the local Planning Commission, who may forward such petition to the Town Council.

(2) Applications for Zoning Map Amendment, including Conditional Zoning requests, shall be accompanied by 3 paper copies and 1 digital file of a Preliminary Site Plan[3]. The Preliminary Site Plan shall include all items required in Section 3-7-3, Preliminary Site Plan Specifications and Contents.

(3) In lieu of a Preliminary Site Plan the applicant, at their risk, may submit a Final Site Plan and through written request ask for concurrent approval of the application and Final Site Plan.

(4) The request for initiation of a Zoning Text Amendment, shall be accompanied by proposed language changes.

a. Identify the specific Section(s) number(s) of the Zoning and Subdivision Ordinance sought to be amended.
b. Provide the text requested to be repealed or added.
c. State the reason for the proposed text change.
d. Provided evidence if the proposed change corrects an error or inappropriate standard or is required due to a higher law.
e. If the application proposes a change in a zoning classification or map boundaries, there shall be attached the items required in Section 3-2-2(a)(2) above.
f. Any additional information as deemed reasonably necessary by the Administrator.

[2] Editor's Note: Most of the text in this Division is new but is based on the Code of Virginia.
[3] Editor's Note: Abingdon staff has recommended a Concept Plan in lieu of site plans as part of the zoning map amendment application; this is a common and recommended best practice. However, during the February 2022 worksession the PC requested more detailed plans and approval to occur with the PC. The text has been edited to reflect this request.

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(b) Standards for Review.
  (1) Once the application is submitted in accordance with Division 1 of this Article and has been determined to be complete, the Town shall evaluate the application and may request that the applicant make revisions, as necessary.
  (2) The application for a Zoning Map or Zoning and Subdivision Ordinance amendment shall be referred to the Planning Commission for public hearing and recommendation. A public hearing is required for a Zoning Text or Map Amendment in accordance with Section 3-11-1.
  (3) The Planning Commission shall advise the Town Council within 100 days from the public hearing. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports amending this Ordinance, and the Town Council shall thereafter take any action it deems appropriate, unless the applicant requests an extension and the Planning Commission votes to grant such an extension for a defined period not to exceed a total of 180 calendar days from the date of the public hearing. A public hearing is required for a Zoning Text or Map Amendment in accordance with Section 3-11-1.
  (4) All motions, resolutions, or petitions for amendment to the Zoning and Subdivision Ordinance and/or Zoning Map shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution, or petition for amendment to the Zoning and Subdivision Ordinance or map, or both; otherwise, the amendment shall be deemed approved.
  (5) In determining what, if any, amendments to this Ordinance or the zoning district map are to be adopted, the governing body may consider, but is not limited to:
    a. Consider the proper relationship of such amendment to the entire zoning plan.
    b. Consider the integrity and validity of the zoning districts described in this Ordinance.
    c. Avoid isolated, unplanned spot-zoning changes in the zoning district map.
    d. Recognize that a certain element of stability is desirable in land use controls, but conditions and standards will change.
    e. Consider the right of all citizens to be treated reasonably.
    f. Evaluate all changes based on the Comprehensive Plan and a comprehensive analysis of community conditions.

(c) The Administrator shall cause the Zoning Map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the Zoning Map that are approved by the Town Council shall be entered onto the official Zoning Map within 60 days following the approval of such changes. After updating sections of the Zoning Map, working prints of any updated Section thereof, upon which modifications have been made, shall be inserted into all sets of the Zoning Maps that are used for public viewing and administration, including those in the Office of the Clerk.

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Division 3. Conditional Zoning and Proffers.[4]

Section 3-3-1. Purpose and Intent.

The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development of land with reasonable conditions governing the use and development of such property. The intent of this division is to enable the reasonable proffering of conditions and acceptance by the Town of Abingdon, as authorized under the Code of Virginia § 15.2-2296 through § 15.2-2303.4.

Section 3-3-2. In General.

(a) Reasonable conditions may voluntarily be proffered by the owner of the property which protect the community when combined with existing Zoning and Subdivision Ordinance district regulations.
(b) The exercise of authority shall not be construed to limit or restrict powers otherwise granted nor to affect the validity of any Ordinance adopted by the Town.
(c) The provisions of this Article shall not be used for the purpose of discrimination in housing.

Section 3-3-3. Effect of Condition; Period of Validity.

(a) Upon the approval of any such rezoning, all conditions proffered and accepted by the Town shall be deemed a part of the approval and non-severable and shall remain in force and effect until amended or varied by the Town Council.
(b) All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.

Section 3-3-4. Record of Conditional Zoning.

(a) Each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Administrator.
(b) The Administrator shall keep and maintain a conditional zoning index which shall be available for public inspection.
(c) The Administrator shall update the index annually and no later than November 30 of each year.

Division 4. Special Use Permits.[5]

Section 3-4-1. Purpose and Intent.

A use requiring a Special Use Permit is a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, extent and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this division is to establish procedures and

[4] Editor's Note: Most of the text in this Division is new but is based on the Code of Virginia. The text has been condensed since the June 28, 2022 PC meeting.
[5] Editor's Note: Existing ordinance sections 17-3-2, 17-3-3, and 17-3-4 regarding application, review, and expiration have been incorporated here in Standards and Procedures and Effect of Decision; Period of Validity. Additional text added for clarity and best practice.

standards for review and approval of Special Use Permits that provide for such special consideration.

Section 3-4-2. Applicability.

A Special Use Permit is required for development of any use designated in Article VI Table 6.4 and 6.5: Use Matrix as a use requiring a Special Use Permit in accordance with this Division and pursuant to the Code of Virginia § 15.2-2286.

Section 3-4-3. Standards and Procedures.

(a) In addition to the general application requirements supplied in Division 1 of this Article the applicant must provide information and data to:
   (1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with the purposes of the specific district in which it will be placed.
   (2) Demonstrate that there will be no undue adverse impact on the surrounding neighborhood in terms of public health, safety or general welfare and show measures to be taken to achieve such goals.
   (3) Show that the proposal meets the applicable specific and general standards required by this Article.
   (4) Special Use Permits within the OH district must be reviewed by the HPRB for any architectural changes to the structure. If a Special Use Permit does not have changes to the structure, review by the HPRB is not required.
   (5) Special Use Permits in all other districts must be accompanied by 3 paper copies and 1 digital copy of a Preliminary Site Plan and supporting documents for review and approval by the Planning Commission and Town Council.
   (6) In lieu of a Preliminary Site Plan the applicant, at their risk, may submit a Final Site Plan and through written request ask for concurrent approval of the application and Final Site Plan.

(b) Standards for Review.
   (1) The community development department of the Town shall review any application requesting a Special Use Permit in the light of the standards set forth in this Ordinance and shall make a report of its findings and recommendations to the Planning Commission. A public hearing is required for a Special Use Permit in accordance with Section 3-11-1.
   (2) All Special Use Permits shall be referred to the Planning Commission for study and recommendations. The Planning Commission shall review and make recommendations to the Town Council concerning approval or disapproval of the application of a Special Use Permit based upon the review of the Site Plan for the proposed development and upon the criteria set forth in this Ordinance. The Planning Commission will determine whether all conditions necessary to meet the requirements of such special use exist and state these conditions in its recommendations.
   (3) The Town Council may grant an applicant a Special Use Permit after notice is given as noted in Division 11 of this Article and in accordance with the Code of Virginia § 15.2-2204, as amended. Additionally, the Town Council may attach such conditions to its approval as it deems necessary to bring the plan of development into conformance with the purposes and standards of this Ordinance. A public hearing is required for a Special Use Permit in accordance with Section 3-11-1.

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(4) The Planning Commission may concurrently approve the Final Site Plan subject to the Town Council's approval of a Special Use Permit and subject to the necessary amendments to the Site Plan as a result of the Town Council action.

Section 3-4-4. Effect of Decision; Period of Validity.

(a) A Special Use Permit authorizes only the particular use(s) and associated development that is approved and shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval. A Special Use Permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership.

(b) Unless otherwise specified in this Ordinance or specified as a condition of approval, the height limits, yard spaces, lot area, sign requirements, and other specified standards shall be the same as for other uses in the district in which the special use is located.

(c) Special use permits granted by the Town Council pursuant to the terms of this Ordinance shall expire 18 months from the date of permit approval in the event the construction of improvements necessary to the use for which the permit was granted has not commenced to a degree that, in the opinion of the Administrator, clearly establishes the intent to utilize the granted Special Use Permit in a period of time deemed reasonable for the type and scope of improvements involved.

(d) Should the use approved by the Special Use Permit cease for any twenty-four-month period during the life of the permit, the Special Use Permit shall become void.

Section 3-4-5. Revocation.

A previously granted Special Use Permit may be revoked if the Town Council determines there has not been compliance with the conditions of the permit. No permit shall be revoked except after notice and hearing as provided in this Article.

Division 5. Variances.[6]

Section 3-5-1. Purpose and Intent.

Pursuant to the Code of Virginia § 15.2-2309, the purpose of a variance is to allow for a reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, other relief or remedy is not available, such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance.

Section 3-5-2. Standards and Procedure.

(a) Authority.

(1) Pursuant to the Code or Virginia § 15.2-2309(2) and (6), the Board of Zoning Appeals is authorized to review petitions for a variance, provided that the burden of proof shall be on

[6] Editor's Note: This is a new Division to address variances holistically. Variances were previously only addressed for floodplain and entrance corridor overlay.

DRAFT

the applicant for a variance to prove by a preponderance of the evidence that the application meets the standard for a variance and the criteria set out in this Ordinance.

(2) The Board of Zoning Appeals may approve, approve with conditions deemed necessary in the public interest, including limiting the duration of a permit, requiring a guarantee or bond to ensure the conditions will be complied with, or deny an application for a variance permit in accordance with the procedures and standards of this Article. A public hearing is required for a Variances in accordance with Section 3-11-1.

(3) Applications for a variance shall be accompanied by 3 paper copies and 1 digital copy of a Preliminary Site Plan. The Preliminary Site Plan shall show the items required in Section 3-7-3, Preliminary Site Plan Specifications and Contents.

(b) After application is made as required in Division 1 of this Article, the Administrator shall also transmit a copy of the application to the local Planning Commission, which send a recommendation to the Board of Zoning Appeals or appear as a party at the hearing. A public hearing is required for a Variance in accordance with Section 3-11-1.

(c) Standards for Review.

(1) Pursuant to the Code of Virginia §15.2-2309(2), a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance, and:

a. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

c. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to the Ordinance;

d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,

e. The relief or remedy sought by the variance application is not available through the process for modification of a Zoning and Subdivision Ordinance pursuant to the Code of Virginia §15.2-2286 at the time of the filing of the variance application.

Section 3-5-3. Effect of Decision; Period of Validity.

(a) Issuance of a variance or special exception shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land and not be affected by a change in ownership.

(b) Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the Town. A variance, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.

(c) After the BZA has granted a variance, the variance so granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the

DRAFT

plans for which such variance was granted, or if the BZA does not specify some longer period than one year for good cause shown.

Division 6. Certificates of Appropriateness and Other Historic Permissions.[7]

Section 3-6-1. Purpose and Intent.

To protect designated historic properties and historic districts from alterations, deterioration, and demolition, and to ensure that new buildings are compatible with the existing character of the district. HPRB is bound by all other aspects of this ordinance unless specifically exempted therefrom.

Section 3-6-2. Applicability.[8]

(a) In accordance with Code of Virginia § 15.2-2306, as amended, and unless exempted by this Section:
  (1) No building or structure, Historic Landmark, or Historic Structure within the Old and Historic (OH) district and visible from the public right-of-way, including signs, shall be erected, reconstructed, altered, restored, razed, demolished, or moved unless a Certificate of Appropriateness has been issued by the HPRB or, on appeal, by the Town Council in accordance with this Article.
  (2) No building or structure, Historic Landmark, or Historic Structure within the Historic District Entrance Corridor Overlay (EC) district and visible from the public right-of-way, excluding signs, shall be erected, reconstructed, altered, restored, razed, demolished, or moved unless a Certificate of Appropriateness has been issued by the Planning Commission or, on appeal, by the Town Council in accordance with this Article.
  (3) Proposed accessory structures within the OH districts, which will not be visible from the public right-of-way due to vegetation, shall first obtain a Certificate of Appropriateness issued by the HPRB or, on appeal, by the Town council in accordance with this Article.[9]
  (4) No architectural feature of a building or structure within the OH district or EC district which are subject to public view from any public street, right-of-way or place shall be altered in any way that affects the external appearance of the building or structure, including such items as roofs, chimneys, fences and color changes, unless a Certificate of Appropriateness has been issued by the HPRB/Planning Commission or, on appeal, by the Town Council in accordance with this Article.

(b) Upon written application, the Administrator may determine that certain minor actions involving buildings and structures within the OH district or EC district will have no permanent effect on the character of the district, and, by written waivers issued to the parties wishing to take the minor

[7] Editor's Note: The existing ordinance scatters the Certificate of Appropriateness (COA) requirements in multiple Articles of the ordinance. The text has been consolidated into one Division and updated as appropriate.
[8] Editor's Note: Existing section 18-9-7 states that COA in the EC district were granted by the PC. This has been maintained but could be a duty of the HPRB. The existing text allowed all signs in the EC district to be administratively approved and signs in the OH district required HPRB approval. These approvals have been maintained.
[9] Editor's Note: This item has been modified based on Town Council review and worksessions.

DRAFT

actions, exempt them from review by the HPRB/Planning Commission as outlined in Section 3-6-5, Waiver of Requirements.

Section 3-6-3. Standards and Procedure.[10]

(a) Applications for such Certificates of Appropriateness shall be made in writing upon the form provided by the office of the Administrator. Each application must be submitted to the Administrator at least ten calendar days in advance of the date of the meeting at which the HPRB or Planning Commission is requested to issue a Certificate of Appropriateness. Provided:
  (1) If the applicant demonstrates unavoidable hardship because of either availability or standby costs of materials, labor or other goods and services, the HPRB or Planning Commission may in its sole discretion consider the particular application at either a regular or special meeting;
  (2) In no event shall the members of the HPRB or Planning Commission consider at any regular or special meeting any matter with respect to which they have been provided with less than 48 hours advance notice exclusive of weekends and holidays, with full documentation as required in this Ordinance.

(b) In the case of new construction, extensive exterior alterations or building additions in the OH district or EC district, the applicant shall provide drawings containing sufficient detail to depict the exterior architectural design of the building or structure, list proposed materials, textures and colors and include samples of such materials and colors. The applicant may be requested to provide photographs of the existing structures and any building or structure to be altered, repaired or added to. In addition to any other documentation the reviewing body may request, the applicant must provide at a minimum, scale drawings depicting the following:
  (1) A design of the proposed improvements detailing distances from any new building or improvement to lot lines, streets, alleys, and sidewalks; and,
  (2) A design of the proposed improvements in relation to existing structures which are located within the same block.

(c) In the case of an owner of a landmark, building or structure within the OH district or EC district who wishes to demolish or move the same, the HPRB or Planning Commission may require the applicant to provide post-demolition or moving plans for the affected site and consider whether such plans would be appropriate to the historic and architectural character of the adjoining properties and the district as a whole.

(d) The requirement of a Special Use Permit for a building or use does not negate the need for a Certificate of Appropriateness however, they can be reviewed concurrently.

(e) Standards for HPRB review within the OH District.
  (1) The HPRB shall not consider interior arrangement of the building or structure or features not subject to view from a public street or right of way, except they shall review those blocked

[10] Editor's Note: Existing sections 8-8-4, 8-9-3, and 8-10-1 regarding standards for COA in the OH district and sections of Article 18 regarding the EC district are included. Text from 18-9-11 regarding guidelines for architecture and design are included except lighting, landscaping, and signs have specific requirements in Article VIII.

from view by vegetation.[11] The specifics of the following matters are defined in the Design Review Guidelines:

a. Exterior architectural features, including but not limited to the type and style of all windows, doors, signs and other appurtenant architectural features or elements which are visible to public view from a public street, right-of-way or place.
b. The architectural style, general design and arrangement of the building or structure.
c. Texture, material and color of the building materials employed.
d. The extent to which the building, structure or use would be harmonious with or obviously incongruous to the old and historic aspect of the surroundings.
e. In case of a building or structure to be demolished, a primary consideration will be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the Town.
f. The extent to which the building or structure or the use will promote the general welfare of the Town and all citizens by the preservation and protection of historic places and areas.
g. The extent to which the building or structure is entering a state of disrepair and should be brought into compliance with the design standards.

(2) The HPRB may by a four-to-one or a unanimous vote, elect to disregard any Design Review Guideline it considers unimportant or inappropriate to a particular project.

(f) Standards for Planning Commission review within the EC overlay district and associated projects.

(1) The Planning Commission shall not consider interior arrangement of the building or structure or features not subject to view from a public street, right of way or place. In addition to those specified in the design review guidelines, the Planning Commission shall consider the following matters in passing on the appropriateness of a particular project:

a. The following recommendations are provided for architectural styles and general building characteristics:
    1. Materials, colors and general style of buildings within a development should be coordinated.
    2. Heating and air conditioning units, ventilation units, and mechanical equipment shall be screened from view from public streets.
    3. Loading docks, trash containers, mechanical equipment and any sites for storage facilities shall be screened from view from public streets.
    4. The effective visual mass of large buildings should be reduced by variations in roof line, building angles, dimension, relief, color, architectural detailing and landscaping.
b. Design review guidelines. New buildings or exterior alterations to existing structures should include one or a combination of the following materials/methods of construction:
    1. Wood frame, (or fiber cement board), with brick, stone, or concrete foundations; brick construction or brick facing; finished concrete block; roof materials of standing seam metal, asphalt shingle, and rubber membrane/parapet for flat roof forms.

[11] Editor's Note: Per the Town Council decision to allow Accessory Buildings in the OH district as a by-right use with HPRB approval, an exception has been added to ensure all new Accessory Buildings, blocked only by vegetation, are reviewed and approved by the HPRB.

DRAFT

2. Windows should be used to provide interest and surface variations on building elevations. Blank building walls are discouraged for most commercial applications.
3. The design of gas station canopies, building canopies and other accessory structures should be compatible with the scale, color, materials, and detail of the buildings they serve.
4. Site walls and retaining walls should be comprised of brick, or concrete; brick facing on a concrete or concrete masonry unit wall is permitted. The use of segmental/modular concrete block is discouraged. Site walls should be considered as part of site terracing in increments; site walls out of proportion with building foundations or the human figure are discouraged.
5. Roof forms may be single gable, cross gable, gambrel, hip, parapet, or flat forms. Mansard roof forms are not recommended on modern-styled buildings.
6. Site materials shall be limited to local stone, asphalt, concrete, and exposed aggregate concrete.
7. Façade colors preferably shall be of low reflectance white, earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity, metallic, fluorescent, day glow, or neon colors are discouraged.
8. Trademark buildings and related features including signs shall be modified to meet these design standards.
9. Parking lots will be interconnected on adjacent parcels whenever possible.
10. Small, landscaped and interconnected parking lots, rather than large, central parking lots shall be encouraged.
11. Parking lots shall not dominate the image of a site.
12. Where sidewalks exist adjacent to individual project sites pedestrian access from the sidewalk into individual project sites as well as within sites and between sites shall be provided.
13. Lighting, Landscaping, Parking, and Sign requirements of Article VIII shall be followed.
14. The Planning Commission is permitted to reduce the parking space requirement when the interests of the town are better served.

(g) If any application is disapproved, the reviewing body shall furnish the applicant with its written decision stating the reasons for disapproval and make recommendations with respect to the appropriateness of design, arrangement, texture, material, color, location, and any other factor on which the disapproval was based.

(h) If any application is approved to erect, construct, reconstruct, alter, restore, move or demolish a building or structure, a Certificate of Appropriateness signed by the chairman of the reviewing body shall be issued to the applicant and made available to the Building Official.

(1) After issuing any building permit pertinent to the particular work, the Building Official shall see to it that the work performed and materials employed comply with the terms of the Certificate of Appropriateness and notify the Administrator upon completion of the authorized work. Provided that:

a. No building permit may be issued in the case of any work requiring a Certificate of Appropriateness until such certificate is issued; but

DRAFT

b. The Certificate of Appropriateness will in no way affect the requirement to comply with other provisions necessary to obtain a building permit.

(i) Procedure to demolish or move via sale in the OH district.

(1) If the HPRB disapproves any application to demolish or move, the owner may appeal the HPRB's decision as specified in Division I0 of this Article. However, in addition to such right of appeal, the owner of an historic landmark, building or structure, the razing or demolition of which is subject to the provisions of this Division, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure, provided that:

a. The owner has applied to the Town Council for such right;

b. The owner has, for the period of time set forth below, made and continuously maintained in effect at a price reasonably related to its fair market value, a bona fide offer to sell the landmark, building or structure and the land pertaining thereto to the Town or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto; and,

c. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of such landmark, building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in item 3., below. Provided:

1. Notwithstanding the provisions of Division I0 of this Article that stay decisions of the Town Council pending appeal, no appeal to the Circuit Court of Washington County, Virginia, by the owner or any other proper party shall affect the owner's right to make a bona fide offer under this Section.
2. Any offer to sell must be made within one year after the date the Town Council renders its final decision as provided in Section 3-6-3(i)(2) below, but thereafter the owner may renew his request to such governing body to approve the razing or demolition of the historic landmark, building or structure.
3. The time schedule for offers to sell shall be as set forth in Code of Virginia, § 15.2-2306, as amended.

(2) Before making a bona fide effort to sell as provided in Section 3-6-3(i), the owner shall first file an application with the Town Council that contains a statement identifying the property and stating:

a. The source and amount of the proposed offering price;

b. The date the offer of sale is proposed to begin;

c. The name and address of any real estate agents or brokers listing or to list the property;

d. The exact terms and provisions of the deed to be used in the sale, including a legally sufficient description of the land to be offered and the covenants relating to renovation and restoration of the building or structure situated on the property; and,

e. The proposed advertising measures and measures to assure preservation and renovation by a buyer. Provided:

1. The proposed offering price shall be established by an appraisal prepared at the owner's expense by a licensed real estate appraiser. If the Town Council is uncertain that such price accurately reflects fair market value of the property, the Town may, at its sole expense, hire another licensed real estate appraiser within five working

DRAFT

days after receipt of the owner's statement. Within the 30-day period commencing on the date the Town hires the second appraiser, the appraiser selected by the owner and the appraiser selected by the Town shall:

i. Select a third licensed real estate appraiser, whose services shall be paid in equal shares by the owner and the Town; and,
ii. A majority of two of the three appraisers shall establish a price to be recommended to the owner.

f. If in the Town Council's judgment the advertising measures proposed by the owner are inadequate to assure that the offering will reach the maximum possible number of qualified buyers and provide them with a reasonable opportunity to examine the property, the Town Council shall provide the owner with a written response that specifically describes the deficiencies and suggests means whereby they may be corrected. Similarly, if in its judgment the proposed deed fails to comply with the requirements of Section 3-6-3(f), the Town Council may provide the owner with a written response which specifically describes the deficiencies and suggests means whereby they can be corrected.

(3) Within one year following the date the Town Council approves the application to sell under Section 3-6-3(i), the owner shall cause the property concerned to be advertised for sale in accordance with the plans, specifications and procedures specified in the application (as it may have been revised by reason of suggestions under Section 3-6-3(i)(2)(b) above and thereafter continue the advertising in the same manner and to the same extent, with no interruption, until the sooner occurring of the signing of a bona fide contract binding on all parties thereto or expiration of the appropriate time period. If a bona fide contract binding on all parties is signed and closed in accordance with the original application as approved by the Town Council, no further action under this Section will be required.

a. If the appropriate time period expires without the signing of a binding contract, the owner shall file with the HPRB an application for Certificate of Appropriateness which includes full and complete documentation of the unsuccessful sales effort, including but not limited to:
   1. Formats of all advertisements;
   2. Schedules showing when, where and how the advertisements were employed;
   3. Any listings with real estate agents or brokers and offers received; and,
   4. Any fliers or other descriptions of the property prepared pursuant to such listings.

b. Upon receipt of the owner's application the HPRB shall place the matter on the agenda for its next regularly scheduled meeting and thereafter approve the application if in its judgment the requirements of Section 3-6-3(i) for a bona fide offer and sale have been met. Otherwise, the HPRB shall follow the procedure for a rehearing set out in Section 3-6-3(i)(2) of this Ordinance pending such approval. In any event, the owner shall, have a right of appeal to the Town Council and from the Town Council to the circuit court as supplied in Division I0 of this Article.

DRAFT

Section 3-6-4. Period of Validity.[12]

(a) Certificates of Appropriateness granted pursuant to the terms of this Ordinance shall expire one year from the date of approval in the event the construction of improvements necessary for which the permit was granted has not commenced to a degree that, in the opinion of the Administrator, clearly establishes the intent to utilize the granted certificate in a period of time deemed reasonable for the type and scope of improvements involved.

(b) Should work cease for more than 90 days (subject to extension for good cause demonstrated to the Administrator and excluding any time the use of the Certificate of Appropriateness is stayed pursuant to appeal or court action) a Certificate of Appropriateness shall become void.

Section 3-6-5. Waiver of Requirements.[13]

(a) Notwithstanding any contrary requirement of this Article, the Administrator may review and administratively approve applications for the following exterior changes:
  (1) Repainting in a paint scheme that duplicates the existing paint colors.
  (2) Replacement of windows that duplicate the existing windows.
  (3) Addition, deletion, or relocation of heating and cooling systems, antennas, skylights, or solar panels on the property provided they be screened per the Design Guidelines or in locations not visible from a street right-of-way.
  (4) Addition or deletion of awnings, temporary canopies, window air conditioners or similar appurtenances.
  (5) Exterior alterations to existing structures not visible from a public street, right of way or determined by the Administrator to have no permanent effect on the character of the district.
  (6) Replacement of roof or fence materials that replicate existing materials and/or create uniformity.

(b) Each application for waiver must be on the form provided by the office of the Administrator and documented by appropriate samples of the materials and colors to be used in taking the minor actions.

(c) With respect to each waiver issued hereunder, the Administrator shall see to it through the Town's inspection department that the work performed and materials employed comply with the terms of the particular waiver. Provided, however:
  (1) If the Administrator is uncertain about his authority to grant a waiver or if the Administrator and the applicant cannot agree on changes in any application for waiver, the application shall be referred to the reviewing body at its next regularly scheduled meeting for a decision on the question, which decision shall be final;
  (2) If the Administrator denies an application for a waiver, the applicant may appeal the Administrator's decision to the reviewing body, in which case the reviewing body's decision shall be final; and,

[12] Editor's Note: The existing ordinance time limits were maintained; however, the text was modified for clarity and is similar to the text utilized for special use permit validity.

[13] Editor's Note: This section uses existing text from 18-9-6 and 18-9-11 regarding routine maintenance and waivers. Item (a)(6) is modified to include fences and to allow uniformity. Items (a)(7) and (8) are new items added as best practice.

DRAFT

(3) If a waiver is issued and the work is commenced but in the opinion of the Administrator the work does not qualify for a waiver the Administrator shall order that the work be stopped until the applicant secures a Certificate of Appropriateness pursuant to Division 6 of this Article. In any such case the applicant may appeal to the commission, whose decision on the question shall be final.

(d) The Administrator shall provide the reviewing body with a copy of any approved waiver at the next regularly scheduled meeting following the date the application was received.

Division 7. Site Plans.[14]

Section 3-7-1. Purpose and Intent.

(a) The purpose of this Section is to promote the orderly development of certain activities in the Town and to ensure that such activities are developed in compliance with this Ordinance and other applicable regulations and in a manner harmonious with surrounding properties and in the interest of the general public welfare. More specifically, the Site Plan shall be used to review:

(1) The project's compatibility with its environment and with other land uses and buildings existing in the area;

(2) To review the ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;

(3) To review the quantity, quality, utility and type of the project's required community facilities; and,

(4) To review the location and adequacy of the project's landscape improvements and provision for drainage and utilities.

Section 3-7-2. Applicability.[15]

(a) Pursuant to Code of Virginia, § 15.2-2286(A)(8), as amended, no building permit or zoning permit shall be issued involving construction or exterior modifications to a structure until a Final Site Plan has been issued in accordance with the procedures established herein, with the following exceptions:

(1) Individually developed single-family detached dwellings.

(2) Individually developed Two-family dwellings.

(3) Accessory structures or improvements less than 256 square feet in area.

(4) Bona fide agricultural operations and the customary accessory uses and structures associated with bona fide agricultural operations.

[14] Editor's Note: Existing ordinance section 18-4 regarding preliminary site plan contents, section 17-2-3 allowing occupancy with surety for other site measures, and sections of Article 14 regarding site plans for Planned Technology Districts (PTD), and sections of Article 20 regarding site plans for Planned Unit Developments (PUD) have been incorporated in this Division to reduce redundancy. Additional text is added and the process for review of final site plans has been streamlined with administrative approval as a best practice. The PC and HPRB will approve preliminary site plans with SUP applications. All other site plans will be approved administratively based on development standards and the approved Concept Plan.

[15] Editor's Note: Added items (a)(3)-(6) which seem to be occurring in practice but not supplied in the existing ordinance.

DRAFT

(5) Filling and grading operations where the area of land disturbance is less than 10,000 square feet where no impervious structures, surfaces or improvements will be installed and no clearing undertaken.
(6) Repairs of a general nature to existing buildings with no land disturbance.

(b) When a change of use is proposed that requires additional off-street parking or other requirements applicable to the new use, a Site Plan shall be submitted for review to ensure that the change of use can be accomplished within the regulations of this Ordinance, except when such requirement is waived as provided in Section 3-7-9, Waiver of Requirements.

Section 3-7-3. Preliminary Site Plan Specifications and Contents.[16]

(a) The Preliminary Site Plan shall include the following:
(1) The proposed title of the project, the names of the engineer, architect, landscape architect or surveyor, and the name of the developer; and a signature panel(s) for the Director of Community Development, the Town Manager (if required) and the chairman of the Planning Commission (if required).
(2) The north point, scale, date, and vicinity map.
(3) Existing zoning and zoning district boundaries on the property to be developed and on immediately adjacent properties.
(4) The boundaries of the property or properties involved, all existing property lines, setback lines, existing streets, buildings, watercourses, waterways or lakes, and other existing physical features in or adjoining the project. Those physical features such as watercourses, waterways or lakes on adjoining properties need only be shown in approximate scale and proportion.
(5) Topography of the project area with contour intervals of five feet or less.
(6) The location and size of sanitary and storm sewers, water, gas, telephone, electric and other utility lines, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities. In the case of Town-owned utilities, such information shall be provided to the applicant by the Town Director of Public Works.
(7) The location, dimensions, and character of construction of proposed streets, alleys, loading area (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities, sidewalks, curbs and gutters, and all curb cuts. Where necessary to meet the purposes and intent of this Article, such information shall be provided for the site itself and for an area within 50 feet of any property line of the site, except that additional area may be required to be shown to indicate connections or proposed connections to major utilities.
(8) The location of all proposed buildings and structures, accessory and main, showing the number of stories and height, dwelling type, major excavations, and the total square footage of the floor area by proposed use.
(9) The location, height, type and material of all fences, walls, screen planting and landscape details of all buildings and grounds.

[16] Editor's Note: Added items (a)(19)&(20) to capture Code of Virginia text and items (a)(21)&(22) added as best practice.

DRAFT

(10) The location of all trees existing on the site prior to construction with a caliper of eight inches or greater. The Site Plan shall show wooded areas which shall be designated by symbols coincident with the area of trees and an indication of which trees are to be retained and which are to be removed.

(11) The proposed location and character of nonresidential uses, commercial and industrial uses, accessory and main.

(12) The location, character, size, height, and orientation of proposed signs as proposed to be erected in accordance with Article VIII of this Ordinance; and elevations of buildings showing signs to be placed on exterior walls. Signs which are approved in accordance with this Section shall be considered a part of the approved Site Plan. Thereafter, signs shall not be erected, painted, constructed, structurally altered, hung, rehung or replaced except in conformity with the approved Site Plan. Any changes in signs from the approved Site Plan, or any additions to the number of signs as shown on the Site Plan, shall be allowed only after amendment of the Site Plan by the Director of Community Development and/or the Planning Commission.

(13) The proposed nature and manner of grading the site, including proposed treatment of slopes in excess of 10 % to prevent soil erosion and excessive runoff. In cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted as required in the Town of Abingdon erosion and sedimentation control ordinance. In all other cases, soil erosion control measures shall be shown on the Site Plan.

(14) The location and screening materials for dumpsters or other outdoor trash receptacles.

(15) The location and dimensions of proposed recreation areas, open spaces and other required amenities and improvements.

(16) A tabulation of the total number of acres in the project and the percentage and acreage thereof proposed to be allocated to the several dwelling types, any nonresidential uses, off-street parking, green areas, streets, parks, schools and other reservations.

(17) A tabulation of the total number of dwelling, commercial or industrial units of various types in the project and the overall project density in dwelling, commercial or industrial units per gross acre.

(18) The proposed and required off-street parking and loading areas, including parking and access for the handicapped as specified in the Virginia Uniform Statewide Building Code, as amended.

(19) The location of any grave, object or structure marking a place of burial.

(20) The approximate limit of the 100-year floodplain, any drainage district, mapped dam break inundation zone.

(21) A plan or report indicating the extent, timing and estimated cost of all off-site improvements, such as roads, sewer, and drainage facilities deemed necessary to construct the proposed development, and the extent, timing and estimated cost of all facilities deemed necessary to serve the development such as schools, libraries and police substations. This plan or report shall relate to the sequence of the development schedule if the development is to be constructed in stages or units.

(22) Any additional information as required by the Administrator necessary to evaluate the character and impact of the proposed project.

(b) In addition, a Site Plan for a Planned Technology District (PTD) or Planned Unit Development (PUD) shall include:

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(1) A general statement of planning objectives to be achieved by the PTD district, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented and intentions with regards to any specific human-made and natural characteristics located on the site.

(2) General information on the trip generation, ownership, maintenance and construction standards for proposed streets should be included. The Administrator or the director of public works may require a traffic impact study.[17]

a. A proposed use that generates 100 or more trips during the peak hour for that use shall be required to submit a full traffic impact study. See table 3.7.3 below for examples of uses that trigger a full traffic impact study.

b. A traffic impact study may also be required at the discretion of the Public Works Department where site conditions indicate any potential issues.

Table 3.7.3 Example Uses with 100 trip-ends per hour

Land Use	Threshold (> 100 vph)
Day Care	7 per 1000 sq. ft. Gross Floor Area
Dwelling, multi-family	140 Dwelling units
Dwelling, single-family	90 Dwelling units
Educational Facility	30 per 1000 sq. ft. Gross Floor Area
Gasoline Station	6 Fueling Positions
Hospital	50 per1000 sq. ft. Gross Floor Area
Hotel	160 Rooms
Manufacturing	130 per 1000 sq. ft. Gross Floor Area
Office, general	60 per 1000 sq. ft. Gross Floor Area
Religious assembly	70 per 1000 sq. ft. Gross Floor Area
Restaurant (Fast-food)	2 per 1000 sq. ft. Gross Flor Area
Store	5 per 1000 sq. ft. Gross Floor Area
Warehouse	95 per 1000 sq. ft Gross Floor Area

(3) Proposed deed covenants, restrictions, or other constraints to be imposed upon the purchasers of such properties.

(4) A plat as required for preliminary plat approval by the Town of Abingdon Subdivision Ordinance.

(5) Phasing of the project if approved as such.

Section 3-7-4. Final Site Plan Specifications and Contents.[18]

(a) General specifications.

(1) Separate Final Site Plans shall be submitted for each development stage or unit as planned or set forth in the approved Preliminary Site Plan.

(2) A Final Site Plan for a particular development stage or unit other than the first, shall not be approved until the Final Site Plan has been approved for the immediately preceding stage or unit.

[17] Editor Note: Text and table related to traffic impact study added at the request of staff.

[18] Editor's Note: New text addressing phased developments and additional items to be included in the final plan.

(3) Six paper copies and one digital copy of the Final Site Plan shall be provided to the Administrator.

(b) Contents. The Final Site Plan shall comply with the Preliminary Site Plan specifications in Section 3-7-3 above; and shall in addition show the following, unless the Administrator may determine that some of the following information is unnecessary due to the scope and nature of the development proposed:

(1) Included with the Site Plan shall be documentation of all existing permits and applications relevant to the parcel, including, but not limited to: Health Department permits for all wells and septic drain fields; all existing zoning permits and zoning applications; applications for rezoning, Special Use Permits, and zoning variances and evidence of all wetlands permits required by Federal, State, and local laws and regulations applicable to the site, lot or parcel.

(2) All of the features required on the preliminary plan with sufficiently accurate dimensions, construction specifications and computations to support the issuance of zoning and construction permits.

(3) When the development is to be constructed in stages or units, a final sequence of development schedule showing the order of construction of such stages or units, an approximate completion date for the construction of each stage or unit, and a final cost estimate of all improvements within each stage or unit.

(4) A copy of all covenants, restrictions, and conditions pertaining to the use, maintenance and operation of all open space areas.

(5) Any additional requirements as determined by the Administrator.

Section 3-7-5. Site Plan Review Process.[19]

(a) Site plan submission. Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:

(1) Determine if the plan must be approved by Planning Commission and/or HPRB. Place the plan and application on the agenda of the Planning Commission and the HPRB as required by this Ordinance and arrange for public notices as outlined in Division 11 of this Article.

a. Preliminary Plans for Special Use Permits within the OH district or EC district must be approved by HPRB and Planning Commission respectfully. Site Plan approval does not negate the need for a Certificate of Appropriateness as outlined in Division 6 of this Article.

b. All final plans required under Section 3-7-2, are approved by the Planning Commission.

(2) Review the plans for conformity with applicable development regulations supplied in this Ordinance, any approved Preliminary Site Plans for the site, and the Code of Virginia.

(3) Plans will be provided to other relevant town departments for written comment.

(4) The Administrator shall notify the applicant of the action taken with respect to the Final Site Plan, which may include approval, approval subject to conditions or disapproval.

[19] Editor's Note: Utilized existing text from section 18-7, procedures. Process was proposed to change, as a best practice, to allow final site plans to be administratively approved. During the February 2022 worksession PC requested approving authority remain with them. The text has been edited to reflect this request.

(b) Pursuant to Code of Virginia, § 15.2-2259, the Final Site Plan shall be approved or disapproved within 60 days after it has been officially submitted for approval. If disapproved the reasons for disapproval shall be identified by reference to specific duly adopted Ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plan.
(c) Pursuant to Code of Virginia, § 15.2-2259, the Final Site Plan that is previously disapproved but has been modified, corrected, and resubmitted shall be acted on within 45 days of resubmission.

Section 3-7-6. Amendment of Site Plans.[20]

(a) If it becomes necessary for an approved Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve an amendment to the Site Plan if the change or amendment does not:
  (1) Alter a recorded plat;
  (2) Conflict with specific requirements of this Ordinance;
  (3) Change the general character or content of an approved development plan or use;
  (4) Have an appreciable effect on adjoining or surrounding property;
  (5) Result in any substantial change of external access points;
  (6) Decrease the minimum specified yard and open spaces;
  (7) Substantially change architectural or site design features; and,
  (8) Amendments such as but not limited to, the elimination of any use shown or the addition of any use not shown on the Preliminary Site Plan or any increase or decrease in the density of the development, shall require resubmission of the Preliminary Site Plan.
(b) If amendments to a Site Plan do not comply with administrative approval, then the amendment request and a new Site Plan must be drawn and submitted for review and action in accordance with this Division.
(c) If the Administrator fails to act on a request for a minor amendment to the Site Plan within 15 calendar days, it shall be considered approved.

Section 3-7-7. Compliance with Approved Site Plan Required.[21]

(a) It shall be unlawful for any person to construct, erect or substantially alter any building or structure, or develop, change, or improve land for which a Site Plan is required, except in accordance with an approved Site Plan. Deviation from an approved Site Plan without the written approval of the Administrator shall void the Site Plan and require submission of a new Site Plan for approval.
(b) No permit shall be issued for any structure in any area covered by the Site Plan that is required under the provisions of this Article except in conformity with such Site Plan which has been duly approved.
(c) The Building Official shall be responsible for enforcing the requirements as set forth in the final approved Site Plan, before issuance of a Certificate of Occupancy, and shall give written notice to

[20] Editor's Note: Items (1) through (8) are based from existing section 14-8 but are reorganized and expanded for specificity and clarity.
[21] Editor's Note: This section includes general compliance language and the existing text of section 17-2-3, allowing a certificate of occupancy without completion of improvements *IF* a surety is provided for the remaining improvements.

the Administrator that the Site Plan has been completed before issuing the Certificate of Occupancy.

(d) Where structures are completed and ready for occupancy prior to the completion of all improvements required by the Site Plan, the owner may provide bond with surety adequate to guarantee the completion of Site Plan and upon providing of such bond with surety as agreed upon by the Town Manager, a permit may be issued for the occupancy of those structures already completed.

(1) The Town Manager is authorized to accept, instead of corporate surety, letter of credit, joint savings account or other like surety. In any case in which any other escrow agent (such as an attorney for a mortgage lender) is holding funds to ensure compliance with the terms or other regulations or agreements and such funds are in an amount sufficient to ensure compliance with the terms of other regulations and agreements, the Town Manager shall become a party to such other escrow agreement as escrow agent for the Town; provided that such other escrow agreement contains provisions satisfactory to the Town Manager to ensure compliance with the requirements of such Site Plan and this Ordinance.

(2) A formal development agreement may be required to allow for occupancy. The development agreements should include:

a. Improvements not complete;
b. Type of surety;
c. Copies of all sureties;
d. Timeline for completion; and,
e. Penalty for not abiding by the agreed upon terms.

Section 3-7-8. Period of Validity.[22]

(a) If no Final Site Plan is submitted within 12 months of the approved Preliminary Site Plan and construction has not begun within the time period approved by the Town Council, the Preliminary Site Plan approved shall lapse and be of no further effect. In its discretion and for good cause, the Town Council may, upon receipt of written request, extend the period required to submit a final plan.

(b) In accordance with Code of Virginia, § 15.2-2261, as amended, approval of a Final Site Plan submitted under the provisions of this Article shall expire five years after the date of such approval unless building permits have been obtained for construction in accordance therewith.

(c) The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

[22] Editor's Note: Existing section 18-7-4 states that final site plans expire within one year and section 14-10 states that failure to submit plans for a at least one portion of a PTD within 36 months shall result in application to rezone to the previous designation, however, this is in violation of the Code of Virginia. Text has been updated to match the Code of Virginia.

Section 3-7-9. Waiver of Requirements.

The Administrator or the Town Manager may waive the requirements for the Site Plan review for additions to existing buildings, structures or uses, if, in their opinion, such addition does not substantially affect the requirements of this Ordinance.

Division 8. Zoning Verification.[23]

Section 3-8-1. Applicability.

(a) No building or other structure shall be erected, moved, expanded, structurally altered, nor shall any building, structure, or land be established or changed in use without the owner or owners first obtaining a zoning verification issued by the Administrator verifying that the building, structure or use complies with the requirements of this Ordinance.

(b) No business license shall be issued without obtaining a zoning verification that the use is allowed in the district.

(c) No such zoning verification shall be issued for a building, structure or use unless such complies with the provisions of this Ordinance, or a Special Use Permit authorizing an exception, variance, or written order from an appeal has been approved as provided by this Ordinance.

Section 3-8-2. Procedure and Standards.

(a) Zoning verification applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.

(b) Each application for a zoning verification (if required) shall be accompanied by two (2) copies of a scale drawing or plan as required by the Administrator showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot including setback measurements from each property boundary, and such other information as may be necessary to provide for the enforcement of these regulations. The drawing or plans shall contain suitable notations indicating the proposed use of all land and buildings. If determined necessary by the Administrator in a specific case, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans shall be required.

(c) If the proposed building or use is in conformity with the provisions of this Ordinance, a zoning verification shall be issued to the applicant by the Administrator.

(d) A zoning verification shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary permits or development approvals as otherwise required.

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[23] Editor's Note: This Division follows existing text except it does not include section 17-1-2 which allows the planning commission to request review of approved zoning verfication to determine compliance.

Division 9. Written Determinations.[24,25]

Section 3-9-1. Purpose and Intent.

In administering, interpreting and enforcing this Ordinance, the Administrator shall provide a written response to persons who have filed a specific request in writing for a decision or determination on zoning matters within the scope of the Administrator's authority.

Section 3-9-2. Procedure and Standards.

(a) The Administrator's response shall be provided within 90 days of the date of the request, unless the requestor agrees to a longer period of time.

(b) When the requestor is not the owner or the owner's agent of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204(H), as amended, shall provide written notice within 10 days of receipt of the request to the owner of the property at the owner's last known address as shown on the Town's real estate assessment records.

(c) The Administrator's written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in Division I0 of this Article.

Division 10. Appeals.[26]

Section 3-10-1. Appeals of Administrator Determinations and Decisions.

(a) Pursuant to the Code of Virginia § 15.2-2311, an appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance.

(b) Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

(c) A decision or interpretation of the Administrator shall be presumed correct and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance.

(d) The BZA shall fix a reasonable time for a public hearing of an appeal, provide due notice thereof as provided in Division 11 of this Article, and decide the same within 90 days of the filing of the appeal, unless a longer period of time is consented to by the applicant.

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[24] Editor's Note: The previous Division 9, Certificates of Occupancy has been removed by PC and staff. All building department items should be separately regulated.

[25] Editor's Note: This is a new Division. The existing ordinance mentions various determinations but does not provide procedures.

[26] Editor's Note: According to the Code of Virginia, all permits and actions have a right of appeal. The various appeal procedures are supplied in this Division with corresponding Code of Virginia references.

Section 3-10-2. Appeals to Board of Zoning Appeals Procedure.

(a) Pursuant to the Code of Virginia § 15.2-2312, procedures for submitting an appeal shall be as follows:

(1) Mailing Procedure. Appeals shall be mailed from the applicant seeking appeal to the BZA in care of the 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.

(2) Hearing. The BZA shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the appeal.

(3) Decisions. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. In any appeal, if a BZA's attempt to reach a decision, results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

Section 3-10-3. Appeals Concerning Certificates of Appropriateness.

(a) An appeal from the HPRB or Planning Commission decision on a Certificate of Appropriateness to the Town Council may be filed:

(1) Whenever an application for a Certificate of Appropriateness has been disapproved any person shall have the right to appeal and be heard before the Town Council, which may affirm, reverse or modify the decision, in whole or in part. Provided, any person wishing to appeal must file with the Town Manager within 30 calendar days after the final decision a written notice of intention to appeal which states the reasons for appeal. Upon receipt of such notice the Town shall schedule, advertise, and hold a public hearing as required by the Code of Virginia § 15.2-2204, as amended.

(2) Whenever the HPRB or Planning Commission shall approve an application for a Certificate of Appropriateness any opponents shall have the right to appeal and be heard before the Town Council, which may affirm, reverse or modify the decision, in whole or in part. Provided, any person wishing to appeal must file with the Town Manager within 30 calendar days after the final decision a written notice of intention to appeal which states the reasons for appeal and a written petition, signed by at least 10 individuals registered to vote in the Town. Upon receipt of such notice and petition the Town shall schedule, advertise, and hold a public hearing as required by the Code of Virginia § 15.2-2204, as amended. Any person to whom a Certificate of Appropriateness has been issued may commence work within the 30-day period provided for notice of appeal, but at that person's sole risk.

Section 3-10-4. Appeals of Board of Zoning Appeals, Planning Commission, or Town Council.

(a) Pursuant to the Code of Virginia § 15.2-2314, and § 15.2-2285, as amended, any person jointly or severally aggrieved by any decision of the BZA, Planning Commission, or Town Council or any taxpayer or any officer, department, board or bureau of the Town may appeal the decision to the circuit court of Washington County.

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(b) A petition specifying the grounds on which the applicant is aggrieved must be submitted 30 days after the filing of the decision in the office of the BZA.

Section 3-10-5. Construction in Violation of Ordinance without Appeal to the Board of Zoning Appeals.

(a) Pursuant to the Code of Virginia § 15.2-2313, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit.

(b) The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the BZA.

Section 3-10-6. Stay of Proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator certifies to the council that by reason of facts stated in the certificate a stay would in their 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 council or by a court of record, on application and on notice to the Administrator and for good cause shown.

Division 11. Public Hearings and Notifications.[27]

Section 3-11-1. Public Hearing Required.

(a) In accordance with the Code of Virginia § 15.2-2204, as amended, the Planning Commission shall not recommend, nor shall the Town Council adopt or approve any Comprehensive Plan, Zoning and Subdivision Ordinance, Zoning Map Amendment, or Special Use Permit, nor shall the BZA approve any variance, until it has held a duly advertised public hearing. Advertising and notice procedures shall be conducted according to the procedures under the Code of Virginia § 15.2-2204, as amended, as outlined in the Sections for this Division.

(b) The Planning Commission and Town Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the Town Council.

(c) 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 pursuant to the Code of Virginia § 15.2-2204, as amended.

Section 3-11-2. Advertisement and Mailings.

(a) The notice for each proposal shall provide:

(1) A descriptive summary of the application;

a. In the case of a proposed amendment to the Zoning Map (rezoning), the public notice shall state the general usage and density range of the proposed amendment and the

[27] Editor's Note: The Code of Virginia has explicit requirements for public hearings and notifications to landowners, those items are supplied in this Division with Code of Virginia references.

general usage and density range, if any, set forth in the applicable part of the Comprehensive Plan.

(2) The location of the property, if applicable;
(3) Where copies of the proposal may be examined; and
(4) The time and place of any hearing at which persons affected may appear and present their views.

(b) Newspaper advertisement. Notice of public hearings shall be published once a week for two successive weeks in some newspaper published or having general circulation in the Town. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications. The hearing shall be held not less than five (5) days nor more than 21 days after the second advertisement shall appear in such newspaper.

(c) Property owner notification shall be sent by the Administrator a minimum of five (5) days prior to the hearing, except where a longer minimum timing is required below, to:
(1) The owner, owners, or their agent of the subject property;
(2) Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;
(3) A locality's chief administrative officer or their designee when the subject property is located within 0.5 mile of the boundary of the adjoining locality at least 10 days prior to the hearing;
(4) The commander of the applicable military operation when the subject property is located within 3,000 feet of the boundary of a military base, installation or airport, excluding armories operation by the Virginia National Guard, at least 30 days prior to the hearing;
(5) The owner of a public use airport when the subject property is located within 3,000 feet of such airport;
(6) The incorporated property owners' association within a planned unit development where the subject property is located within the planned unit development and the association's members also own property in the planned unit development that is located within 2,000 feet of any portion of the subject property; and,
(7) In lieu of each individual unit owner, the unit owners' association or proprietary lessee's association when the property adjacent to the subject property is a condominium or cooperative, respectively.

(d) Notifications to adjacent property owners, as outlined in this Section, shall not be required when a public hearing involves: an application for zoning approval for 26 or more lots initiated by resolution or motion of the Planning Commission or Town Council; or, an appeal to the decision of the Administrator to the BZA is concerning 26 or more lots or no specific property.

(e) Notice, as required above, sent by registered or certified mail to the last known address of such property owner(s) as shown on the current real estate tax assessment records shall be deemed adequate notification. Notice may be sent by first class mail; however, a representative of the Town shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.

(f) The cost of all notice requirements shall be paid by the applicant in addition to any other fees involved in the application. The Town shall bill the applicant for such costs.

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Section 3-11-3. Posting Notice on Property.[28]

The applicant shall also be required to place a sign(s) provided by the Town on the subject property which indicates that Zoning action (Zone Map Amendment or Special Use Permit) is pending. The notice shall be posted at reasonable intervals (no less than one per road frontage) along roads abutting the subject property, or if there is no abutting road, at the proposed road or entrance into the property, in locations reasonably visible from existing roads. The holding of a public hearing or the validity of action on an application shall not be affected by the unauthorized removal of a notice which has been posted in accordance with this Section. The postings will be obtained from the Administrator for a fee.

Section 3-11-4. Waiver of Notice.

Actual notice of, or active participation in, the proceedings for which the written notice is provide shall waive the right of that party to challenge the validity of the proceedings due to failure of notice as required by this Section.

Division 12. Amendment of Conditions.[29]

Section 3-12-1. Effect of Amendment of Conditions.

The procedure for amendment of a Conditional Zoning, Special Use Permit, or Variance which is already approved shall be the same as for a new application except that where the Administrator determines the change to be minor relative to the original approval, he may transmit the same to the permitting body with the original record without requiring that a new application be filed. Written notice, public hearing, and enforcement shall comply with the Code of Virginia § 15.2-2302.

Division 13. Reconsiderations.[30]

Section 3-13-1. Timeframe for Reapplication.

(a) Whenever a petition requesting an amendment, supplement, change to the Zoning and Subdivision Ordinance or Zoning Map or petition for a special use has been denied by the Town Council, or petition for a variance has been denied by the BZA, then such petition, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.

(b) The HPRB shall rehear an application if within the 90-day period following the date of denial the applicant submits an amended application that complies with all recommendations of the HPRB.

(c) Whenever a petition requesting an amendment or Special Use Permit has been withdrawn, such petition, or one substantially the same, shall not be reconsidered within 12 months of the first publication notice of a public hearing with the Planning Commission.

(d) The limits on reconsideration shall not impair the right of either the Planning Commission or the Town Council to propose any amendment to this Ordinance on their motion at any time.

[28] Editor's Note: This is a new requirement added for additional notice to the public. This is optional under Code of Virginia and does not have to be included if not appropriate for Abingdon.
[29] Editor's Note: New text that streamlines the process.
[30] Editor's Note: Existing text is reorganized for one Division devoted to all reconsiderations.

ARTICLE IV. – Zoning Districts.

Division 1. Establishment and Purpose.

Section 4-1-1. General.

(a) Zoning districts established. Land within the incorporated Town, as it exists at the time of the enactment of this Article, is hereby divided into classes of primary, overlay, and special districts to: regulate and restrict the location and use of buildings and land for trade, industry, residence and other purposes in accordance with the objectives of the comprehensive plan; regulate and restrict the location, height and size of buildings hereafter erected or structurally altered; and ensure adequate yards, open spaces, and public facilities to support the Town's population.

(b) Primary zoning districts are established as follows:
- (1) AFOS – Agricultural, Forestal, and Open Space;
- (2) R-1 – Low Density Residential;
- (3) R-2 – Medium Density Residential;
- (4) R-3 – High Density Residential;
- (5) R-4 – Mixed Residential;
- (6) R-5 – Mixed High Density Residential;
- (7) OI – Office and Institutional;
- (8) B-1 – Limited Business;
- (9) B-2 – General Business;
- (10) B-3 – Central Business; and,
- (11) M-1 – Limited Industrial

(c) Overlay and special districts are established in Article V.
- (1) OH – Old and Historic
- (2) EC - Historic District Entrance Corridor
- (3) PTD- Planned Technology
- (4) PUD – Planned Unit Development
- (5) Airport Safety
- (6) FH – Flood Hazard

Section 4-1-2. Purpose and Intent of Primary Zoning Districts.

(a) *AFOS – Agricultural, Forestal, and Open Space District.* The purpose of the AFOS, Agricultural, Forestal, and Open Space district is to preserve the rural character of areas where agricultural, forestry, and other low intensity uses predominate. The district also provides open space and agricultural production uses that enhance the physical resources of the Town and provide recreational opportunities for residents.

(b) *R-1 – Low Density Residential District.* The purpose of the R-1, Low Density Residential district is to provide appropriate areas for low density single-family development. The district is designed to preserve the character of existing residential areas, to encourage new residential development in accordance with modern subdivision standards, to protect single-family areas from encroachment by potentially incompatible commercial land uses and other higher density development, and to

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maintain an appropriate density of development. The R-1 district is also intended to accommodate limited nonresidential uses necessary to meet the recreational, educational, cultural, and public service needs of a residential community.

(c) *R-2 – Medium Density Residential.* The purpose of the R-2, Medium Density Residential district is to encompass medium-density residential areas, both existing and planned, as well as certain compatible public and semipublic land uses. This district should provide a suitable environment for a mix of housing types located in closer proximity to shopping and employment centers.

(d) *R-3 – High Density Residential.* The purpose of the R-3, High Density Residential district is to encourage diversity in housing opportunities at higher densities, as well as certain compatible public and semipublic land uses. This district should provide a high-quality residential environment in areas that have excellent transportation access and are well-served by public water and sewer utilities.

(e) *R-4 – Mixed Residential.* The purpose of the R-4, Mixed Residential district is to encourage and accommodate diversity in housing type, size, and density, as well as certain compatible public, semipublic, and commercial land uses. This district should provide a high-quality residential environment with limited neighborhood services in areas that have excellent transportation access and are well-served by public water and sewer utilities.

(f) *R-5 – Mixed High Density Residential.* The purpose of the R-5, Mixed High Density Residential district is to encourage and accommodate diversity in housing type and size, with greater density allowances, as well as certain compatible public, semipublic, and commercial land uses. Focusing emphasis on small lot sizes and townhouse developments.

(g) *OI – Office and Institutional.* The purpose of the OI, Office and Institutional district is to provide office development with limited residential and institutional uses in a walkable and attractive setting. Development in the district is highly accessible for residents and employees and contributes to the unique look and character of Abingdon.

(h) *B-1 – Limited Business.* The purpose of the Limited Business district is to accommodate low-intensity retail, personal service, and office uses that are compatible with adjacent residential areas and provide for the convenience and day-to-day needs of residents of nearby neighborhoods. The district is intended to encourage small concentrations of business uses as opposed to strip commercial development.

(i) *B-2 – General Business.* The purpose of the General Business district is to accommodate a wide range of retail, wholesale, service, and office uses that cater to the traveling public and serve the Town and the surrounding region. The district is designed to provide highly attractive and accessible shopping along principal highways, while avoiding the routing of traffic onto minor streets or through residential areas.

(j) *B-3 – Central Business.* The purpose of the Central Business district is to extend the architecture and feel of the historic downtown beyond the Old and Historic core and encourage building rehabilitation, adaptive reuse, and infill development that fits the scale, design, and character of the area. Land uses should include a mix of retail, office, service, entertainment, and hotel uses as well as introduce and expand upper-story residential uses that contribute to the activity and vitality of the area.

(k) *M-1 – Limited Industrial.* The purpose of the Limited Industrial district is to encourage research facilities, wholesale, warehousing, light industrial, and heavy commercial activities within

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completely enclosed buildings or screened areas. The activities within this district involve minimal hazards and do not create significant amounts of smoke, noise, odor, dust, or other potential nuisance.

Section 4-1-3. References to District Names.

For the purpose of reference hereafter in this Ordinance, unless specifically provided to the contrary, the term "residential district" shall include the R-1, R-2, R-3, and R-4 districts. The term "business districts" shall include the OI, B-1, B-2, and B-3 districts. The term "industrial district" shall include the M-1 district.

Division 2. District Dimensional Standards.

Section 4-2-1. AFOS Agricultural, Forestal, and Open Space District Standards.

In addition to the other requirements of this Ordinance, the requirements specified in this Section shall be considered the minimum required in the AFOS district to promote the public health, safety, convenience, and general welfare, unless otherwise specified.

Table 4.2.1 AFOS District Requirements

A. Minimum Lot Area	
1. Farm	5 acres
2. Other uses	1 acre
B. Minimum Frontage & Lot Width	
1. All lots	150 ft.
C. Minimum Yard	
1. Front yard	
a. Right of way ≥ 50 ft. in width	50 ft. from property line
b. Right of way < 50 ft. in width	100 ft. from property line
2. Each side yard	
a. Main structures	25 ft. from property line
b. Accessory structures	No closer than 5 ft. to any property line
3. Rear yard	
a. Main structures	50 ft.
b. Accessory structures	No closer than 5 ft. to any property line
D. Maximum Height	
1. Main structures	35 ft.
2. Accessory structures	No greater than the main structure

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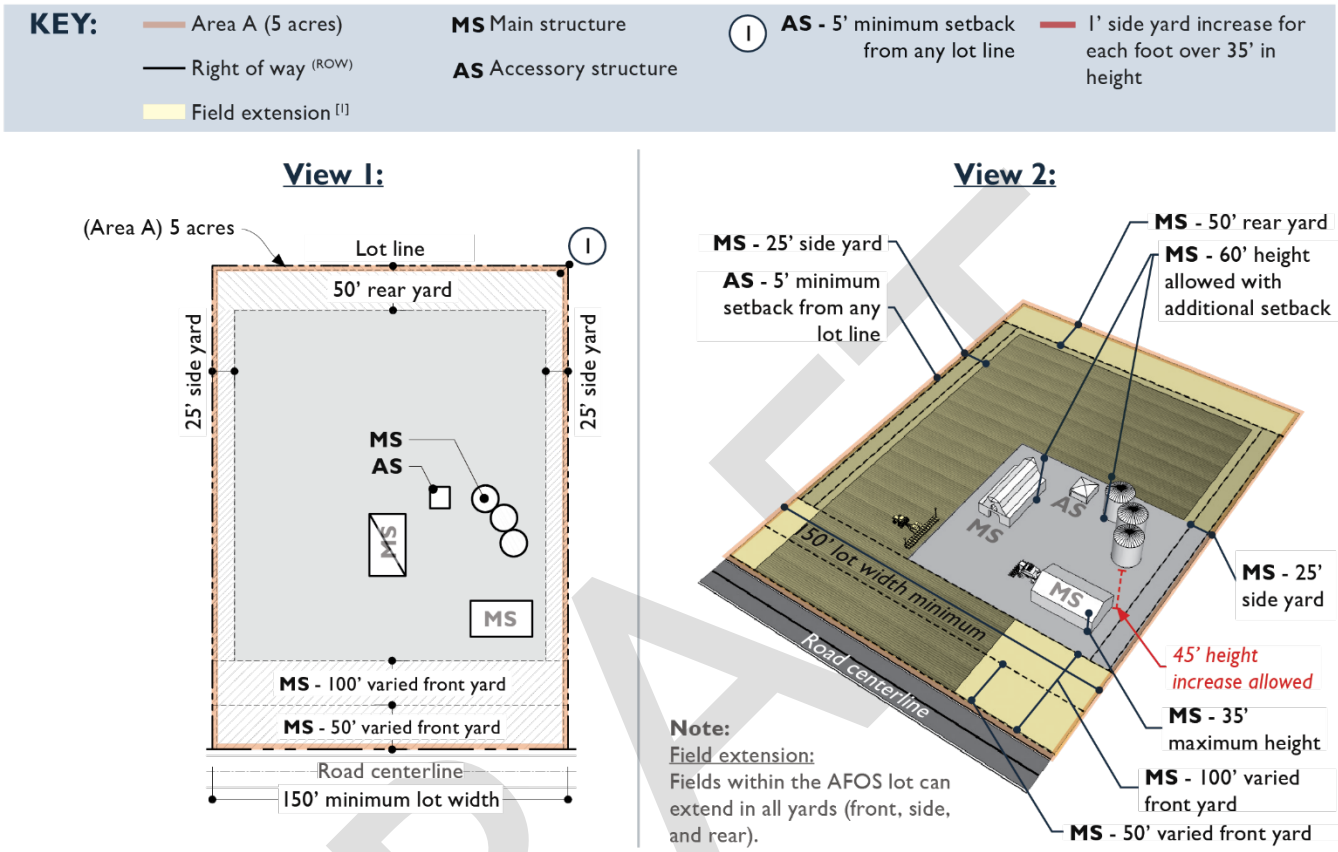
Figure 4.1 AFOS District Regulations Example



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Section 4-2-2. Residential District Standards

In addition to the other requirements of this Ordinance, the requirements specified in this Section shall be considered the minimum required in Residential districts to promote the public health, safety, convenience, and general welfare, unless otherwise specified.

Table 4.2.2 Residential District Requirements

	R-1 Low Density	R-2 Medium Density	R-3 High Density	R-4 Mixed	R-5 Mixed High Density
A. Minimum Lot Area					
1. Lots served by public water & sewer					
a. Single-family	12,000 sq. ft.	10,500 sq. ft.	8,500 sq. ft.	6,000 sq. ft.	5,000 sq. ft.
b. Two-family	Not permitted	12,000 sq. ft.	10,000 sq. ft.	8,000 sq. ft.	8,000 sq. ft.
c. Townhouse	Not permitted	4,000 sq. ft.			
d. Multi-family	Not permitted	Not permitted	10,000 sq. ft., plus an additional 2,500 sq. ft. for each additional unit over two dwelling units	10,000 sq. ft., plus an additional 2,500 sq. ft. for each additional unit over four dwelling units	10,000 sq. ft., plus an additional 1,000 sq. ft. for each additional unit over four dwelling units
2. Lots served by individual sewage & disposal systems[1]	15,000 sq. ft.[2]	15,000 sq. ft.[2]	Not Permitted	Not Permitted	Not Permitted
B. Minimum Frontage & Lot Width					
1. Lots served by public water & sewer					
a. Single-family	80 ft.	70 ft.	60 ft.	50 ft.	50 ft.
b. Townhouse	Not permitted	16 ft.			
2. Lots served by individual sewage disposal systems	100 ft.	100 ft.	No Permitted	Not Permitted	Not Permitted
C. Minimum Yard[3]					
1. Front yard					
a. Right of way ≥ 50 ft. in width	15 ft. from property line		10 ft. from property line		
b. Right of way < 50 ft. in width	25 ft. from property line	20 ft. from property line	15 ft. from property line	15 ft. from property line	10 ft. from property line
2. Each side yard					
a. Main structures	10 ft.,				
b. Accessory structures	No closer than 5 ft. to any side property line				

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Table 4.2.2 Residential District Requirements

	R-1 Low Density	R-2 Medium Density	R-3 High Density	R-4 Mixed	R-5 Mixed High Density
3. Rear yard					
a. Main structures	35 ft.		15 ft.		
b. Townhouse	Not permitted	25 ft.			15 ft.
c. Accessory structures	No closer than 5 ft. to any rear property line				
D. Maximum Height					
1. Main structures	35 ft.				
2. Accessory structure	No greater than the main structure				
E. Minimum Open Space[4][1]	Not required	Not required	20% gross area		

Notes for Table 4.2.2. Residential District Requirements

[1] The administrator shall require a greater area if considered necessary by the Health Official.
[2] Multi-family dwellings are only permitted to be served by public water and sewer.
[3] Structures shall be located 15 ft. or more from the property line along an existing alley.
[4] Open space shall not include slopes of greater than 15%, streets, or parking areas. Recreation areas and facilities, should be provided which will meet the anticipated needs of the clientele the development is designed to serve.

Note: Figures 4.2 and 4.3 are provided below as two examples of applying residential district standards

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[1] *Editor's Note: Minimum open space added after staff discussion with Planning Commission.*

Figure 4.2 R-1 District Regulations Example: *Single-family*

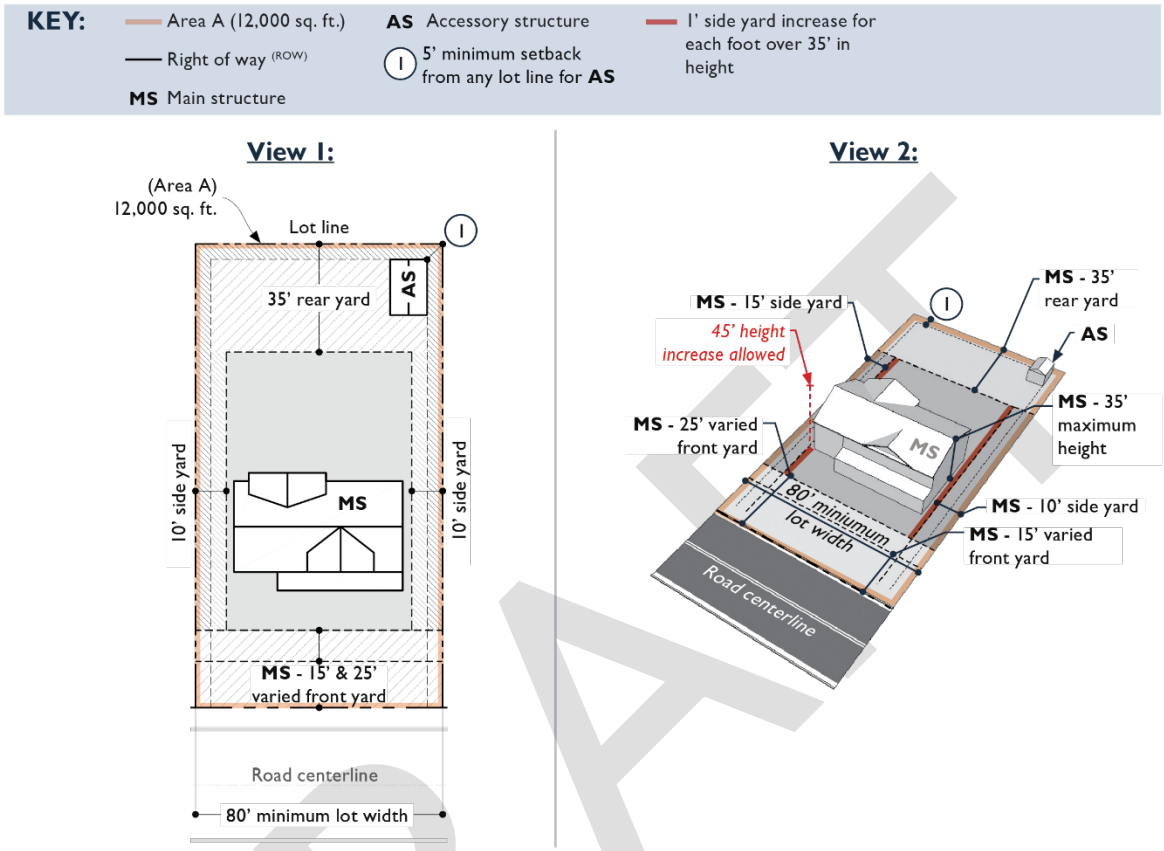

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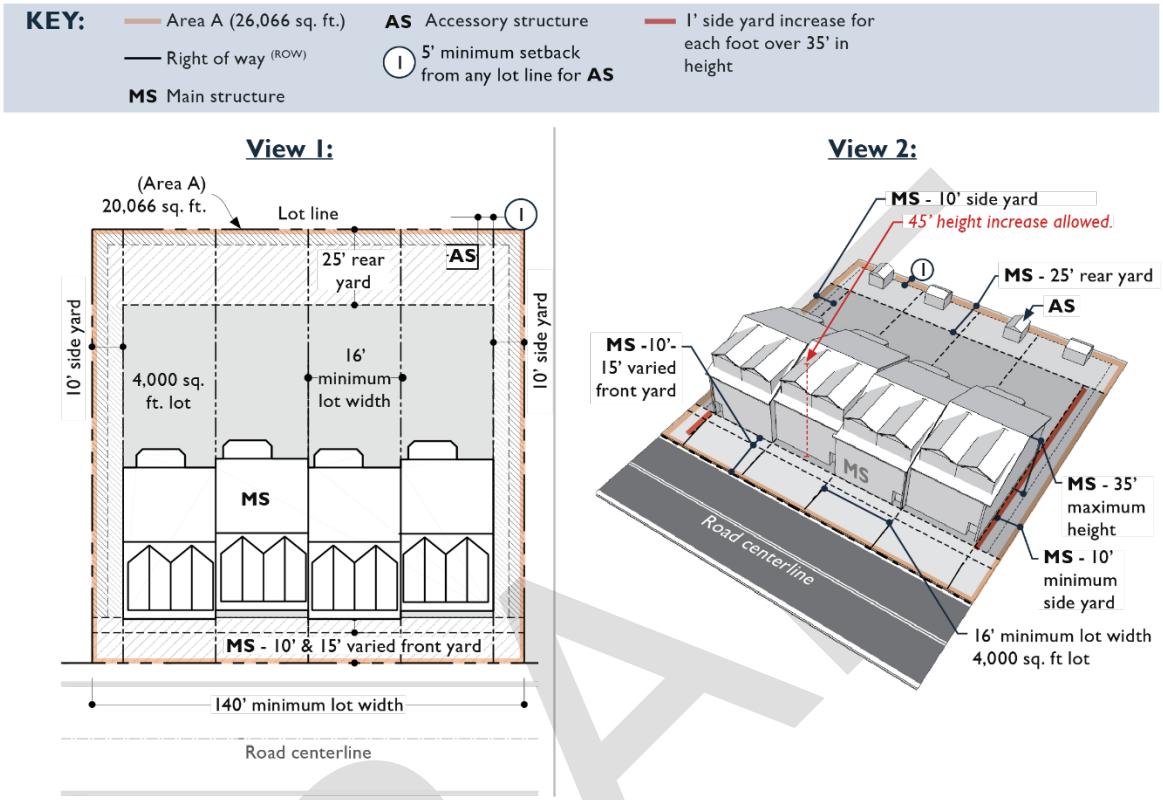
Figure 4.3 R-3 District Regulations Example: *Townhouse*



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Section 4-2-3. Business District Standards.

In addition to the other requirements of this Ordinance, the requirements specified in this Section shall be considered the minimum required in Business districts to promote the public health, safety, convenience, and general welfare, unless otherwise specified.

Table 4.2.3 Business District Requirements

	B-1 Limited Business	B-2 General Business	B-3 Central Business
A. Minimum Lot Area			
1. Lots served by public water & sewer			
a. Single-family dwellings	6,000 sq. ft.	Not permitted[1]	Not permitted[1]
b. Two-family dwellings	8,000 sq. ft.	Not permitted[1]	Not permitted[1]
c. Other permitted uses	None	None	None
2. Lots served by individual sewage & disposal systems	15,000 sq. ft.	Subject to approval of health official.	Subject to approval of health official.
B. Minimum Frontage & Lot Width			
1. Lots served by public water & sewer			
a. Single-family dwellings	60 ft.	Not permitted[1]	Not permitted[1]
b. Two-family dwellings	70 ft.	Not permitted[1]	Not permitted[1]
c. Other permitted uses	None	None	None
2. Lots served by individual sewage disposal systems	80 ft.	Subject to approval of health official	Subject to approval of health official
C. Minimum Yard[2]			
1. Front yard			
a. Right of way ≥ 50 ft. in width	10 ft. from property line	15 ft. from property line	None
b. Right of way < 50 ft. in width	15 ft. from property line	15 ft. from property line	None
2. Each side yard[3]			
a. Main structures	None	None	
b. Accessory structures	No closer than 5 ft. to any property line	None	
3. Rear yard			
a. Main structures	35 ft.	None	
b. Accessory structure	None	None	
D. Maximum Height			
1. Main structures	45 ft.	None	
2. Accessory structures	No greater than the main structure		

Notes for Table 4.2.3. Business District Requirements

[1] Residential and business mixed use structures are permitted in these districts, subject to regulations in Article VII – Use Performance Standards

[2] Structures shall be located 15 ft. or more from the property line along an existing alley.

[3] Except the minimum side yard for each main structure adjoining or adjacent to a residential or AFOS district shall be ten ft.

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Section 4-2-4. Office and Institutional District Standards.

In addition to the other requirements of this Ordinance, the requirements specified in this Section shall be considered the minimum required to promote the public health, safety, convenience, and general welfare. Unless otherwise specified, the standards of the Section are the minimum required in the Office and Institutional district.

Table 4.2.4 OI District Requirements

A. Minimum Lot Area	
1. Lots served by public water & sewer	
a. Single-family	6,000 sq. ft.
b. All other permitted uses	None
2. Lots served by individual water & sewer	Not permitted
B. Minimum Frontage & Lot Width	
1. Single-family	70 ft.
2. All other permitted uses	80 ft.
C. Minimum Yard[1]	
1. Front yard	
a. Right of way ≥ 50 ft. in width	20 ft. from property line
b. Right of way < 50 ft. in width	35 ft. from property line
2. Each side yard	
a. Main structures	10 ft.
b. Accessory structures	No closer than 5 ft. to any property line
3. Rear yard	
a. Main structures	25 ft.
b. Accessory structures	No closer than 5 ft. to any property line
D. Maximum Height	
1. Main structures	35 ft.
2. Accessory structures	No greater than the main structure

Notes for Table 4.2.4. OI District Requirements

[1] Structures shall be located 15 ft. or more from the property line of an existing alley.

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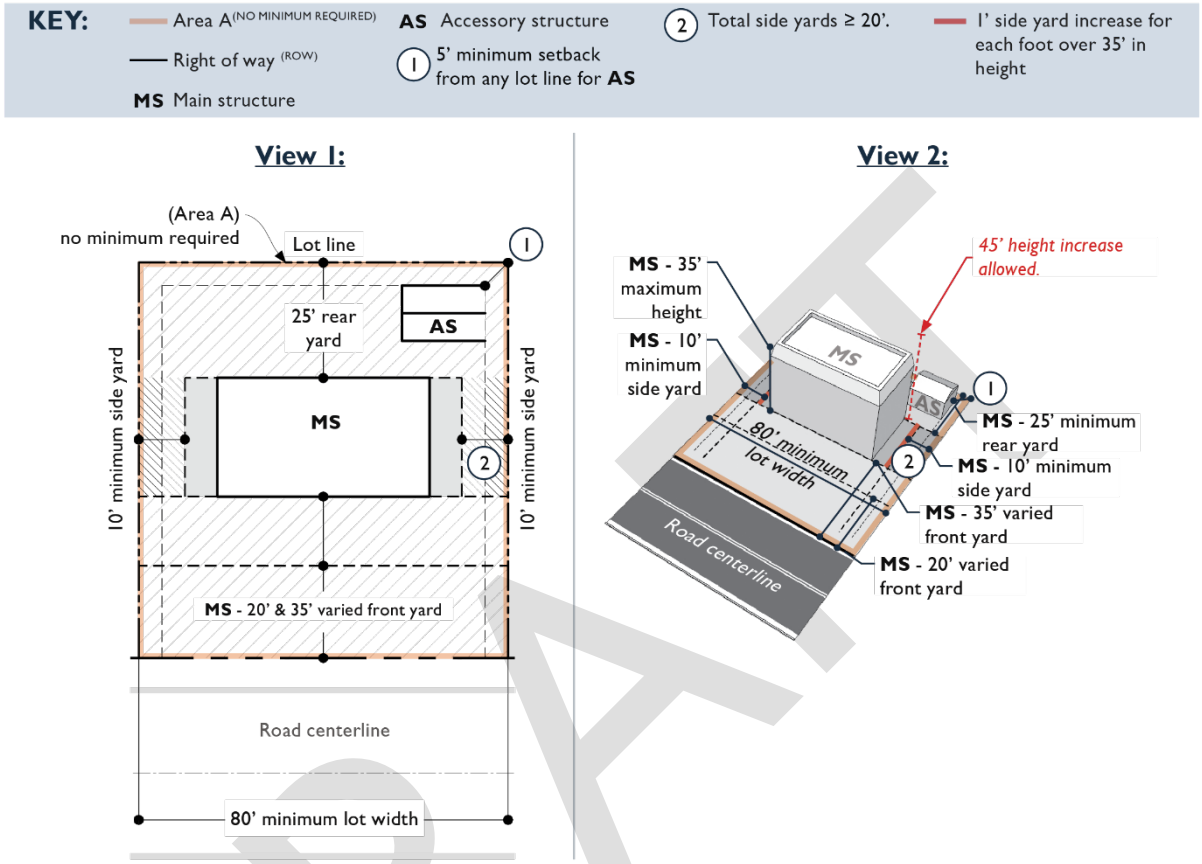
Figure 4.4 OI District Regulations Example



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Section 4-2-5. Limited Industrial District Standards.

In addition to the other requirements of this Ordinance, the requirements specified in this Section shall be considered the minimum required in the Limited Industrial district to promote the public health, safety, convenience, and general welfare, unless otherwise specified.

Table 4.2.5 M-1 District Requirements

A. Minimum Lot Area[1]	
1. Lots served by public water & sewer	None
2. Lots served by individual sewage & disposal systems	Determined by health official
B. Minimum Frontage & Lot Width	
1. All permitted uses	None
C. Minimum Yard[2]	
1. Front yard	
a. Right of way ≥ 50 ft. in width	10 ft. from centerline
b. Right of way < 50 ft. in width	35 ft. from centerline
2. Each side yard	
a. Main structures	None[3]
b. Accessory structures	No accessory structures shall be located within the minimum side or rear yard area of any use adjoining or adjacent to a residential or open space district
3. Rear yard	
a. Main structures	None[3]
b. Accessory structures	No accessory structures shall be located within the minimum side or rear yard area of any use adjoining or adjacent to a residential or open space district.
D. Maximum Height[4]	
1. All permitted structures	None

Notes for Table 4.2.5. M-1 District Requirements

[1] Buildings or groups of buildings with their accessory structures may cover up to 70 percent of the lot.
[2] Structures shall be located 15 ft. or more from the property line along an existing alley.
[3] Except the minimum side and rear yard for each main structure adjoining or adjacent to a residential or open space district shall be 10 ft.
[4] No accessory structure which is within 10 ft. of any property line shall be more than one story high.

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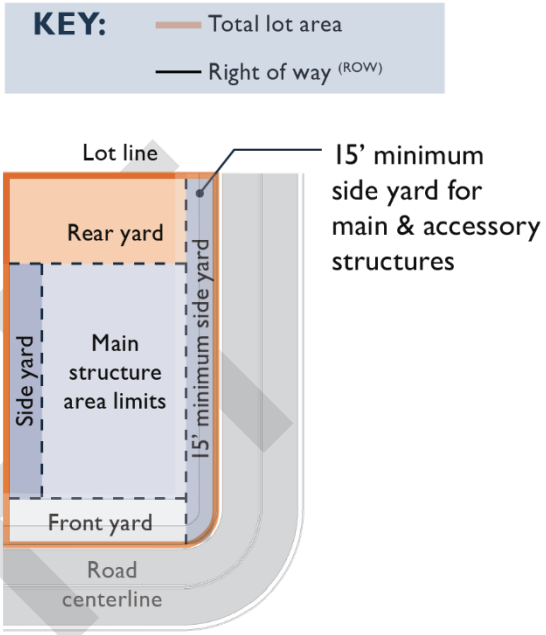
Division 3. General Requirements for Primary Zoning Districts.

Section 4-3-1. Corner Lots. [2]

For any corner lot, the side yard adjacent to a street shall be at least 15 feet for both main and accessory structures.

Figure 4.5 Corner Lots



Section 4-3-2. Height Regulations. [3]

(a) The height limitations of the Ordinance shall not apply to:

(1) Spires;

(2) Belfries;

(3) Cupolas;

(4) Monuments;

(5) Chimneys;

(6) Flues;

(7) Flagpoles;

(8) Television antennas;

(9) Radio aerials;

(10) Broadcasting or communication towers, with special use permit approval; and,

(11) Utility service, major, with special use permit approval.

(b) In the AFOS, district OI district, and all Residential districts:

(1) All structures shall be no taller than 35 feet except:

a. The height limit for dwellings may be increased up to 45 feet and up to three stories; provided that each side yard shall be increased one foot or more for each additional foot of building height over 35 feet

b. Nonresidential-agricultural buildings are considered main structures, and may be erected to a height of 60 feet; provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet

c. No accessory building which is within 10 feet of any property line shall be more than one story high. All accessory buildings shall be no greater than the main building in height.[4]

(c) Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

[2] *Editor's Note: PC has reduced from 20 feet to 15 feet.*
[3] *Editor's Note: Expanded exemptions to include major utility service and broadcasting or communication towers.*
[4] *Editor's Note: R-1 District previously limited accessory buildings within 20 ft. of property line to one story in height.*

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Section 4-3-3. Yard Space Encroachment.[5]

The yard space required for a use or building shall remain free of all uses or occupancies except as follows:

(1) Fences, walls, or landscaping shall be permitted in any required yard subject to the standards of Article VIII of this Ordinance.

(2) Bay window, chimneys, eaves, cornices, windowsills, belt courses, and similar architectural features may project into any required yard a distance not to exceed two (2) feet

(3) Open and uncovered porches, stairs, or ramps may project beyond the front building line or into a required side or rear yard a distance not to exceed five (5) feet

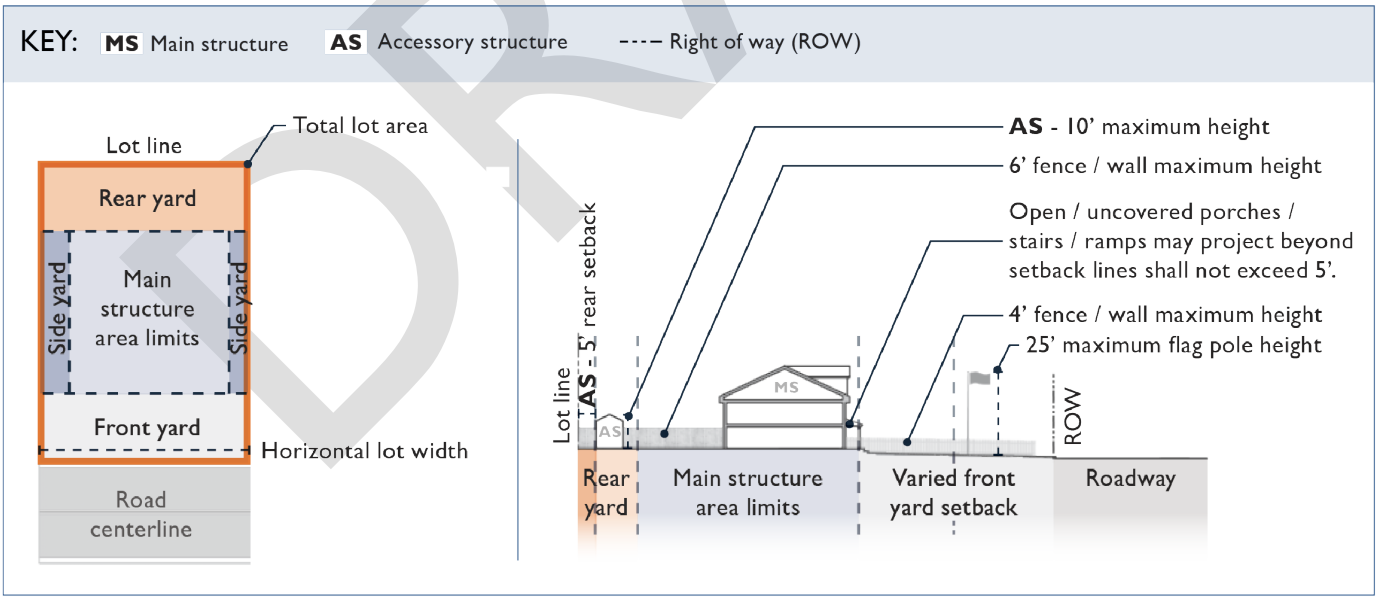
(4) Driveways shall be permitted in required yards but shall be three (3) feet or more from any property line except where such driveways are developed jointly as a common drive to adjoining lots.

(5) Flagpoles not to exceed 25 feet in height.

(6) Heat pumps, central air conditioning units, generators and similar mechanical equipment may project to a distance not to exceed five (5) feet into a required side or rear yard.

(7) Residential accessory structures less than 10 feet in height including, but not limited to, recreational equipment, clotheslines, arbors, swings, or residential yard ornaments may project into a required yard provided that such equipment does not reduce the width of the yard to less than five (5) feet.

Figure 4.6 Yard and Yard Encroachments



[5] *Editor's Note: Retained from existing ordinance and expanded to allow additional exemptions for ADA accessibility (e.g., ramps), flagpoles, mechanical equipment, and residential accessory structures (e.g., playsets).*

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ARTICLE V. – Special and Overlay Districts.

Division 1. Establishment and Purpose.

Section 5-1-1. General.

(a) *Zoning districts established*. In order to regulate and restrict the location and use of buildings and land for trade, industry, residence and other purposes in accordance with the objectives of the comprehensive plan; to regulate and restrict the location, height and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces and the density of population, the following zoning districts are hereby established:

(b) *Special purpose zoning districts*. The intent and character of these districts are unique compared to the primary zoning districts supplied in Article IV. These districts contain additional standards and design requirements not found in the primary zoning districts. Special purpose zoning districts provide standards for specific districts in the Town of Abingdon and are established as follows:

(1) OH – Old and Historic;
(2) PTD – Planned Technology District; and,
(3) PUD – Planned Unit Development.

(c) *Overlay districts.* Overlay districts apply additional standards to the development of land in the Town of Abingdon. These district standards exist as overlays to the existing underlying zoning districts, and, as such, the provisions for the overlay districts, do not replace, but shall serve as a supplement to the underlying district provisions. The Overlay districts are established as follows:

(4) FH – Flood Hazard Overlay;
(5) Airport Safety Overlay; and,
(6) EC – Historic District Entrance Corridor Overlay District.

Section 5-1-2. Purpose and Intent of Special and Overlay Districts.

(a) Special purpose zoning districts.

(1) *Old and Historic.* The purpose of the Old and Historic (OH) district, in accordance with Virginia Code § 15.2-2306, is to:

a. Preserve the unique cultural heritage represented by the original section of the Town of Abingdon and site of Black's Fort and the Town's historic resources for future generations; and,
b. Promote historic resources for economic development and financial stability, preserve historic resources for educational purposes, and promote quality of life and a sense of place for Town residents.

This district should maintain appropriate character and design through utilization of historic guidelines and review of development by a Historic Preservation Review Board.

(2) *Planned Technology District.* The purpose of the Planned Technology Development (PTD) district is for high technology manufacturing and industrial uses. Supporting accessory uses and facilities, including offices, commercial establishments, and residential areas may also be permitted. The PTD district is intended to be designed with a park-like setting that complements surrounding land uses by means of appropriate siting of buildings, controlled

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access points, attractive and harmonious architecture, effective landscape buffering and common open space with scenic view easements. The district is intended to provide flexibility in design and site layout, allow latitude in combining different types of uses within a single development, and provide the developer with incentives to create an aesthetically pleasing, functional and environmentally friendly planned development.

a. In addition, the intent of the planned technology development district is to provide certain industries that are clean and environmentally efficient the opportunity to locate in an area of similar technologies in what is generally known as a mixed-use park, developed under a complete, comprehensive site plan. Standards are provided for landscaping, buffering and open space to encourage high technology industries and to ensure a park-like atmosphere. Important in determining the location and size of a PTD are the accessibility of the location, the availability of public utilities, public safety services and the suitability of the topography for site and building development purposes.

(3) *Planned Unit Development.* The purpose of the Planned Unit Development (PUD) district is to encourage and permit variation in residential developments by allowing deviation in lot size, bulk or type of dwelling, density, lot coverage and open space from that required in any one residential district. Supporting accessory uses and facilities, including neighborhood-style, low intensity businesses and mixed uses are also permitted. This district encourages innovative and attractive design in pedestrian-oriented environments, while allowing greater flexibility in land use and design.

(b) Overlay Districts.

(1) *Flood Hazard Overlay.* The purpose of the Flood Hazard (FH) Overlay district is to establish and identify those areas which should be subject to special regulations on account of a greater probability of flooding thereon. The purposes of establishing such areas are to protect life and property; to reduce public costs for flood control, rescue, and relief efforts; to protect recognizable ecological values; to prevent the creation of health and safety hazards, disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, the impairment of the tax base; and to support and conform to the National Flood Insurance Program.

(2) *Airport Safety Overlay.* The Virginia Highlands Airport Safety Overlay district is adopted pursuant to Code of Virginia, § 15.2-2294. et seq., as amended. The zone consists of the airspace over and around the Virginia Highlands Airport. The purpose of this zone is to identify and regulate obstructions within that airspace. In order to accomplish the necessary controls for this area, the boundaries of this overlay district shall be concurrent with those of those specific geometric standards as referred to in the Code of Virginia § 15.2-2294. et seq., as amended. The intent of the Virginia Highlands Airport Safety Overlay Zone is to prevent any obstruction that has the potential for endangering the lives and property of the users of the Virginia Highlands Airport and the residents of the Town of Abingdon, Virginia, and to reduce the size of areas available for landing, take off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. It is declared in the interest of the public health, safety, and general welfare that:

a. The creation or establishment of obstructions that are hazards to air navigation be prevented;

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b. The creation or establishment of an obstruction has the potential for being a public nuisance and may injure the area served by the Virginia Highlands Airport;
c. The Town of Abingdon, Virginia area derives economic development and enhanced interstate commerce from Virginia Highlands Airport, when such airport and its surrounding vicinity is held strictly to the highest possible safety standards; and,
d. The prevention of these obstructions should be accomplished, to the fullest extent legally possible, by the exercise of the police power without compensation.

(3) Historic District Entrance Corridor Overlay District. The purpose of the Historic District Entrance Corridor (EC) Overlay district, in accordance with the Code of Virginia § 15.2-2306, is to:
a. Achieve a balanced land use pattern that retains Abingdon's small town character while accommodating quality growth in a planned manner;
b. Insure that future business and employment centers do not adversely affect or overburden the public facilities, environment or existing town character of Abingdon;
c. Protect and enhance Abingdon's attractiveness;
d. Protect Abingdon's scenic, historic, architectural, and cultural resources;
e. Support and stimulate development which is appropriate and complimentary to the numerous properties of historic, architectural, and cultural significance throughout the Town; and,
f. Protect and enhance the architectural and scenic character of significant access routes to the Town's historic areas, promote orderly and attractive development along these significant access routes, and ensure that development within this district is compatible with these resources through architectural control of development.

Division 2. Old and Historic District.

Section 5-2-1. Boundaries.[1]

The boundaries of the OH district shall in general be drawn to include:

(1) Areas containing historic landmarks as established by the Virginia Board of Historic Resources, and any other concentration, linkage or continuity of buildings, structures, or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance and integrity as to warrant conservation and preservation. The district may include either individual buildings or places of such character and a reasonable distance beyond to incorporate the contributing setting, or it may include areas or groupings of resources which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some in the defined area might not possess significant merit when considered alone.
(2) OH district boundaries may also be drawn to include any area of unique architectural value located within designated conservation, rehabilitation or redevelopment districts and land contiguous to arterial streets or highways, as designated under Title 33.2 of the Code of

[1] *Editor's note: This is a new section outlining the boundaries of the OH district and providing authority for expanding districts.*

Virginia, 1950, as amended, found by the Town Council to be significant routes of tourist access to the locality or to designated historic districts, landmarks, buildings, or structures.

(3) The boundaries of the OH district shall conform to the boundaries of individual lots of record to the extent possible. Where a street is proposed as a historic district boundary, the edge right-of-way adjoining the district shall be deemed the district boundary.

(4) OH districts may be established by the Town Council when such designation of historic sites would serve the purposes of this division, as stated in Section 5-1-2 – Purpose and Intent of Special Districts.

(5) OH districts shall be established in in accordance with Section 5-2-2 – Designation of Historic Districts and Landmarks.

Section 5-2-2. Designation of Historic Districts and Landmarks.[2]

Upon recommendation of the Historic Preservation Review Board (HPRB) and adoption by the Town Council, the OH district may be enlarged or contracted, new historic districts may be established, and individual historic landmarks may be established or recognized to the full extent of the powers granted the Town in Code of Virginia, § 15.2-2306, as amended.

(1) *Preliminary research.* The HPRB shall undertake to establish and maintain a list of structures, sites and areas having a special historical, architectural or aesthetic interest or value.

(2) *Recommendation of historic districts and landmarks*. The HPRB may recommend to the Town Council the initiation of an amendment to this Article to designate landmarks and historic districts from the list established under Section 5-2-2(a) above, giving the reasons for its recommendation. Any such amendment shall be in accordance with the provisions of Code of Virginia, § 15.2-2280 et seq., as amended.

(3) *Criteria for selection.* A building, structure, group of structures, area, site or district may be recommended for designation as a landmark or historic district if it or they are significant by reason of one or more of the following:

a. association with historic events or activities;
b. association with important persons;
c. distinctive design or physical characteristics; and/or
d. potential to provide important information about prehistory or history.

(4) *Boundaries.* In the HPRB's recommendation to the Town Council, historic districts or individual landmarks must be precisely designated by a legally sufficient description.

(5) *Other parties who may apply for designation*. Designations may also be initiated upon the written application to the board of one or more owners of property within any area thought to qualify for selection under Section 5-2-2(3), giving the basis or reason for its qualification and a legally sufficient description of the property concerned. The HPRB shall, at its next regular meeting, schedule a hearing on the application at a time which gives at least 30 days' written notice to any owner who has not joined in or ratified the application. Similarly, either the Town Council or the Planning Commission may, on its own volition, initiate designations under this Section.

(6) *Moratorium on alteration or demolition while designation pending*. So long as any proceedings have been filed and are pending under this Section, the HPRB shall not approve any subsequently filed application for a certificate of appropriateness or other permit to erect, construct,

[2] *Editor's note: This is an existing section, moved and revised for clarity.*

reconstruct, alter, restore, move or demolish any building, structure or other feature on a site or area included in or encompassed by the proceedings. Provided, if final action on the proceedings has not been completed within the ninety-day period following initiation of the proceedings, the certificate of appropriateness or other permit may be approved.

Section 5-2-3. OH Subdistricts Established.[3]

To better direct development and to preserve the existing character in the OH District, the following subdistricts are established:

(1) Subdistrict 1 – Civic/Business-Focused;
(2) Subdistrict 2 – Residential-Focused;
(3) Subdistrict 3 – Artisan-Focused;
(4) Subdistrict 4 – Sinking Spring Cemetery; and,
(5) Subdistrict 5 – Muster Grounds.

Section 5-2-4. Purpose and Intent of OH Subdistricts.[4]

(a) *Subdistrict 1 – Civic/Business-Focused.* The primary purpose of Subdistrict 1 – Civic/Business-Focused is to preserve structures and uses of a civic and business nature that:
  (1) Are critical to the character and vitality of the Town of Abingdon;
  (2) Serve a civic need in the form of cultural and institutional services; and,
  (3) Foster interconnected commercial activity that serves the needs of nearby residents.

(b) *Subdistrict 2 – Residential-Focused.* The primary purpose of Subdistrict 2 – Residential-Focused is to preserve and promote uses of a residential nature, including single-family, two-family, and multi-family dwellings and accessory uses.

(c) *Subdistrict 3 – Artisan-Focused.* The primary purpose of Subdistrict 3 – Artisan-Focused is to develop and foster the arts by providing workspaces for artisans and small-scale show rooms for the selling of wares and art pieces. Subdistrict 3 – Artisan-Focused is also intended to accommodate residential uses necessary to meet the needs of the community.

(d) *Subdistrict 4 – Sinking Spring Cemetery.* The purpose of Subdistrict 4 – Sinking Spring Cemetery is to preserve the Sinking Spring Cemetery for current and future use of its burial grounds and to allow for accessory uses.

(e) *Subdistrict 5 – Muster Grounds.* The purpose of Subdistrict 5 – Muster Grounds is to ensure the Town's historic muster grounds continued use as a historical resource for citizens of the town and travelers.

Section 5-2-5. Area, Setback, Frontage, Yard, and Height Regulations.

The OH district shall follow the general established pattern already in existence in the district insofar as area, setback, frontage, yard, and height regulations are concerned. Except Accessory Buildings shall:

(1) Shall be no closer than five (5) feet to any side or rear property line;
(2) Shall be no taller in height than the main structure on the property; and,
(3) Shall follow the Use Performance Standards provided in Article VII.

[3] *Editor's note: This is a new section establishing named subdistricts.*
[4] *Editor's note: This is a new district outlining the intent of the consolidated subdistricts.*

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Section 5-2-6. Certificate of Appropriateness Required to Erect, Construct, Reconstruct, Alter, Restore, Move, or Demolish a Building.

(a) A certificate of appropriateness issued by the HPRB is required to erect, construct, reconstruct, alter, restore, move, or demolish a building visible from the public right of way or when visibility is blocked by landscaping as dictated by Article III – Permits and Applications, except as provided below in Section 5-2-6(1).

(1) *Routine maintenance and minor action exclusion.* Upon written application, the Director of Community Development or designee of the Town of Abingdon (the "administrator") may determine that certain minor actions involving buildings and structures within the OH district will have no permanent effect on the character of the district, and, by written waivers issued to the parties wishing to take the minor actions, exempt them from review by the HPRB. Each application for waiver must be on the form provided by the office of the administrator and documented by appropriate samples of the materials and colors to be used in taking the minor actions. With respect to each waiver issued hereunder, the administrator shall see to it through the Town's inspection department that the work performed and materials employed comply with the terms of the particular waiver. Provided, however:

a. If the administrator is uncertain about his authority to grant a waiver or if the administrator and the applicant cannot agree on changes in any application for waiver, the application shall be referred to the HPRB at its next regularly scheduled meeting for a decision on the question, which decision shall be final;

b. If the administrator denies an application for a waiver, the applicant may appeal the administrator's decision to the HPRB, in which case the HPRB's decision shall be final; and

c. If a waiver is issued and the work is commenced but in the opinion of the administrator the work does not qualify for a waiver the administrator shall order that the work be stopped until the applicant secures a certificate of appropriateness pursuant to Article III – Permits and Applications. In any such case the applicant may appeal to the HPRB, whose decision on the question shall be final.

(b) The administrator shall provide the HPRB with a copy of each application for a waiver at the HPRB's regularly scheduled meeting next following the date the application was received.

Section 5-2-7. Maintenance of Historic Properties.[5]

(a) *Protective maintenance required.* Pursuant to Code of Virginia, § 15.2-2280, as amended, all unoccupied buildings and structures subject to this Article shall be preserved against decay and deterioration, maintained free from structural defects and repaired to the extent necessary to prevent irreparable damage. For purposes of this Article, a building or structure is unoccupied if in the preceding 12 calendar months no person has inhabited the premises on a continuous basis as a residence, place of work or place of carrying on official duties.

(b) *Standard of maintenance and repair required.* The maintenance and repair required by this Section 5-2-7 must be sufficient to:

[5] Editor's Note: This text was missed as an addition in early drafts. Has been added prior to Open House without change from the existing ordinance.

(2) Protect the structural components of the building or structure and its exterior from damage by reason of either collapse or deterioration to such an extent that repair and preservation are not economically feasible; and

(3) Maintain the character of the district in which the building or structure is located. Specific items of maintenance and repair include but are not limited to correction of any of the following defects:

a. Deterioration of exterior walls, chimneys, foundations or other vertical support.
b. Deterioration of flooring or floor supports, roofs or other horizontal members.
c. Leaning, sagging, splitting, listing or buckling caused by deterioration under items a. and b.
d. Deterioration or crumbling of exterior plasters or mortars.
e. Defective waterproofing of exterior walls, roofs and foundations including windows and doors.
f. Inadequate weather protection for exterior wall and roof coverings, including lack of paint.
g. Insect infestation, rotting, holes and other forms of decay.
h. Deterioration of exterior stairs, porches, handrails, window and door frames.
i. Deterioration of architectural details, including cornices, entablatures and wall facings.
j. Delamination, instability, crumbling or loss of shape from deterioration under items f. and g.
k. Deterioration of fences, gates and accessory structures.

(c) *Enforcement*. When it is brought to the attention of the board that a property may have deteriorated to the point that it cannot meet the standards specified in Section 5-2-7 (b) above, the Board shall first request a meeting with the property's owner or authorized representative (including without limitation executor, administrator, or trustee) and endeavor to discuss with such person ways to improve the condition of the building or structure in accordance with a mutually agreeable time schedule. If such procedure leads to correction of the violation to the board's satisfaction, no further action will be taken.

(1) If the informal procedure does not lead to correction of the condition, the board shall request that the administrator cause the condition of the building or structure to be investigated further through the Town's Building Inspector acting as an agent for the board, and, within 14 days thereafter, make a determination whether it is in violation of this Section 5-2-7. If such investigation leads to a determination there is no violation, no further action will be taken.

(2) If the investigation leads to a determination that there is a violation or probable violation, the administrator shall give the owner or authorized representative as described above written notice in which the repairs and work necessary to comply with the provisions of this Section 5-2-7 are specifically described and ordered to be performed. The repairs and work shall be completed within 90 days from receipt of notice or such longer period of time the administrator may specify consistent with the extent of the repairs and work, subject to extension for good cause demonstrated to the administrator.

(3) Failure to complete the necessary repairs and work within the period allowed for completion under the preceding Section 5-2-7(c)(2) shall constitute a violation of this Article punishable as specified in Article 2, Division 5 of this Ordinance. In addition, the board may, after due notice to the owner or authorized representative as described above, direct the administrator

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to enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the building or structure and charge the reasonable cost thereof to the owner, which charge shall, so long as it remains unpaid, constitute a lien against the real property upon which the building or structure is situated.

(4) In addition to any other available ground for relief, any owner aggrieved by an order issued under the preceding Section 5-2-7(c)(3) may file a written petition with the board for relief on the ground that the performance of the repairs and work would cause undue economic hardship. To perfect such remedy the petition must:
   a. Be filed with the board within 10 days after receipt of such notice and order; and,
   b. Include evidence bearing on the claim for relief and circumstances of hardship including at a minimum the following items:
      1. Nature of ownership, whether business or individual.
      2. Financial resources of the owner claiming economic hardship.
      3. Cost of repairs and work provided in the notice and order.
      4. Assessed value of the pertinent land and improvements.
      5. Real estate taxes and annual debt service for the previous two years.
      6. Any listing of the property for sale or rent and offers received, if any.
      7. Annual gross income and cash flow received from leasing or other use of the property for the previous two years.
      8. Itemized operating and maintenance expenses for the previous two years.

(5) If the remedy is so perfected, the notice and order shall be stayed, and within 30 days after any such petition is filed the board shall schedule a public hearing on the claim of undue economic hardship. Following a full hearing on the merits, the board shall, within 30 days thereafter, make a finding whether or not the notice and order would entail undue economic hardship and enter the reasons for such finding into the record.

(6) If the finding is that undue economic hardship would result, it shall be accompanied by a recommended plan to relieve the hardship which has included in its consideration:
   a. Any available property tax relief;
   b. Loans or grants from the Town, county or other public, private or non-profit sources;
   c. Acquisition of the property by purchase or eminent domain;
   d. Modification of the building code or changes in applicable zoning regulations;
   e. Relaxation of this Article sufficient to mitigate the economic hardship; and,
   f. Any other available means of relief known to the board. The board shall report its finding to the administrator, who shall issue an order for the property to be repaired within the time specified in Section 5-2-7(c)(1) in the case of a finding of no undue economic hardship and an order for the property to be repaired or otherwise handled according to the recommended plan in the case of a finding of economic hardship.

(d) Any person aggrieved by the action of either the Board or the Administrator under this Section 5-2-7 shall have a right of appeal to the Town Council and from the Town Council to the circuit court as specified in Article III, Division II.

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Division 3. Historic District Entrance Corridor Overlay District.[6]

Section 5-3-1. Boundaries.

The boundaries of the EC district shall be the boundaries of the Office and Institutional district, Business districts, and Limited Industrial districts (OI, B-l, B-2, B-3, and M-1), as they are found on the following streets of the Town:

(1) East Main Street, from the OH district to Thompson Drive;
(2) West Main Street from the OH district to Porterfield Highway;
(3) Cummings Street, from Interstate 81 to the OH district; and,
(4) Russel Road (full length).

Section 5-3-2. Permitted Uses.

(a) Unless otherwise specified herein, uses which are permitted in the underlying districts shall be permitted in the EC district.
(b) Uses permitted with a special use permit in the underlying districts shall be permitted with a special use permit in the EC district.
(c) When otherwise permitted in the underlying district, any newly constructed building intended to be occupied with greater than 50,000 square feet of floor area devoted to retail use shall require a special use permit in the EC district.
(d) Temporary, mobile and modular structures. No temporary, mobile or modular structure, including portable storage containers, may be placed or used in this zoning district, with the exception that temporary structures may be placed upon property within this district by contractors for their use during development and construction upon property within this district.

Section 5-3-3. Area Regulations.

Uses, buildings, and structures shall be subject to regulations for lot area, lot width, street frontage, setback, height, yards, parking and signs applicable in the underlying districts in which they are located.

Section 5-3-4. Certificate of Appropriateness Required to Erect, Construct, Reconstruct, Alter, Restore, Move, or Demolish a Building.

A certificate of appropriateness is required to erect, construct, reconstruct, alter, restore, move, or demolish a building as dictated by Article III – Permits and Applications.

Section 5-3-5. Administration.

The Planning Commission shall be responsible for the issuance of certificates of appropriateness as required by this Ordinance. Application for a certificate of appropriateness shall be filed with the Administrator, as dictated by Article III – Permits and Applications.

[6] Text related to the issuance of a certificate of appropriateness will be reorganized into Article III – Permits and Applications.

Section 5-3-6. Review Process.

(a) The Planning Commission shall review the application and, if approved, shall issue a certificate of appropriateness, with or without conditions, together with any modifications deemed necessary to ensure compliance with this Section. Failure of the Planning Commission to act within 60 days from the date of application shall constitute approval of the application.

(b) In making its determinations, the Planning Commission may consider any architectural feature which influences appearance, such as, but not limited to motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering. The Administrator and/or the town manager or their designees shall approve signs.

(c) In case of a building or use for which a special use permit is required, issuance of a certificate of appropriateness by the Planning Commission shall be required as set forth in Article III – Permits and Applications. Such certificate of appropriateness shall be advisory to the Town Council, and shall be construed to be a part of the Planning Commission's recommendation to the council on the special use permit. The Town Council may attach such conditions or modify the certificate of appropriateness, as it deems necessary in conjunction with its action on the special use permit.

Division 4. Planned Technology District.

Section 5-4-1. Site Plans and Applications Required.[7]

A site plan and application shall be required and approved by the Planning Commission before development of a PTD site, in accordance with Article II – Permits and Applications.

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[7] *Editor's Note: Divisions outlining the requirements of site plans and applications will be incorporated into Article II – Permits and Applications. Previously the ordinance identified these plans as master plans, but the reference is changed to site plans for consistency throughout the ordinance.*

Site Development Regulations.[8]

(a) Each PTD shall be subject to the following site development regulations:

Table 5.4.2. PTD Site Development Regulations	
A. Minimum District Size	5 acres
B. Minimum Frontage & Lot Width	None
C. Minimum Yard	
1. Front yard	
a. Abutting public streets external to the PTD	30 ft. from existing public Right of Way
b. Abutting public streets internal to the PTD	10 ft. from existing public Right of Way
c. Abutting private streets internal to the PTD	30 ft.
2. Side yards adjoining a residential or open space zone	10 ft.
3. Rear yard adjoining a residential or open space zone	10 ft.
D. Maximum Lot Coverage	Determined through the preliminary site plan process and not to exceed 75%
E. Minimum Open Space[9]	20% of gross acreage excluding slopes greater than 15%, streets, and parking
F. Maximum Height[3]	
1. Property adjoining residential zones or uses	45 ft. [1]
2. All other locations	Unlimited
Notes for Table 5.4.2 PTD Site Development Regulations	
[1] The maximum height may be increased provided each required yard (side, rear, or buffer) adjoining a residential district or use is increased by 2 ft. above the minimum for each foot in height over 45 ft.	

(b) All developments within the PTD shall follow the community design standards dictated by Article VIII, except as provided below:

(1) *Buffering and screening*. In no case shall a buffer screening area adjoining any residential district or use be less than 10 feet in width.

(2) *Public streets*. Public streets in the PTD shall be built in accordance with Town of Abingdon minimum standards. In reviewing the PTD preliminary site plan, the Planning Commission may recommend, and the Town Council may approve, one or more private streets within the proposed district. Private street standards, specifications, and a proposed maintenance agreement shall be submitted with the preliminary site plan.

(3) *Enclosed structures*. Every structure in a PTD shall be a fully enclosed building of permanent construction. Any outside storage area shall be fully screened so that no materials so stored are visible at any lot line or public right-of-way.

[8] *Editor's note: This section was reorganized into table format with specific community design standards included below the table.*

[9] Editor's Note: Minimum open space added after staff discussion with Planning Commission.

(4) *Utilities.* Utilities shall be underground unless the type of service necessary for normal activities of the industry or business shall prohibit installation. Public water and sewer services are required in the PTD.

Division 5. Planned Unit Development District.

Section 5-5-1. Site Plans and Applications Required.[10]

A site plan and application shall be required and approved by the Planning Commission before development of a PUD site, in accordance with Article II – Permits and Applications.

Section 5-5-2. Use Regulations.[11]

(a) *Primary residential uses.* Primary residential uses are allowed as defined in Article VI – Use Matrix. No PUD shall be allowed which does not incorporate a variety of dwelling types.[12]

(b) *Secondary nonresidential uses*. Secondary nonresidential uses are allowed as defined in Article VI – Use Matrix. Such nonresidential uses shall be compatible with and secondary to the primary residential use. No building devoted primarily to a commercial use shall be built or established prior to the construction of at least 65% of the primary residential buildings or uses it is designed or intended to serve.[13]

Section 5-5-3. PUD Dimensional and Design Requirements.

(a) Density, area, and minimum standards.

(1) *Gross density*. The gross density within a planned unit development shall be computed by dividing the total number of proposed dwelling units within the development by the gross development area. The maximum gross density shall not exceed 20 units per acre, unless higher density is allowed in the existing district.[14]

(2) *Minimum area*. A planned unit development shall contain a minimum of five acres of land.[15]

(3) *Minimum development standards.* Minimum lot size, maximum lot coverage, street width, setbacks, height, and distance between buildings shall meet health, safety and welfare requirements of the site plan as defined in Article II – Permits and Applications and as directed by the Department of Health, the Building Official, Director of Community Development or designee, and other pertinent state and local officials.

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[10] *Editor's Note: Divisions outlining the requirements of master plans and applications will be incorporated into Article II – Permits and Applications. Previously the ordinance identified these plans as master plans, but the reference is changed to site plans for consistency throughout the ordinance.*

[11] *Editor's note: This section is revised to reference the Use Matrix.*

[12] *Editor's note: This is a revised clause. Currently, the ordinance allows PUDs with a single residential type, if it does not exceed the previously defined maximum density. This does not coincide with the intent statement and has been removed.*

[13] *Editor's note: This is a new clause. Previously, no new commercial development was allowed to be built prior to the completion of all primary residential use. This new clause allows some flexibility in construction.*

[14] *Editor's note: Allowed density in this district has been increase to 20 units per acre from 14. This aligns with the intent of the ordinance update to make housing more accessible and affordable.*

[15] *Editor's note: Previously, the draft allowed smaller PUDs of 3 acres. PC has increased to the current minimum of 5 acres.*

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(b) Parking and Loading, Lighting, Landscaping and Screening, Drainage, and Sign Requirements.
  (1) *Parking and loading.* Off-street parking and loading shall be provided for all uses in accordance with the requirements of Article VIII of this Ordinance.
  (2) *Lighting*. Lighting shall be provided for all uses in accordance with the requirements of Article VIII of this Ordinance.
  (3) *Landscaping and screening.* Any part of the lot or project area not used for buildings or other structures, parking, loading, and access ways, shall be maintained in a neat and orderly condition landscaped with grass, trees, shrubs, or pedestrian walks and in accordance with the requirements of Article VIII of this Ordinance. Required screening shall be in accordance with the requirements of Article VIII of this Ordinance.
  (4) *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 accordance with applicable Town ordinances.
  (5) *Signs.* Signs shall be in accordance with the regulations in Article VIII of this Ordinance.

(c) Common open space and community facilities.
  (1) The conserved open space within a planned unit development shall be at least 20% of the gross acreage of the planned unit development. No more than 25% of the required percentage of open space shall be in the form of water surfaces or wetlands. The following shall not be counted as open space:
    a. Land that slopes greater than 15%.
    b. Streets, parking areas and other asphaltic or paved areas, including sidewalks and pedestrian, bicycle paths, swimming pools, tennis courts and other similar recreational facilities.
  (2) Additional recreation areas and facilities, such as playgrounds, tennis courts, basketball courts, swimming pools and community buildings should be provided which will meet the anticipated needs of the clientele the planned unit development is designed to serve. Provision of separate adult and juvenile recreation areas is encouraged.

(d) *Utilities, services, and easements.* Structures within the planned unit development shall be connected to public water and sewer lines and all utility lines shall be placed underground, except for major electrical transmission lines. Adequate provisions to take care of on- and off-site drainage shall be provided. Adequate provisions for utility and drainage easements shall be provided.

(e) *Access and circulation.* A circulation system shall be so designed so as to provide for safe and convenient access to dwelling units, open space, community facilities and other nonresidential areas in the planned unit development. Principal vehicular access points shall be designed to permit smooth traffic flow and minimum hazards to vehicular, bicycle or pedestrian traffic. The internal circulation system shall be adequate for vehicular, bicycle and pedestrian movement and should discourage through traffic. Adequate access and circulation for emergency and service vehicles shall be provided.

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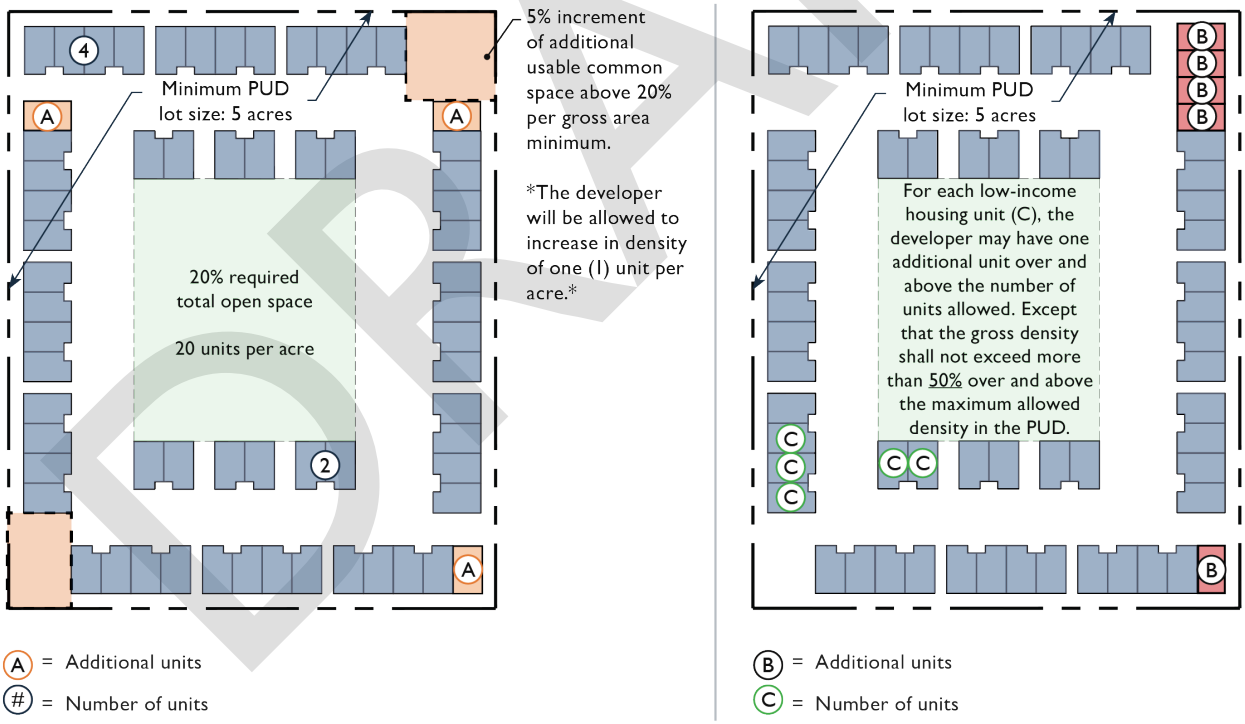
Section 5-5-4. Open Space and Low-Income Housing Incentives.

The following incentives shall apply to PUDs in accordance with the Code of Virginia § 15.2-2286(A)(10):

(1) *Open space incentive*. For each 5% increment of additional usable open common space above 20% per gross area minimum, the developer will be allowed a corresponding increase in density of one unit per acre above the density figure computed in Section 5-5-3(A). The calculation and designation of usable open space shall be acceptable to the Town. An open space easement shall be placed on the area identified as open space. This area shall not be converted to a built lot at a future date. The open space must be protected in perpetuity.

(2) *Low-income housing incentive*. For each low-income housing unit, as defined by the U.S. Department of Housing and Urban Development, as modified and adopted by the Town Council, in a given planned unit development, the developer may have one additional unit over and above the number of units allowed, as computed in Section 5-5-3(A); except that the gross density shall not exceed more than 50%[16] over and above the maximum allowed density in the planned unit development. The housing units must be protected as affordable in perpetuity through a methodology proposed by the developer.

Figure 5.1 PUD Incentives



[16] Editor's Note: This is changed from 35% to 50% based on PC review and worksession.

Section 5-5-5. Management, Ownership, and Termination.

(a) Management of common open space, properties, and facilities:

(3) All common open space, properties and facilities shall be preserved for their intended purposes as expressed in the approved site plan. The developer shall provide for the establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common open space, properties, and facilities.

(4) All privately owned common open space shall continue to conform to its intended use and remain as expressed in the site plan through the inclusion in all deeds of appropriate restrictions to ensure that the common open space is permanently preserved according to the site plan. The deed restrictions shall run with the land and shall be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

(5) All common open space as well as public and recreational facilities shall be specifically included in the development schedule and shall be constructed and fully improved by the developer at a proportionately equivalent or greater rate than the construction of residential structures.

(6) The nonprofit corporation or association established to own and maintain common open space properties and facilities shall conform to the following requirements and the developer shall obtain the approval of the Town Attorney as to acceptability of incorporation documents:

a. The developer must establish the association or nonprofit corporation prior to the final approval, recording and sale of any lot.

b. Membership in the association or nonprofit corporation shall be mandatory for all residents within the planned unit development and the association or corporation shall not discriminate in its members or shareholders.

c. The association or nonprofit corporation documents shall set forth the purposes of the permanent organization under which common ownership is established including its purposes; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property, including necessary bonds when required by the Town; and the method of assessing the individual property for its share of the cost of administering and maintaining such common property.

d. The incorporation document shall set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

(b) *Ownership of development.* All property in a planned unit development shall remain under primary control and ownership of a developer or group of developers and shall not be leased or sold unless or until provision is made which ensures the participation by the properties leased or sold in the retention and maintenance of common open space and community facilities in accordance with Section 5-5-3(c). Certificate of compliance indicating that such arrangements have been made shall be issued by the Town prior to the sale or lease of the property by the developer.

(c) *Termination.* Should the project for which the PUD zoning district was established be terminated for any reason, such district may be terminated upon the initiative of the Planning Commission or Town Council and after proper rezoning notices and hearings.

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Division 6. Airport Safety Overlay District.

Section 5-6-1. Additional Definitions.

For purposes of this Article, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

(1) Administrator. The official charged with the enforcement of this Article.
(2) Airport. Virginia Highlands Airport.
(3) Airport elevation. The highest point on any usable landing surface expressed in feet above mean sea level.
(4) Airport zone. A zone that is centered about the runway and primary surface, with the floor set by the horizontal surface.
(5) Approach surface. A surface, whose design standards are set by the regulations, longitudinally centered on a runway centerline, extending outward and upward from the end of the primary surface, and at the same slope as the approach zone height limitation slope. The perimeter of the approach surface coincides with the perimeter of the approach zone.
(6) Approach zone. A zone that extends away from the end of the primary surface with the floor set by the approach surface for a distance set by the regulations.
(7) Conical surface. A surface, whose design standards are set by the regulations, extending, and sloping horizontally and vertically from the periphery of the horizontal surface, like a cone, currently set by the Code of Federal Regulations at a slope of 20 to 1 for a horizontal distance of 4,000 feet to a height of 500 feet above the airport elevation.
(8) Conical zone. A zone that circles around the periphery of and outward from the horizontal surface, with the floor set by the conical surface.
(9) Hazard to air navigation. An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of navigable airspace in the commonwealth.
(10) Height. For the purpose of determining the height limits in all zones of this article and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.
(11) Horizontal surface. A horizontal plane, whose design standards are set by the regulations, above the established airport elevation, currently established at 150 feet above the airport elevation, and the perimeter of which is established by swinging arcs of specified radii from the center of each primary surface of each runway of the airport and connecting the arcs by lines tangent to those arcs.
(12) Mean sea level. The National Geodetic Vertical Datum (NGVD) to which base flood elevations shown on the firm are referenced.
(13) Nonconforming use. Any preexisting structure or object of natural growth which is inconsistent with the provisions of this Ordinance or any amendment to this Ordinance.
(14) Obstruction. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, or penetrates any surface or zone floor, as set forth in this Article.
(15) Permit. A document issued by the Town of Abingdon, Virginia allowing a person to begin an activity which may result in any structures or vegetation exceeding the height limitations provided for in this Article.

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(16) Person. Any individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. The term includes a trustee, a receiver, an assignee, or a similar representative of any of them.
(17) Primary surface. A surface, whose design standards are set by the regulations, longitudinally centered on a runway, which primary surface currently extends 200 feet beyond the hard surface of each end of the airport runway. The width of the primary surface is prescribed as set forth in the regulations. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
(18) Regulations. Part 77.25 et seq., Subchapter E (Airspace) of Title 14 of the Code of Federal Regulations and/or its successor federal regulations, as they may be amended or substituted from time to time.
(19) Runway. A specified area on the airport prepared for landing and takeoff of aircraft.
(20) Structure. Any object, including a mobile object, constructed, or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles, and electric lines of overhead transmission routes, flag poles, and ship masts.
(21) Transitional surfaces. Surfaces, whose design standards are set by the regulations, which extend outward perpendicular to the runway centerline sloping from the sides of the primary surfaces and approach surfaces to where they intersect the horizontal surfaces and conical surfaces.
(22) Transitional zone. A zone that fans away perpendicular to the runway centerline and approach surfaces, with the floor set by the transitional surfaces.
(23) Vegetation. Any object of natural growth.
(24) Zone. All areas generally described in three dimensions by reference to ground elevation, vertical distances from the ground elevation, horizontal distances from the runway centerline and the primary and horizontal surfaces, with the zone floor set at specific vertical limits by the surfaces found in the regulations.

Section 5-6-2. Establishment of Airport Safety Zones.

There are hereby established the airport zone, approach zone, transitional zone, and conical zone as defined in this division including all of the area and airspace of the Town of Abingdon, Virginia lying equal to and above the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Virginia Highlands Airport and as the areas within those zones are defined from time to time by the regulations. These zones are established as overlay zones, superimposed over the existing land surface zones, a map of which shall be maintained by the town of Abingdon, VA. These zones are zones of airspace that do not affect the uses and activities of the land surface zones, except as provided for in Section 5-6-4 – Use Restrictions, and Section 5-6-5 – Restrictions Adjacent to Airports. An area located in more than one of the following zones is considered to be only in the zone having the most restrictive height limitation.

Section 5-6-3. Zone Height Limitations.

(a) Except as otherwise provided in this Article, in any zone created by this Ordinance no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow to a height so as to penetrate any referenced surface, also known as the floor, of any zone provided for in this Article at any point.

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(b) The height restrictions, or floors, for the individual zones shall be those planes delineated as surfaces in Part 77.25 et seq., Subchapter E (Airspace), of Title 14 of the Code of Federal Regulation, or in successor federal regulations.

Section 5-6-4. Use Restrictions.

Notwithstanding any other provision of this Article, and within the area below the horizontal limits of any zone established by this Ordinance, no use may be made of land or water in such a manner as to:

(1) Create electrical interference with navigational signals or radio communication between the airport and aircraft;
(2) Diminish the ability of pilots to distinguish between airport lights and other lights;
(3) Result in glare in the eyes of pilots using the airport;
(4) Impair visibility in the vicinity of the airport;
(5) Create the potential for bird strike hazards; or
(6) Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft in the vicinity of and intending to use the airport.

Section 5-6-5. Restrictions Adjacent to Airports.

Places of assembly, religious assembly, educational facilities, hospitals, multi-family dwellings, commercial indoor recreation/entertainment as defined in Article VI – Use Matrix shall not be erected or otherwise located in any area which would be classified as an approach zone.

Section 5-6-6. Additional Requirements for Nonconforming Uses, Lots, and Structures.

Notwithstanding the other provisions of Article IX – Nonconforming Uses, Lots, and Structures, the owner of any pre-existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator to indicate to operators of aircraft the presence of that airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the airport owners, and not the owner of the nonconforming structure or vegetation in question.

Section 5-6-7. Permits and Variances. [17]

(a) Except as provided in this division, no structure or vegetation shall be erected or otherwise established in any zone created by this Article unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which desired with and sufficient geometric specificity and height specificity, including references to mean sea level if necessary, to determine whether the resulting structure or vegetation would conform to the regulations prescribed in this Article. No permit for a structure or vegetation inconsistent with this Article shall be granted unless a variance has been approved as provided in this Article.

[17] *Editor's note: Portions of this section that apply to permits and variances in general will be moved to the appropriate Article.*

(b) No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure or vegetation to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto other than with relief as provided for in this Article. All nonconforming uses shall obtain a zoning permit and a certificate of occupancy within 60 days from the effective date of this Ordinance. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.

(c) Whenever the administrator determines that a nonconforming structure has been abandoned or more than 50% destroyed, physically deteriorated, or decayed, no permit shall be granted that would enable such structure or vegetation to be rebuilt, reconstructed, restored, or otherwise refurbished so as to exceed the applicable height limit or otherwise deviate from the zoning regulations contained in this Article, except with the relief as provided for in this Article.

(d) Any person desiring to erect or increase the height or size of any structure or vegetation not in accordance with the regulations prescribed in this Article may apply for a variance from these regulations in accordance with Article II of the Zoning and Subdivision Ordinance of the Town of Abingdon, Virginia. The application for a variance shall be accompanied by an appropriate application form provided by the Virginia Highlands Airport Commission, which form may be obtained from the administrator. The application to the Virginia Highlands Airport Commission shall be deemed approved if no response is received by the administrator from the Virginia Highlands Airport Commission within 21 days after the completed form is received by the Virginia Highlands Airport Commission. Any such application for a variance shall be accompanied by:

(1) Evidence of the submission of the necessary notice of proposed construction or alteration to the Federal Aviation Administration together with its action.

(2) A determination from the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

Division 7. Flood Hazard Overlay District.[18]

Section 5-7-1. Authority and Purpose.[19]

This division is adopted pursuant to the authority granted to localities by the Code of Virginia § 15.2-2280 and may be referred to as the Town of Abingdon Floodplain Overlay District, floodplain overlay, or flood hazard overlay.

Section 5-7-2. Applicability.[20]

These provisions shall apply to all lands within the jurisdiction of the Town of Abingdon and identified as special flood hazard areas (SFHAs) identified by the Town or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the Town by FEMA.

[18] *Editor's note:* This Division was drafted based on FEMA's model floodplain ordinance. PC and staff have revised to be more succinct.

[19] Editor's note: The Town did not have a purpose statement for the floodplain ordinance.

[20] Editor's note: The applicability statement has been modified slightly to give Town officials the power to designate additional SFHAs as needed. This is in line with the DCR model floodplain ordinance recommendations.

Section 5-7-3. Compliance and Liability.

(a) 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 division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.

(b) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study but does not imply total flood protection.

(c) This division shall not create liability on the part of the Town of Abingdon or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made there under.

Section 5-7-4. Abrogation and Greater Restrictions.

(a) This division supersedes any locally adopted flooding regulations currently in effect in flood-prone districts. Any regulations, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

(b) These regulations are not intended to repeal or abrogate any existing ordinances including subdivisions, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Section 5-7-5. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

Section 5-7-6. Penalty for Violations.

(a) Any person who fails to comply with any of the requirements or provisions of this division, or directions of the administrator, or any other authorized employee of the Town of Abingdon, shall be subject to the penalties pursuant to the Code of Virginia, and as outlined in the VA Uniform Statewide Building Code (USBC) for building code violations and Chapter 86 (Zoning and Subdivision Ordinance)[21] of the Town of Abingdon for violations and associated penalties.

(b) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this division. The imposition of a fine or penalty for any violation of, or noncompliance with, this division shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this division may be declared by the Town to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this division.

[21] Editor's note: This reference will be amended to reflect the zoning ordinance's revised placement within the Town Code as a Chapter, rather than an Appendix.

Section 5-7-7. Designation of the Administrator.[22]

The Town shall appoint a designee to administer and implement the regulations of this division, referred to herein as the Administrator. The Administrator may:

(1) Administer the duties and responsibilities herein.

(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. 59.22.

Section 5-7-8. Duties and Responsibilities of the Administrator.[23]

(a) The duties and responsibilities of the Administrator shall include but are not limited to:

(1) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(2) Review applications to determine whether the activities will be reasonably safe from flooding and all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free flowing non-tidal waters of the state.

(3) Verify that an applicant proposing to alter a watercourse has notified adjacent local governments, the Department of Conservation and Recreation Division of Dam Safety and Floodplain Management (DCR), the Virginia Department of Environmental Quality (DEQ) and the US Army Corp of Engineers (USACE) and has submitted copies of such notifications to FEMA.

(4) Approve applications and issue permits to develop in SFHA if the provisions of this division have been met or disapprove applications if the provisions of this division have not been met.

(5) Inspect, or cause to be inspected, prospective buildings, structures and other prospective development for which permits have been issued to determine compliance with this division or to determine if noncompliance has occurred or violations have been committed.

(6) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(7) Submit to FEMA, or require to be submitted to FEMA, at the applicant's expense, data, and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Abingdon, within six months after such data and information becomes available if the analysis indicates changes in base flood elevations.

(8) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

[22] Editor's note: This section is new. The Town's ordinance does not currently have language designating the administrator or their duties.

[23] Editor's note: This is a new section to accompany Section 5-5-8 – Designation of the Administrator.

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(9) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
(10) Administer the requirements related to proposed work on existing buildings that are located in SFHA that are damaged and identify needed repairs.
(11) Undertake, as determined appropriate by the administrator due to the circumstances, other actions, which may include but are not limited to: public information materials related to permit requests and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under National Flood Insurance Program (NFIP) flood insurance policies.
(12) Notify FEMA when the corporate boundaries of the Town of Abingdon have been modified.:
(13) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP, which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
(14) The Town of Abingdon's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Administrator shall notify FEMA of the changes by submitting technical or scientific data. The Administrator may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Section 5-7-9. Records.[24]

Records of actions associated with administering this division shall be kept on file and maintained by the administrator or his/her designee.

Section 5-7-10. Use and Interpretation of FIRMs.[25]

(a) The following shall apply to the use and interpretation of FIRMs and data:
(1) Where field surveyed topography indicates that adjacent ground elevations:
a. Are below the base flood elevation, even in areas not delineated as a SFHA on a FIRM, the area shall be considered as a SFHA and subject to the requirements of these regulations;
b. Are above the base flood elevation, the area shall be regulated as a SFHA unless the applicant obtains a LOMC that removes the area from the SFHA.
(2) In FEMA-identified SFHAs where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

[24] Editor's note: This section was revised for clarity.
[25] Editor's note: This is a new section included to comply with the 2017 model floodplain ordinance provided by Virginia Department of Conservation and Recreation.

(3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
(4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
(5) If a preliminary FIRM and/or a preliminary FIS has been provided by FEMA:
   a. Upon the issuance of a Letter of Final Determination (LOFD) by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
   b. Prior to the issuance of a LOFD by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 5-7-16 (a)(2) as defined by this division and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
   c. Prior to issuance of a LOFD by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 5-7-11. Jurisdictional Boundary Changes.[26]

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v), all NFIP participating communities must notify the Federal Insurance Administration and optionally the state coordinating office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

Section 5-7-12. District Boundary Changes.[27]

The delineation of any of the flood hazard overlay may be revised by the governing body where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or an individual documents the need for a change. However, prior to any such change, approval must be obtained from FEMA. An approved Letter of Map Revision (LOMR) serves as record of this change.

Section 5-7-13. Interpretation of District Boundaries.[28]

Initial interpretations of the boundaries of the flood hazard overlay shall be made by the Administrator or designee. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination in accordance with Article II – Administration. The person questioning or contesting the location of the district boundary shall be given a reasonable

[26] Editor's note: This section is a revised to comply with the 2017 model floodplain ordinance provided by Virginia Department of Conservation and Recreation.
[27] Editor's note: This section is revised to comply with the 2017 floodplain model ordinance provided by Virginia Department of Conservation and Recreation.
[28] Editor's note: This section is revised to comply with the 2017 floodplain model ordinance provided by Virginia Department of Conservation and Recreation.

opportunity to present his case to the Board of Zoning Appeals and to submit his own technical evidence if he so desires.

Section 5-7-14. Letters of Map Revision.

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) or a LOMR. Examples include:

(6) Any development that causes a rise in the base flood elevations within the floodway.
(7) Any development occurring in zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
(8) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 CFR 65.3 and 65.6(a)(12).

Section 5-7-15. Establishment of Flood Hazard Zones.[29]

(a) *Basis of flood hazard zones.* The various flood hazard zones shall include special flood hazard areas (SFHA). The basis for the delineation of these zones shall be the FIS and the FIRM for Washington County, Virginia and incorporated areas prepared by FEMA, Federal Insurance Administration, dated September 29, 2010, and any subsequent revisions or amendments thereto.

The Town of Abingdon may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximated study methodologies.

The boundaries of the SFHA and flood hazard zones are established as shown on the FIRM which is declared to be a part of this division and which shall be kept on file at the Abingdon Planning Department offices.

The flood hazard zones described below shall constitute the Flood Hazard Overlay District. It shall be an overlay to the existing underlying zoning districts as shown on the official Zoning Ordinance map, and as such, the provisions for the Flood Hazard Overlay District shall serve as a supplement to the underlying district provisions.

(1) The AE zone shall have two categories, defined below:
   a. Category 1 areas on the FIRM accompanying the FIS are delineated for purposes of this division using the criteria that certain areas within the floodplain must be capable of carrying the water of the base 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 3 of the above-referenced FIS and shown on the accompanying FIRM on file with the Abingdon Planning Department. Category 1 areas shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has been delineated.
   b. Category 2 areas on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated.

[29] Editor's note: This section is modified from the existing ordinance using information from the 2017 floodplain model ordinance provided by Virginia Department of Conservation and Recreation.

(2) The AH zone shall be those areas on the FIRM accompanying the FIS with a 1% annual chance of shallow flooding, usually in the form of a pond, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones; for the purposes of elevation and construction standards of Section 5-7-15, the AH Zone shall be considered a Category 2 area.

(3) The A zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one-percent annual chance floodplain boundary has been approximated. For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available [44 CFR 60.3(b)]

a. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks) that exceed 15 lots or five acres, whichever is the lesser.

(4) The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM.

(5) Other flood districts shall be those areas identified as Zone X on the maps accompanying the flood insurance study. This zone includes areas of 0.2% annual chance flood or areas of 1% annual chance flood with average depths of less than one foot or with drainage areas less than one square mile.

(b) The applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses 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 of Abingdon.

Section 5-7-16. District Provisions.[30]

(a) Permit requirement. All uses, activities and, development occurring within the Flood Hazard Overlay shall be undertaken only upon the issuance of a special use permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Town of Abingdon Subdivision Regulations (VA USBC is available online, public libraries and at the office of the building official at the Abingdon Town Hall). Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways or any watercourse, drainage ditch or any other drainage facility or system.

(b) *Site plans and permit applications.* All applications for development within any flood hazard district and all permits issued for the flood hazard districts shall incorporate the following information:

(1) The elevation of the Base Flood at the site;

(2) The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,

[30] Editor's note: This section is revised from the current Abingdon ordinance and includes information from the 2017 floodplain model ordinance provided by Virginia Department of Conservation and Recreation.

(3) For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
(4) Topographic information showing existing and proposed ground elevations.

(c) *General standards.* The following shall apply to all permits:
(1) New construction and substantial improvements shall be built according to this Ordinance and the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
(4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
(9) In addition to provisions (1) — (8) above, in all SFHAs, the additional provisions shall apply:
a. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
b. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(d) Table 5.7.16 defines the permissible uses in the flood hazard overlay provided that they are in compliance with the provisions of the underlying district and provided that the development will not increase base flood elevations:

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Table 5.7.16 Flood Hazard Zones and Permitted Uses

Flood Hazard Zone	Description	Permitted Uses (All structures must apply for an obtain approval of a Special Use Permit in all Flood Hazard Zones)
AE & AH	Category 1: Areas for which one-percent annual chance flood have been provided and the floodway has been delineated. Category 2: Areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated.	Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting Public and private recreational uses and activities Open accessory residential uses such as yard areas, gardens, play areas and previous loading areas, but not storage or other accessory structures
A	Areas for which no detailed flood profiles or elevations are provided, but the one-percent annual chance floodplain boundary has been approximated.	All uses permitted in the AE district as well as accessory structures, except for manufactured homes, accessory to the uses and activities permitted in the AE district Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar, related uses Temporary uses such as circuses, carnivals, and similar activities Other similar uses and activities, provided that they cause no increase in flood heights or velocities, subject to the regulations found in all other applicable codes and ordinances
AO	Areas of shallow flooding as determined by the FIRM.	All uses permitted in the underlying zoning district as listed in Article VI – Use Matrix, subject to all other applicable codes and ordinances.
X	Areas of 0.2% annual flood and areas of one-percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile.	All uses permitted in the underlying zoning district as listed in Article VI – Use Matrix, subject to all other applicable codes and ordinances

Section 5-7-17. Elevation and Construction Standards.[31]

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 5-7-15(b), the following provisions shall apply:

(1) In General:

a. Within any Category 1 area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses 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 Floodplain Administrator.

1. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Town of Abingdon's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of FEMA.
2. If subsection 1. above is satisfied, all new construction and substantial improvements shall comply will all applicable flood hazard reduction provisions of Section 5-7-17.

b. Within any Category 2 area, 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 AE or AH on the FIRM, 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 AE or AH on the Town of Abingdon's FIRM 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 CLOMR, and receives the approval of FEMA.

(2) Residential construction:

a. New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus 12 inches.

b. The placement of any manufactured home (mobile home) within any Flood Hazard Zone is specifically prohibited, except as a replacement for a manufactured home on an individual lot or parcel or in an existing manufactured home park or subdivision. A replacement manufactured home may be placed provided all the requirements specified below are met:

[31] Editor's note: This section is revised from the current Abingdon ordinance and includes information from the 2017 floodplain model ordinance provided by Virginia Department of Conservation and Recreation.

DRAFT

1. In zones A, AE, AH, and AO, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including:
   i. The elevation and anchoring requirements of the VA USBC;
   ii. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces; and,
   iii. Shall have the lowest floor elevated to one foot above the base flood elevation.

(3) Nonresidential construction:
   a. New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, including basement, elevated to or above the base flood level plus 12 inches.
   b. Non-residential buildings located in all 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. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Administrator

(4) Space below the lowest floor:
   a. In zones A, AE, AH, and AO, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
      1. Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
      2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
      3. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
         i. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
         ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
         iii. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
         iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

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v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(5) Accessory structures:

a. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of Section 5-7-17 (3), or, if not elevated or dry floodproofed, shall:

1. Not be used for human habitation;
2. Be limited to no more than 600 square feet in total floor area;
3. Be useable only for parking of vehicles or limited storage;
4. Be constructed with flood damage-resistant materials below the base flood elevation;
5. Be constructed and placed to offer the minimum resistance to the flow of floodwater;
6. Be anchored to prevent floatation;
7. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
8. Shall be provided with flood openings which shall meet the following criteria:

i. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.

ii. The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.

iii. The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.

iv. Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

(6) Recreational vehicles:

a. All recreational vehicles place on sites must either:

1. Be on the site for fewer than 180 consecutive days and 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
2. Meet all the requirements of Section 5-7-17(2)(b).

Section 5-7-18. Existing Structures in the Floodplain.[32]

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:

[32] Editor's note: This section is an existing section from Abingdon's ordinance. No changes were made.

(9) Exiting structures and/or uses in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.

(10) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood hazard district to an extent or amount of less than 50% of its market value (determined by an independent licensed appraiser and as based upon percentage determination of a registered design professional, at the burden of the applicant) shall conform to the VA USBC.

(11) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a flood hazard district to an extent or amount of 50% or more of its market value (determined by an independent licensed appraiser and as based upon percentage determination of a registered design professional, at the burden of the applicant) shall be undertaken only in full compliance with this division and shall require the entire structure to conform to the VA USBC.

Section 5-7-19. Procedures for Considering Variances in the Flood Hazard Districts.[33]

(a) Variances shall be issued only upon:
  (1) A showing of good and sufficient cause;
  (2) After the Board of Zoning Appeals has determined that failure to grant the variances would result in exceptional hardship to the applicant; and,
  (3) After the Board of Zoning Appeals has determined that the granting of such variance will not result in any of the following:
    a. Unacceptable or prohibited increases in flood height;
    b. Additional threats to public safety, or otherwise strictly against public policy;
    c. Extraordinary public expense;
    d. The authorization of said variance shall not:
      1. Create nuisances;
      2. Cause fraud or victimization of the public; nor,
      3. Conflict with local laws or ordinances.

(b) All actions by any agent, commission or board of the Town including but not limited to variances, shall consider all pertinent facts found in other sections of the Zoning and Subdivision Ordinance and especially:
  (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the Flood Hazard Overlay zones that will cause any increase in the base flood elevation.
  (2) The danger that materials may be swept on to other lands or downstream or 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.

[33] Editor's note: This section is an existing section from Abingdon's ordinance, revised for clarity.

(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 Town and surrounding 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 flood waters expected at the site.
(12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
(13) Such other factors which are relevant to the purposes of this division.

(c) When considering variances, the Board of Zoning Appeals shall ensure that the granting of same will comply with the requirements of the VA USBC.
(d) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to an 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 flood protection and other related matters.
(e) Variances shall be issued only after the Board of Zoning Appeals has made its determination in accordance with Section 5-7-19 (a) through (b) above, and as set forth in the provisions for appeal Article of the Zoning and Subdivision Ordinance for the Town of Abingdon, Virginia.
(f) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.
(g) The Board of Zoning Appeals shall notify the applicant for a variance, in writing and signed by the administrator with regard to the applicant's petition. If the requested variance is authorized and the applicant is, thereby, allowed to construct a structure below the base flood elevation, said Board of Zoning Appeals shall include in such written communication official notification that such construction below the base flood elevation:
(1) Increases the risks to life and property; and
(2) Will result in increased premium rates for flood insurance.
(h) Should the decision of the Board of Zoning Appeals uphold the prior decision of the administrator, an additional appeal is available, subject to the requirement of the Code of Virginia.
(i) A record shall be maintained of the above referenced notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance and Mitigation Administration.

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ARTICLE VI. – Use Permissions.[1]

Section 6-1. Organization and Intent.

The use permissions are supplied in table 6.4 and 6.5 called the Primary Zoning Districts Use Matrix and the Old and Historic Zoning District Use Matrix, respectively. Generally, these are referred to as a Use Matrix. It organizes permitted uses in alphabetical order and by symbol indicates the zoning district in which the use is allowed. The Use Matrices, Article VII - Use Performance Standards, and Article XI - Definitions, of this Ordinance, together provide a systematic basis for identifying and organizing uses and distinguishing unidentified uses to determine whether a particular use is allowable in a particular zoning district. However, uses within overlay districts shall be restricted or prohibited by the requirements of the overlay district.

Section 6-2. Abbreviations in Use Matrix.

(a) Permitted Uses. "B" in a Use Matrix cell indicates that the use type in that row is allowed by-right in the zoning district at the top of that column, subject to any Use Performance Standards in Article VII, of this Ordinance.

(b) Special Uses. "SUP" in a Use Matrix cell indicates that the use type in that row is allowed in the zoning district at the top of that column only upon approval of a Special Use Permit, in accordance with Article III, Permits and Applications, and subject to any Use Performance Standards in Article VII of this Ordinance.

(c) Prohibited Uses. Blank cells in the Use Matrix indicates that the use type in that row is prohibited in the zoning district at the top of that column.

Section 6-3. Uses Not Provided.

Many uses have broad names and definitions which include multiple similar uses. The Administrator will determine whether an unlisted use is part of an existing use as defined in Article XI of this Ordinance.

(1) Upon determining the most similar use type, the Administrator will treat the proposed use the same as the most similar use.

(2) If the Administrator determines that the proposed use is not similar to any listed use, that use is prohibited.

Section 6-4. Primary Zoning Districts Use Matrix

[1] Editor's Note: The Use Matrix was previously reviewed and edited, but the June 27, 2022, work session will be the first review of text sections 6-1 through 6-3.

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Accessory building	B	B	B	B	B	B	B	B	B		B			Section 7-2-1
Accessory dwelling unit	B	SUP	SUP	B	B	B						B		Section 7-2-2
Accessory use	B	B	B	B	B	B	B	B	B	B	B	B		
Adult use									B					Section 7-2-3
Agriculture	B													Section 7-2-4
Agriculture, intensive	SUP													Section 7-2-5
Agritourism	B													Section 7-2-6
Amateur radio antennas	B	SUP												
Assembly, place of	B			SUP	B		B		B	B		SUP	B	
Automobile repair service									B		SUP			Section 7-2-7
Automobile sale, rental/leasing									B					Section 7-2-8
Bed and breakfast	SUP	SUP												Section 7-2-9
Brewery or distillery								SUP	SUP	SUP	B			
Brewery, distillery or winery, farm	B													

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Brewery, distillery, or winery, micro								B	B	B		SUP		
Business support service									B	B				
Campground, public or private	B											SUP		Section 7-2-10
Car wash									B					Section 7-2-11
Catering facility								B	B	B				
Cemetery	SUP													
Communications service									B		B			
Construction material sales								B	B	B	B			Section 7-2-12
Cottage Housing Development				SUP	SUP	SUP		SUP	SUP					Section 7-2-13
Courthouse														
Day care, center			SUP	SUP	SUP	B	B	B	B	B		SUP		
Day care, family home (1-4 children)	B	B	B	B	B	B	B	B	B	B		B	B	
Day care, Family home (5-12 children)	SUP	SUP	SUP	SUP	SUP	B								

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Drive through facility								SUP	B	B				Section 7-2-14
Dwelling, manufactured	B													Section 7-2-15
Dwelling, multi-family				B	B	B	SUP		SUP	B		B	B	Section 7-2-16
Dwelling, single-family	B	B	B	B	B	B	B	B	SUP			B	B	
Dwelling, townhouse			SUP	B	B	B						B	B	Section 7-2-17
Dwelling, two-family			B	B	B	B	SUP	B				B		
Educational facility, college/university							B							
Educational facility, primary/secondary		SUP	B	B	B	B	B		B				B	
Equipment sales/rental and supplies, heavy	SUP								B					Section 7-2-18
Event venue facility	SUP							SUP	SUP	SUP	SUP			
Family health care structure, temporary	B	B	B	B	B	B	B	B				B	B	Section 7-2-19
Financial institutions							B	B	B	B				
Flea market and auction sales									SUP					
Funeral home							B		B					
Garden center	B							B	B	SUP				

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Gasoline station									B					Section 7-2-20
Group home	B	B	B	B	B	B	B	B	SUP	B		B	B	
Home occupation, category A	B	B	B	B	B	B						B		Section 7-2-21
Home occupation, category B	B		SUP	B	B	B	B	B				B		Section 7-2-21
Home occupation, category C	SUP		SUP	SUP	SUP		SUP	SUP				SUP		Section 7-2-21
Hospital	SUP						SUP		SUP					
Hotel							SUP		B	B				
Kennel, commercial	SUP							SUP	SUP	SUP		SUP		Section 7-2-22
Laboratory, research and development											SUP		B	
Laundry, commercial									SUP		B			
Manufactured home park				SUP	SUP						B			Section 7-2-23
Manufactured home sale									B		SUP			
Manufacturing, light							SUP				B		SUP	

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Manufacturing, small-scale									B	B	B			
Mixed use structure						B		B	B	B		B		Section 7-2-24
Mobile vending							B	B	B	B	B		B	Section 7-2-25
Nursing home				SUP	B		B							
Office, general							B	B	B	B	B	B	B	
Office, medical/clinic							B	B	B	B		B		
Outdoor market	B							SUP	SUP	SUP		B		
Outdoor sales, seasonal	B							B	B	B				Section 7-2-26
Outdoor storage									B		B			Section 7-2-27
Parking lot, commercial	SUP								SUP					Section 7-2-28
Personal services							SUP	B	B	B	SUP	B	B	
Professional studio							B	B	B	B	B			
Public park and recreation area	B	B	B	B	B	B	B	B	B	B	B	B	B	Section 7-2-29
Public use				B	B		B			B			B	
Recreation/amusement, indoor commercial									B	B				

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Recreation/amusement, outdoor commercial	SUP								B					
Religious assembly	SUP	SUP	SUP	SUP	SUP	SUP	B	B	B	B		B	B	
Restaurant, general						B	B	B	B	B		B		
Retirement homes	B			B	B		SUP							
Sawmill, portable	B													Section 7-2-30
Self-storage, indoor									SUP		SUP			
Self-storage, outdoor											SUP			
Shelter, residential							SUP							
Shopping center									B					Section 7-2-31
Short-term rental	B	B	B	B	B	B	B	B	B	B		B		Section 7-2-32
Solar energy, medium-scale							B	B	B	B	B		B	Section 7-2-33
Solar energy, small-scale	B	B	B	B	B							B		Section 7-2-34
Stable, commercial	B													Section 7-2-35
Stable, private	B													Section 7-2-36
Store, general							B	B	B	B	B	B	SUP	Section 7-2-37
Temporary construction trailer	B	B	B	B	B	B	B	B	B	B	B	B	B	Section 7-2-38

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Table 6.4 Primary Zoning Districts Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Primary Zoning Districts													Use Performance Standard Reference
	AFOS Agricultural Forestal and Open Space	R-1 Low Density Residential	R-2 Medium Density Residential	R-3 High Density Residential	R-4 Mixed Residential	R-5 Mixed High Density Residential	OI Office and Institutional	B-1 Limited Business	B-2 General Business	B-3 Central Business	M-1 Limited Industrial	PUD Planned Unit Development	PTD Planned Technology District	
Tradesperson service											B			Section 7-2-39
Transportation services										B				
Truck/freight terminal											SUP			
Utility service, major	SUP										SUP			Section 7-2-40
Utility service, minor	B	B	B	B	B	B	B	B	B	B	B	B	B	Section 7-2-40
Veterinary clinic	SUP								B					Section 7-2-41
Warehousing and distribution											B			Section 7-2-42
Wayside stand	B													
Wireless facility, broadcasting or communication tower	SUP													Section 7-2-43
Wireless facility, small cell	B	B	B	B	B		B	B	B	B	B	B	B	Section 7-2-44

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Section 6-5. Old and Historic Zoning District Use Matrix

Table 6.5 Old and Historic Zoning District Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Old and Historic Zoning Subdistricts					Use Performance Standard Reference
	Civic/Business-Focused Subdistrict 1	Residential-Focused Subdistrict 2	Artisan-Focused Subdistrict 3	Sinking Spring Cemetery Subdistrict 4	Muster Grounds Subdistrict 5	
Accessory building	B	B	B		B	Section 7-2-1
Accessory dwelling unit	SUP	SUP				Section 7-2-2
Accessory use	SUP	SUP	SUP		SUP	
Adult Use						Section 7-2-3
Agriculture						Section 7-2-4
Agriculture, intensive						Section 7-2-5
Agritourism						Section 7-2-6
Amateur radio antennas						
Assembly, place of	SUP	SUP	SUP		SUP	
Automobile repair service						Section 7-6-7
Automobile sale, rental/leasing						Section 7-2-8
Bed and breakfast	B	B	B			Section 7-2-9
Brewery or distillery						
Brewery, distillery or winery, farm						
Brewery, distillery, or winery, micro						

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Table 6.5 Old and Historic Zoning District Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Old and Historic Zoning Subdistricts					Use Performance Standard Reference
	Civic/Business-Focused Subdistrict 1	Residential-Focused Subdistrict 2	Artisan-Focused Subdistrict 3	Sinking Spring Cemetery Subdistrict 4	Muster Grounds Subdistrict 5	
Business support service						
Campground, public or private						Section 7-2-10
Car wash						Section 7-2-11
Catering facility						
Cemetery				B		
Communications service						
Construction material sales						Section 7-2-12
Cottage Housing Development						Section 7-2-13
Courthouse	B					
Day care, center		SUP				
Day care, Family home (1-4 children)	B	B				
Day care, Family home (5-12 children)						
Drive through facility						Section 7-2-14
Dwelling, manufactured						Section 7-2-15
Dwelling, multi-family	SUP	SUP	SUP			Section 7-2-16
Dwelling, single-family	B	B				
Dwelling, townhouse						Section 7-2-17

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Table 6.5 Old and Historic Zoning District Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Old and Historic Zoning Subdistricts					Use Performance Standard Reference
	Civic/Business-Focused Subdistrict 1	Residential-Focused Subdistrict 2	Artisan-Focused Subdistrict 3	Sinking Spring Cemetery Subdistrict 4	Muster Grounds Subdistrict 5	
Dwelling, two-family						
Educational facility, college/university	SUP	SUP				
Educational facility, primary/secondary	SUP	SUP				
Equipment sale/rental and supplies, heavy						Section 7-2-18
Event venue facility	SUP		SUP			
Family health care structure, temporary		B				Section 7-2-19
Financial institutions	SUP	SUP				
Flea market and auction sales						
Funeral home	SUP					
Garden center						
Gasoline station						Section 7-2-20
Group home		B				
Home occupation, category A	B	B				Section 7-2-21
Home occupation, category B	SUP	B				Section 7-2-21
Home occupation, category C	SUP	SUP				Section 7-2-21
Hospital						

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Table 6.5 Old and Historic Zoning District Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Old and Historic Zoning Subdistricts					Use Performance Standard Reference
	Civic/Business-Focused Subdistrict 1	Residential-Focused Subdistrict 2	Artisan-Focused Subdistrict 3	Sinking Spring Cemetery Subdistrict 4	Muster Grounds Subdistrict 5	
Hotel	SUP		SUP			
Kennel, commercial						Section 7-2-22
Laboratory, research and development						
Laundry, commercial						
Manufactured home park						Section 7-2-23
Manufactured home sale						
Manufacturing, light						
Manufacturing, small-scale						
Microbrewery		SUP	SUP		SUP	
Mixed use structure	B	SUP	B			Section 7-2-24
Mobile vending	B		SUP			Section 7-2-25
Nursing home						
Office, general	B	B				
Office, medical/clinic						
Outdoor market	SUP	SUP				
Outdoor sales, seasonal						Section 7-2-26
Outdoor storage						Section 7-2-27
Parking lot, commercial	B					Section 7-2-28
Personal services	B		B			

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Table 6.5 Old and Historic Zoning District Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Old and Historic Zoning Subdistricts					Use Performance Standard Reference
	Civic/Business-Focused Subdistrict 1	Residential-Focused Subdistrict 2	Artisan-Focused Subdistrict 3	Sinking Spring Cemetery Subdistrict 4	Muster Grounds Subdistrict 5	
Professional studio	B	SUP	B			
Public park and recreation area	SUP	B	B	B	B	Section 7-2-29
Public use	SUP	B				
Recreation/amusement, indoor commercial	SUP					
Recreation/amusement, outdoor commercial						
Religious assembly	SUP	SUP	SUP	SUP	SUP	
Restaurant, general	B		B			
Retirement homes						
Sawmill, portable						Section 7-2-30
Self-storage, indoor						
Self-storage, outdoor						
Shelter, residential	SUP					
Shopping center						Section 7-2-31
Short-term rental	B	B	B			Section 7-2-32
Solar energy, medium-scale						Section 7-2-33
Solar energy, small-scale						Section 7-2-34
Stable, commercial	B					Section 7-2-35
Stable, private						Section 7-2-36

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Table 6.5 Old and Historic Zoning District Use Matrix

Use Type B = By-Right Use SUP = Special Use Permit	Old and Historic Zoning Subdistricts					Use Performance Standard Reference
	Civic/Business-Focused Subdistrict 1	Residential-Focused Subdistrict 2	Artisan-Focused Subdistrict 3	Sinking Spring Cemetery Subdistrict 4	Muster Grounds Subdistrict 5	
Store, general	B		B			Section 7-2-37
Temporary construction trailer						Section 7-2-38
Tradesperson service						Section 7-2-39
Transportation services						
Truck/freight terminal						
Utility service, major						Section 7-2-40
Utility service, minor		B	B	B	B	Section 7-2-40
Veterinary clinic						Section 7-2-41
Warehousing and distribution						Section 7-2-42
Wayside stand						
Wireless facility, broadcasting or communication tower	B					Section 7-2-43
Wireless facility, small cell		B	B	B	B	Section 7-2-44

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ARTICLE VII. – Use Performance Standards.

Division 1. General Standards for Specific Uses.

Section 7-1-1. Purpose and intent.

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses and are not intended to exclude other provisions of this Ordinance that may apply. The standards set forth in this Article for a specific use apply to the particular individual use, regardless of the review procedure by which it is approved, unless otherwise specified in this Ordinance.

Division 2. Standards for Specific Uses.

Section 7-2-1. Accessory building.

(a) Accessory buildings shall meet the standards of the underlying zoning district, including yards and height regulations unless otherwise specified in this Ordinance.
(b) Accessory buildings are not permitted in front of primary structures regardless of setbacks.
(c) Accessory buildings shall not exceed 40% of the gross floor area of the main structure.
(d) Shall not be erected in the Old and Historic district without a Certificate of Appropriateness awarded by the Historic Preservation and Review Board.
(e) Portable storage containers used as permanent storage located outside of a fully-enclosed building or structure in a district other than a residential district or planned unit development and visible from adjacent properties or highways must be buffered in compliance with Article VIII – Community Design Standards.
(f) Portable storage containers located outside of a fully-enclosed building or structure in a residential district or the planned unit development district are subject to the following:
    (1) A zoning permit issued by the Administrator is required for any portable storage container located on a lot for more than 15 calendar days but is not allowed for more than 60 calendar days. There will be no fee for such permit and the permit shall be displayed on the exterior of the portable storage unit at all times.
    (2) The portable storage container must be placed a minimum of five feet from the property line, or on the driveway of the lot. One portable storage container may be placed in a legal parking place on the street for a period no longer than 15 days with the approval of the Public Works Department and the Fire Department when space is not available on site.
    (3) Other than the required Town zoning permit, no sign shall be attached to a portable storage container except to provide the contact information of the container provider.
    (4) Portable storage containers shall not be used in conjunction with a Type A or Type B home occupation or used as a principal use or main building or structure.
    (5) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited.
    (6) The provisions of this subsection shall not apply to properties where construction is actively occurring under a valid building permit.

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Section 7-2-2. Accessory dwelling unit (ADU).

(a) An accessory dwelling unit is allowed only as accessory to a single-family detached dwelling.

(b) Only one accessory dwelling is permitted per parcel unless approved by a Special Use Permit.

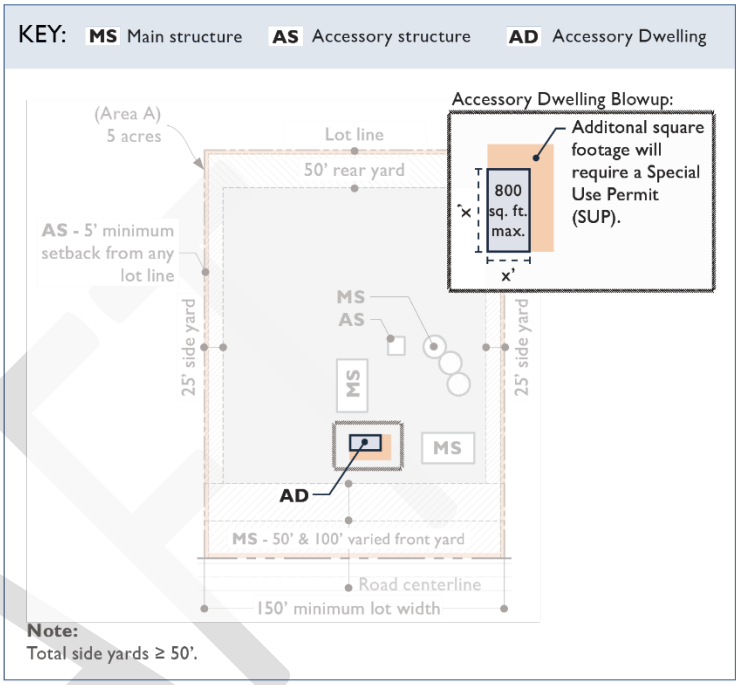
(c) Such structures shall comply with all dimensional standards that apply to the primary structure.

(d) An accessory dwelling unit shall not be subdivided or otherwise segregated in ownership from the main single-family dwelling unit.

(e) A manufactured home or recreational vehicle, travel trailer, camper, or similar structure shall not be used as an accessory dwelling unit.

(f) The floor area of an accessory dwelling unit shall be no more than 800 square feet in finished floor area. Additional square footage may be approved through a Special Use Permit.

Figure 7.1 ADU Example



Section 7-2-3. Adult use.

(a) Purpose. It is a purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the Town. The requirements of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

(b) Findings. Based on evidence of the adverse secondary effects of adult uses, and on findings, interpretations, and narrowing constructions incorporated in numerous legal cases, it is recognized that:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and should be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm, which the Town has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the Town. The Town finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

(c) Measurements of distance. All distances specified in this Section shall be measured from the property line of one use to another. The distance between an adult use and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially zoned district.

(d) No adult store may be established within 1,000 feet of any other adult store in any zoning district.

(e) No adult store may be established within 750 feet of a residential zoned district, educational facility, religious assembly, public park and recreation area, public use, or day care center as defined in this Ordinance.

(f) The establishment of an adult store as referred to herein shall include the opening of such store as a new store, the relocation of such store, the enlargement of such store in either scope or area, or the conversion, in whole or part, of an existing business into an adult store.

(g) No adult store shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others. Window areas shall remain transparent.

(h) Signs may not include graphic or pictorial depiction of material available on the premises.

Section 7-2-4. Agriculture.

(a) *Allowed without a permit.* Domestic farm animals shall be an allowed accessory to a residential use without a permit, subject to the following standards (All other situations shall require a permit):

(1) The parcel contains a minimum of three (3) contiguous acres.

(2) The standard shall be one (1) animal unit per acre of fenced pasture, according to "animal unit factor" calculation methods prescribed by the Virginia Department of Agriculture.

(3) Adequate fencing to contain domesticated farm animals shall be provided and maintained to insure safe confinement on the owner's property.

(4) Covered shelter from winds and other weather shall be available.

(5) Stallions and bulls shall only be allowed in the AFOS District and shall be confined within a fenced area of not less than five (5) feet in height.

(b) *Allowed with a permit.* A permit may be issued to allow domestic farm animals on residentially zoned property which contains less than three (3) acres, subject to the following standards:

(1) All animals and confinement area shall be maintained in a healthy and sanitary condition.

(2) The applicant shall provide a written management plan. The plan shall include a diagram of the confinement area drawn to scale on a parcel site plan.
(3) The confinement area is required to meet twice the required side and rear yard requirements of this Ordinance.
(4) The total number of animal units allowed under this Section shall be determined according to the size of the available confinement area, but in all cases the number shall not exceed:
   a. ¼ acre – 4 chickens
   b. ½ acre – 6 chickens
   c. 1 acre – 10 chickens
   d. 2 acres – 20 chickens
(5) Other animals other than chickens shall be no more than 0.25 of 1 animal unit per acre.
(6) Animals shall be confined in an appropriate structure and/or fenced area.
(7) The animal confinement area shall not be located between a principal structure and any street, except for a platted alley.
(8) The confinement area shall not consist of any type of vehicle or equipment, whether or not operative.
(9) The animal owner shall prevent animal noise from occurring on the property which is audible on adjacent or nearby property.
(10) Animal odors shall not be detectible on adjacent or nearby properties.
(11) The animal owner shall prevent conditions which constitute a public nuisance.
(12) No roosters shall be allowed.

Section 7-2-5. Agriculture, intensive.

(a) Any agriculture, intensive use shall meet the following minimum requirements:
   (1) Located a minimum of 200 feet from any primary highway and 100 feet from any secondary highway or other right-of-way for passage;
   (2) Located a minimum of 400 feet from any residential district and from any existing residence not located on the same parcel;
   (3) Setback 100 feet from any adjacent landowner property line;
   (4) Located a minimum of 600 feet from any religious assemblies, educational facilities, and other public-owned facilities;
   (5) Located a minimum of 100 feet from any river, creek, spring, reservoir, or any public or private water supply system, including but not limited to wells or cisterns, or greater distance as required by State or Federal requirements.
   (6) Agriculture, intensive uses shall submit an approved Nutrient Management Plan and any Federal and State permits as proof of Federal and State compliance prior to the issuance of any building permits for the use.

Section 7-2-6. Agritourism.

(a) Applicability. This Section applies only to the events and activities and does not apply to the agricultural operation itself.
(b) Agritourism shall comply with the following general standards:
   (1) Any agriculture operation event may be held only if the agricultural operation to which it is subordinate has a minimum of five acres of land in active to agricultural production on-site,

or on any abutting lot under the same ownership, and at least one growing season each calendar year.

(2) The event or activity shall generate no more than 200 visitor vehicle trips per day and each event or activity shall have 150 or fewer attendees at any single time.

(3) There shall be no outdoor use of amplified music between 11:00 p.m. and 7:00 a.m.

(4) Sanitary facilities. Sanitary facilities used in conjunction with an agritourism event must be provided in accordance with Virginia Department of Health standards set forth in the Virginia Administrative Code 12VAC5-610-980.

(5) Food items. All food items available for sale must be prepared in accordance with applicable federal, state, and local regulations.

Section 7-2-7. Automobile repair service.

(a) No portion of the use, excluding required screening and landscape buffers, shall be located within 100 feet of a residential district or structure containing a dwelling unit.

(b) All repairs and maintenance of vehicles, including parts installation, shall be performed within a completely enclosed building.

(c) No exterior display of new or used automobile parts shall be permitted.

(d) Outdoor storage of new or used parts, including temporary on-site storage of vehicles awaiting, repair, service, or removal, as an accessory use, where permitted, shall be subject to the use requirements of this Article.

Section 7-2-8. Automobile sale, rental/leasing.

(a) No vehicle or equipment displays shall be located within a required yard, fire lane, travelway, sidewalk, or landscaped area.

(b) All vehicles for sale shall be parked in a striped parking space or a vehicle display pad.

(c) The vehicle display pad may be elevated not more than two feet above grade level.

(d) No vehicle or other similar items shall be displayed on the top of a building.

(e) Outdoor displays shall be limited to the vehicles being sold, rented, or leased on the property. No other display of any other goods or merchandise shall be permitted.

(f) All accessory vehicle maintenance or service shall be conducted within a completely enclosed building and subject to the use requirements in Section 7-2-7., Automobile repair service.

(g) All vehicles must be operational.

(h) Outdoor storage, including temporary on-site storage of vehicles awaiting, repair, service, or removal, as an accessory use, where permitted, shall be subject to the use requirements of this Article.

Section 7-2-9. Bed and breakfast.

(a) A bed and breakfast is allowed as a special use only as accessory to a single-family detached dwelling and must be occupied by the owner/operator during operation.

(b) The operator shall hold a valid business license from the Town and, where applicable, a permit from the Department of Health.

(c) Every room occupied for sleeping purposes shall comply with Uniform Statewide Building Code.

(d) Signage must comply with the signage regulations of this Ordinance.

(e) Guest rooms shall not have cooking facilities.

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(f) The maximum stay for a guest shall be 30 consecutive days.
(g) Bed-and-breakfast establishments are permitted to provide transient accommodations. Food services in connection with the use shall be limited to meals provided to guests taking lodging at the facility. Restaurant service open to the general public is a separate use, permitted according to the district regulations. Additional activities, including receptions, parties, and other events, are not permitted unless specifically authorized by the special use permit.

Section 7-2-10. Campground, public or private.

(a) The minimum required area for the use shall be three acres.
(b) No more than one permanent residence shall be allowed in a campground, which shall only be occupied by the owner or manager.
(c) The camping area shall comply with all sanitary and other requirements prescribed by law or regulations.
(d) All bulk solid waste receptacles shall be maintained in a clean condition. Such receptacles shall be enclosed on all four sides to shield it from public view or from unauthorized access. The owner of the premises benefitted by a bulk solid waste receptacle shall maintain the screening in workable and effective condition.
(e) Main campground roads shall be paved or treated to prevent dust.
(f) Each camping site shall also have one parking space, with minimum dimensions of 10 feet by 20 feet.
(g) Each site shall be marked to be readily identifiable and easily readable from the park or camp road.
(h) Patrons in campgrounds may stay no longer than 14 nights in any 30-day period or 45 nights in any one calendar year.
(i) Retail sales for the convenience of campground tenants are permitted. Items are limited to food, concessions, recreational supplies, personal care items, and other items clearly supportive of campground tenants' needs.
(j) The sale and/or storage of recreational vehicles that are not occupied nightly is strictly prohibited.
(k) The overall design shall evidence a reasonable effort to preserve the natural amenities of the site.
(l) Accessory structures or recreation facilities, washrooms, swimming pools, game courts, and the like shall not be located closer than 100 feet to any campground boundary or closer than 200 feet to any lot in a residential district.

Section 7-2-11. Car wash.

(a) Standards for all car washes.
    (1) Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
    (2) Any use that has a car wash shall treat the car wash as a primary use for the purposes of yards, buffers, and landscaping.
    (3) No sales, repair, or outside storage of motor vehicles shall be conducted on the site.
    (4) An oil/sand interceptor, or comparable wastewater system, with a minimum capacity of 120 cubic feet shall be provided within the building for the protection of the sewers.
    (5) Any light used to illuminate the area shall be in accordance with the regulations set forth in Article VIII – Community Design Standards.

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(6) The site shall be screened in conformance with the regulations set forth in Article VIII – Community Design Standards.

(b) Automatic car washes. The following standards shall be followed in development of site plans for automatic car washes or buildings using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical device:
(1) Gasoline pumps may be permitted on the site, provided, however, that the area occupied by such pumps shall be in addition to the area required under subsection (a) above.
(2) Buildings, structures, and vacuuming facilities shall be a minimum of 100 feet from any residential district or use.

(c) Self-service car washes. The following standards shall be followed in development of site plans for coin-operated self-service car washes not necessarily requiring an attendant:
(1) Vacuuming facilities shall be located in the drying space behind the washing stalls in such a manner as to make them as remote as possible from any nearby residential area.
(2) Wash stalls or vacuuming facilities shall be a minimum of 100 feet from any residential district or use.
(3) The interior of the wash stalls shall remain illuminated during hours of operation; however, the operation of other lighting shall be limited to the hours between 6:00 a.m. and 11:00 p.m., with an automatic timer switch to accomplish such illumination.

Section 7-2-12. Construction material sales.

Outdoor storage as an accessory use shall be subject to the use requirements of this Article.

Section 7-2-13. Cottage Housing Development[1]

(a) The general purpose of the cottage housing development standards are as follows:
(1) A cottage housing development is an alternative type of detached housing providing small residences, for households.
(2) The cottage housing development design standards contained in this article are intended to create a small community of cottages oriented around open space that is pedestrian-oriented and minimizes the visibility of off-street parking.
(3) Cottage housing may allow higher residential density than is normally allowed in the underlying zoning district. This increased density is possible through the use of smaller than average dwelling unit sizes, clustered parking, and site design standards.
(4) All cottage housing developments are subject to all current building/site standards and regulations including, but not limited to, applicable stormwater standards.

(b) Application process and design review. The application and review process are pursuant to Article III, Permits and Applications.

(c) Development Regulations.
(1) For any area rezoning to one of the zoning districts set forth in table 7.2.12, no application for a Cottage housing development shall be permitted for a period of three (3) years from the date of rezoning.

[1] Editor's Note: New use and standards added October 2022 per PC worksessions.

(2) In order to maintain the sense of community that is inherent with Cottage Housing Developments, clustering of the cottages is encouraged in developments exceeding 12-units if the topography and site-specific considerations permit.
(3) The lot coverage area for cottage housing developments shall not exceed underlying lot coverage standards for the respective zoning district to maintain the residential neighborhood character and the balance of built structures to open spaces.
(4) Cottage housing developments shall adhere to the requirements of table 7.2.13 below

Table 7.2.13 Cottage Housing Development Requirements

Zoning District	Maximum Density	Minimum Number/Density of Cottages per Development	Maximum Number/Density of Cottages per Development	Minimum Lot Size
Limited Business (B-1) and General Business (B-2)	1 cottage per 4,000 sq. ft.	4	8 cottages per acre	2 acres
High Density Residential (R-3), Mixed Residential (R-4), and Mixed High Density Residential (R-5)	1 cottage per 4,000 sq. ft.	4	8 cottages per acre	2 acres

Notes for Table 7.2.12 Cottage Housing Development Requirements
[1] The densities set forth may be increased in accordance with the Open Space and Low-Income incentives set forth in Article V, Division V, Planned Unit Development.

(d) Existing nonconforming structures.
(1) On a lot to be used for a cottage housing development, an existing detached single-family dwelling, which may be nonconforming with respect to the standards of this article, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cottage density.
(2) All residential units in a cottage housing development count towards the maximum permitted density.
(e) Maximum building height is 25 feet.
(f) Variations in building design. Cottage housing development structures shall provide variety and visual interest by using a combination of building elements, features and treatments in cottages as well as garages.
(1) Structures must include building articulation, change in materials or textures, windows, or other architectural features. A minimum of at least one side articulation or roof break shall occur for street-facing façades or common open spaces or walkways to the common open spaces. No blank walls are allowed.
(2) Designs shall demonstrate a coherent cottage housing design based upon traditional design principles including weather protection.
(3) Exterior wall material may consist of wood, cement fiber board, stucco, brick and stone. Simulated stone, wood, stone or brick may be used to detail homes. Trim may be wood, cement fiberboard, stucco, brick, or stone materials.
(4) Departures from these standards shall be reviewed through an alternative design review process, defined as a process that conform to the intent of the provisions of the code, but

not necessarily the "letter" of the code, and provides an equivalent level of quality, strength, effectiveness, fire resistance, durability, and safety.

(g) Covered main entry porches. All residences in cottage housing developments shall be provided with a covered main entry porch to create a private outdoor space protected from the weather and provide a transition from the interior private residential space to the semi-private outdoor space.
  (1) Covered porches shall be usable both in design and dimension.
  (2) The floor of the covered main entry porch shall have minimum dimensions of not less than five feet in any direction (length or width) and measuring at least 60 square feet in area.

(h) Floor area. Structures in cottage housing developments shall be designed to be single story or single story plus a loft.
  (1) The maximum ground floor gross area for an individual principal structure in a cottage housing development shall not exceed 1,000 square feet.
  (2) The maximum total square footage for an individual principal structure in a cottage housing development shall not exceed 1,500 square feet.
  (3) The minimum total square footage for an individual principal structure in a cottage housing development shall not be less than 800 square feet.
  (4) Expansions of square footage above what is provided above shall not be allowed and the Covenants, Conditions, and Restrictions of the Development shall state such.

(i) Setbacks. Exterior lot line building setbacks in cottage housing developments shall be the same as the underlying zoning district unless a variance is approved by the Planning Commission as part of the SUP.

(j) Building separation. Structures within cottage housing developments shall observe minimum setbacks from other cottage housing development structures to avoid overcrowding the site and to maintain a sense of privacy within the cottages themselves.
  (1) All buildings within a cottage housing development shall maintain a minimum separation of 12 feet from cottages within a cottage housing development measured from the nearest point of the exterior walls.
  (2) Accessory buildings shall comply with building code requirements for separation from non-cottage structures.

(k) Common Open Space. For the purposes of cottage housing, "common open space" shall be the central space that may be used by all occupants of the cottage housing development. Open space that is commonly owned by all members of a cottage housing development is an important feature of any site design. It is intended that the open space be adequately sized and centrally located with individual cottage entrances oriented towards the open space.
  (1) A minimum of 400 square feet per cottage unit of common open space is required. Parking areas, yard setbacks, spaces between buildings of 12 feet or less in width, private open space, and driveways do not qualify as common open space.
  (2) At least 50 percent of the cottage units shall abut a common open space.
  (3) The Common Open Space shall be overlaid with an easement protecting said area in perpetuity from further development and shall not include slopes greater than 15%, streets, or parking areas.

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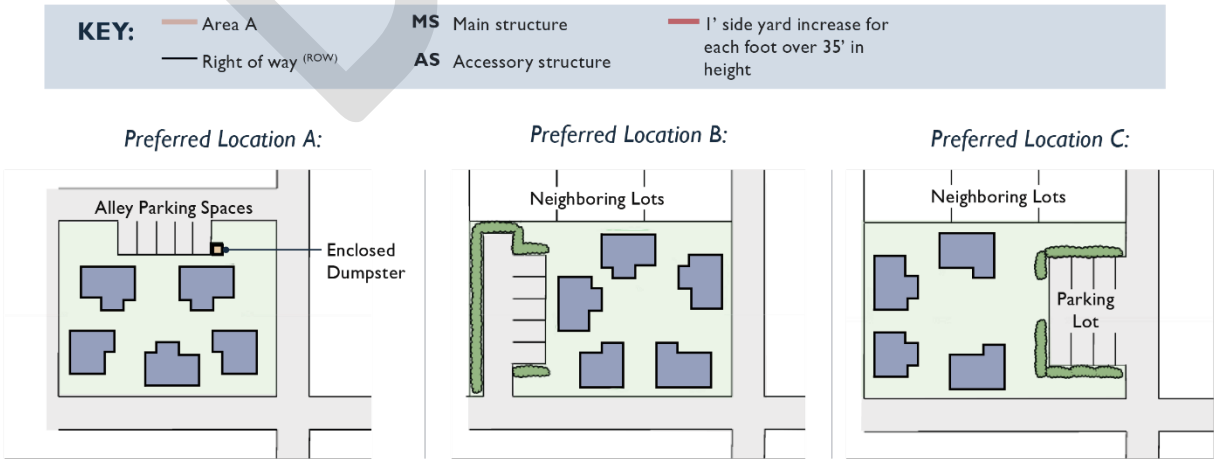
(l) Private Open Space. Each residential unit in a cottage housing development shall be provided an area of private open space. The private open space shall separate the main entrance to the cottage from the common open space to create a sense of privacy to create a small but pleasant private yard area. The private open space may be separated from the common open space with a small hedge, picket fence, or other similar visual separation to create a sense of separate ownership.
  (1) Each cottage unit shall be provided with a minimum of 200 square feet of usable private open space separated from the common open space by a hedge or fence not to exceed 36 inches in height.
  (2) No dimension of the private open space shall be less than 8 feet.

(m) Off-street parking. Off-street parking shall be located and designed to be less visible from frontage streets than the cottages themselves. Off-street parking shall be designed to maintain a pedestrian character for the overall cottage housing development. Clustering parking to the side or rear of a cottage project will most often best accomplish these goals. However, on a site-specific basis, design solutions other than clustering may be found to meet this objective through the alternative design process. Parking areas shall be attractively landscaped to screen parking from adjacent properties and public rights-of-way and shall meet applicable parking lot landscape standards.
  (1) Off-Street Parking Location. Parking shall be located on the cottage housing development property. Off-street parking lots shall be located to the side or rear of the cottage housing development (see illustrations below). Parking lots shall not be located between the cottage housing development and the primary street frontage.
  (2) Off-Street Parking Screening. Off-street parking may be located in or under a non-cottage parking structure (such as a single or multi-auto carport or garage), but such structures shall not be attached to individual cottages. Uncovered parking is also permitted; provided that off-street parking shall be screened from direct street view from one or more street façades by garage doors, or by a fence and landscaping.
  (3) Preferred Locations. Preferred locations for parking, in descending order of preference, are as follows:
    a. To the rear of cottage housing units accessed by an alley.
    b. To the side of cottage housing units accessed by a private driveway.
    c. Parking on the side (non-primary street) screened from the side street by either garage doors, landscaping, and/or fencing.

Figure 7.2 Cottage Housing Parking Examples



d. Minimum parking standards will be two (2) spaces per house.
e. The use of paver stones, pervious pavement, grasscrete, or other types of low impact stormwater development techniques are encouraged for walkways and parking areas.

(n) Exterior lighting and heating/cooling equipment. Cottage housing developments should be designed to minimize light and noise impacts both within the development and to adjacent properties.
(1) Where provided, exterior lighting shall be mounted as low as possible, pointed downward, and the light source shall be shielded from direct observation from above, adjacent properties, and public rights-of-way. Lighting "spillover" to adjacent properties shall be avoided.
(2) Heating and cooling equipment for cottage housing developments shall be designed and appropriately screened to cause little or no visual and/or noise impacts within the development and to adjacent properties.

(o) Street facing facades. The street-facing facades of cottages in a cottage housing development will contribute to the neighborhood by including attractive design details such as windows, changes in materials, and views of front doors or porches. The main entries of some cottages will be visible from the adjacent streets to provide a visual pedestrian connection with the surrounding neighborhood.
(1) All cottages shall have street facing facades that avoid blank walls or appear to "turn their backs to the street. All cottages shall include one or more of the following on street facing facades:
a. Changes in exterior siding material and paint color;
b. Windows which may include bay windows; and/or
c. Building modulation with a depth measuring at least one foot.
(2) At least one cottage shall have its front main entry door and/or front porches visible from each street frontage.

(p) Ownership and residual use of cottages. All cottage housing developments shall be developed as residential condominiums, pursuant to the provisions found in Code of Virginia, Title 55, Ch. 4.2 et seq., known commonly as the "Condominium Act." Appropriate documentation of formal legal ownership of the development shall be recorded with the Commonwealth of Virginia, the Washington County Circuit Court Clerk, and the Tax Assessor's Office.

Section 7-2-14. Drive through facility.

(a) Access to public streets or other public ways shall be provided from at least two points at all times. Such means of access shall be kept clear at all times. The Administrator may modify the number of required accesses.
(b) The sale of goods or services from a window or other exterior opening in a facility shall not be permitted unless such window or opening is at least 20 feet from any property line.
(c) The parking area of any drive through facility shall be adequately illuminated. Such illumination shall be in conformance with the regulations set forth in Article VIII – Community Design Standards.
(d) Stacking spaces shall not interfere with the travel way traffic or designated parking spaces.
(e) A minimum of six stacking spaces shall be located behind the order speaker and four stacking spaces shall be located between the order speaker and the pickup window.

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Section 7-2-15. Dwelling, manufactured.

(a) The manufactured home shall comply with the Virginia Manufactured Housing Construction and Safety Standards Law.
(b) The manufactured home dwelling shall be placed on a permanent foundation and shall comply with the requirements of the Virginia Uniform Statewide Building code, including skirting requirements.
(c) Two or more manufactured home dwellings shall not be joined or connected together as one dwelling, nor shall any accessory building be attached to a manufactured home dwelling. This does not prohibit manufactured home dwellings designed and manufactured as multi-section homes.

Section 7-2-16. Dwelling, multifamily.

(a) Spacing between buildings. Groups of multifamily dwellings located on the same property shall be considered as one building for the purpose of determining front, side, and rear yard requirements. The entire group as a unit shall require one front yard, two side yards, and one rear yard as specified in the appropriate district. However, structures shall be located according to the following standards to maximize efficient use of land and still provide adequate open space between them:
    (1) Multifamily buildings must be set apart by a minimum distance 25 feet. Except if the walls facing one another do not have windows, then the minimum distance is 15 feet.
    (2) The above requirement need not exceed 25 feet when one of the buildings is only one story tall.
(b) Pedestrian access. Pedestrian access shall be provided with a dustless surface to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities and to adjoining properties and along public roadways.
(c) Roads and private pavement. All roads and private pavement shall have concrete curb and gutter.
(d) Screening of mechanical equipment and refuse collection. Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be integrated into the architectural treatment of the building or screened from view in accordance with Article VIII – Community Design Standards.

Section 7-2-17. Dwelling, townhouse.

(a) Placement. No more than eight adjoined townhouse units may be constructed in a single row.
(b) Architectural treatment of townhouses. The facades of each unit of a townhouse structure shall be varied by changing front yard depth and utilizing variations in materials or design, so that no more than four abutting townhouse units have the same front yard depth or the same or essentially the same architectural treatment of facades and roof lines. These requirements shall not apply in the old and historic district.
(c) Vehicular access. Each townhouse unit shall have unencumbered access from a dedicated public street. A shared driveway or existing private street may be allowed serving all townhouses in a development from one entrance provided that the use and maintenance of such shared driveway or existing private street by all owners is required and that the use and maintenance of such shared driveway or existing private street is protected by deed covenants or restrictions.
(d) Pedestrian access. Pedestrian access shall be provided with a dustless surface to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities and to adjoining properties and along public roadways.

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(e) Roads and private pavement. All roads and private pavement shall have concrete curb and gutter.
(f) Landscaping and buffer. Landscaping shall be installed as required in Article VIII – Community Design Standards.
(g) Screening of mechanical equipment and refuse collection. Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be integrated into the architectural treatment of the building or screened from view in accordance with Article VIII – Community Design Standards.
(h) Open space and amenities. In any townhouse project resulting in the creation of any open space and amenities thereon, broadly defined, the maintenance and upkeep of such areas and elements shall be provided for by an arrangement acceptable to the Town and in compliance with this article or applicable state statutes.
    (1) In any townhouse project consisting of open space and amenities related to the project in such manner that the Condominium Act, Code of Virginia §§ 55.1-1900 through 55.1-1907 is applicable, the project shall conform to the requirements of that act.
    (2) In any townhouse project consisting of open space and amenities related to the project in such manner that the Condominium Act, Code of Virginia §§ 55.1-1900 through 55.1-1907 is not applicable, the developer shall meet the following requirements:
        a. Establish a nonprofit entity according to the provisions of the Virginia Nonstock Corporation Act, Code of Virginia, §§ 13.1-801 through 13.1-946, as amended, whose membership shall be all the individuals or corporations owning residential property within the townhouse project and whose purpose shall be to hold title in fee simple to, and be responsible for maintenance and upkeep of such open space; and
        b. Hold title to and be responsible for such open space until such time as conveyance to such a nonprofit entity occurs. Such conveyance shall occur when at least 75% of the townhouse units have been sold; and
        c. Provide proper agreements and covenants running with the land and in favor of the citizens of Abingdon, requiring membership in such a nonprofit entity. Such agreements and covenants shall include, among other things, that any assessments, charges and cost of maintenance of the open space shall constitute a pro rata lien upon the individual townhouse lots, inferior in lien and dignity only to taxes and bona fide duly recorded first and second mortgages or deeds of trust on the townhouse lot. Covenants shall also prohibit the denuding, disturbing or defacing of said open space without prior approval of the Town Council after recommendation of the planning commission.
    (3) All open space shown on the approved site plan is binding as to location and use proposed.

Section 7-2-18. Equipment sales/rental and supplies, heavy.

(a) No equipment displays shall be located within a required yard.
(b) No elevated equipment display shall be permitted.
(c) No display shall be on top of a building or structure.
(d) Outdoor displays shall be limited to the equipment being sold, rented, or leased on the property. No other display of any other goods or merchandise shall be permitted.
(e) All accessory maintenance or service shall be conducted within a completely enclosed building and subject to the use requirements of this Article.
(f) All equipment must be operational.

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(g) Outdoor storage as an accessory use, where permitted, shall not exceed 30% of the total site area and shall be subject to the use requirements of this Article.

Section 7-2-19. Family health care structure, temporary.

(a) Such structures shall comply with all yard requirements that apply to the primary structure.
(b) Only one family health care structure shall be allowed on a lot or parcel of land.
(c) The structure shall be no more than 300 gross square feet and shall comply with all applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.).
(d) Prior to installing a temporary family health care structure, a permit must be obtained from the Town and associated fees paid.
(e) Any family health care structure shall comply with all applicable requirements of the Virginia Department of Health.
(f) No signage shall be permitted on the exterior of the structure or anywhere on the property.
(g) Any temporary family health care structure shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired family member receiving services or assistance.
(h) The Town may revoke the permit if the permit holder violates any provision of this Section.

Section 7-2-20. Gasoline station.

(a) Applicants shall demonstrate sufficient traffic circulation, parking, and will contain a similar design and massing to neighborhood structures.
(b) Entrances to the site shall be minimized and located in a manner promoting safe and efficient traffic circulation while minimizing the impact on the surrounding neighborhood.
(c) In cases where there is no existing curb, gutter or sidewalk along the street or streets from which the gasoline station shall take access, the developer shall at his own expense construct the necessary curb, gutter and sidewalk according to the specifications of the Town.
(d) Any canopy over the fuel pumps shall have the same roof shape and exterior materials as the primary structure.
(e) Buildings shall be set back at least 40 feet from the street right-of-way line and at least ten feet from any other property line.
(f) The site shall be screened in accordance with the regulations set forth in Article VIII – Community Design Standards.
(g) No delivery tanker shall be allowed to park on public right-of-way during gasoline delivery, nor shall any hose be permitted on the public right-of-way.
(h) In cases where a hillside must be graded for construction, suitable protection for the hillside must be provided for slopes in accordance with the Town's erosion and sediment control standards.
(i) Lighting shall be provided in accordance with the regulations as set forth in Article VIII – Community Design Standards.

Section 7-2-21. Home occupation.

(a) The standards for Home Occupations included in this Section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. Unless the Home Occupation requires a SUP, all property owners wishing to carry on a Home Occupation

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shall obtain written permission from the Town of Abingdon Community Development Department.

(1) Conducting a Home Occupation without approval of the Town of Abingdon Community Development Department shall be considered a violation of this Regulation and be subject to the enforcement procedures contained herein.

(2) Under no circumstances shall a medical or recreational production or sale of cannabis or CBD products be considered a home occupation. However, this does not apply to home cultivation of marijuana for personal use pursuant to Virginia Code § 4.1-1101.

(3) The following steps shall be followed to obtain Home Occupation, category A or category B approval:

a. The property owner shall request in writing a review of the proposed Home Occupation with an explanation of the Home Occupation addressing all of the standards listed below and submit this request to the zoning enforcement agent or their designee.

b. The Home Occupation application shall be used.

c. The Planning Department shall approve the written request if the proposed Home Occupation complies with the standards for Home Occupations below.

(b) Home Occupation, Category A:

(1) No more than 100 square feet or 10%, whichever is greater, of the dwelling unit shall be used in connection with the occupation.

(2) There shall be no change in the exterior of the structure to indicate the home occupation use.

(3) No advertising of any type shall use the street address.

(4) No employees, except family members residing in the dwelling unit, shall be permitted at the dwelling unit for business purposes.

(5) No signs shall be allowed.

(6) Materials and supplies associated with the home occupation shall be limited to just-in-time delivery and storage practices. No bulk storage on-site is permitted.

(7) Exterior storage of business-related equipment, trailers, materials, or merchandise is prohibited.

(8) No more than two motor vehicles used for each home occupation shall be parked within a residential district.

(9) The type of traffic generated by a home occupation shall be consistent with the type of traffic of other dwellings in the area.

(10) No customers may visit the property.

(11) The home occupation shall not increase the demand on public water, public sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses.

(c) Home occupation, category B.

(1) If the standards below cannot be met, the applicant may apply for Home occupation, category C which requires a Special Use Permit as outlined in Article III of this Ordinance:

a. No more than 500 square feet or 30%, whichever is greater, of the dwelling shall be used in connection with the operation of the home occupation.

DRAFT

b. There shall be no change in the exterior of the structure to indicate the home occupation use.
c. Only one employee, other than family members residing in the dwelling unit, shall be permitted at the dwelling unit for business purposes.
d. One sign not greater than four (4) square feet shall be permitted in conjunction with operation of the use.
e. Materials and supplies associated with the home occupation shall be limited to just-in-time delivery and storage practices. No bulk storage on-site is permitted.
f. Exterior storage of business-related equipment, trailers, materials, or merchandise is prohibited.
g. The type of traffic generated by a home occupation shall be consistent with the type of traffic of other dwellings in the area.
h. No more than two customers may be on the property at any one time.
i. The home occupation shall not increase the demand on public water, public sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses.

(d) Home Occupation, category C.
(1) When the standards of category A and category B cannot be met, or the home occupation includes any of the following:
a. Utilizes more than 500 square feet or more than 30% of the dwelling, whichever is greater.
b. Utilizes exterior structures or open space for the occupation.
c. Employees more than one employee, other than family members residing in the dwelling unit.
d. Utilizes bulk storage.
e. May have multiple customers on the property at a single point of time, such as, but not limited to, classes and events.
f. Traffic generated matches that of businesses versus residential dwellings.
g. Light, noise, and smells associated with business activity are more than those associated with day-to-day activities at a residence (examples include but are not limited to: coffee roasting, painting, art, and other forms of retail).

Section 7-2-22. Kennel, commercial.

(a) No portion of the use, excluding required screening and landscape buffers, shall be located within:
(1) 100 feet from the property lines of adjoining agricultural zoned property;
(2) 200 feet from the property lines of adjoining residential zoned property; and,
(3) 200 feet from any dwelling not on the associated parcel.
(b) All exterior runs, play areas, or arenas shall be designed with a minimum six-foot high opaque screen from adjacent lot lines and street rights-of-way.
(c) Kennels must be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.

Section 7-2-23. Manufactured home park.

(a) Minimum size. A manufactured home park shall consist of three or more contiguous acres.

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(b) Minimum space area. Each manufactured home space shall consist of 4,500 square feet or more and shall have a width of 45 feet or more, which shall front on a public or private street.
(c) Minimum yards. Manufactured homes and other structures shall be located 25 feet or more from any public street right-of-way that is 50 feet or greater in width or 50 feet or more from the centerline of any street right-of-way less than 50 feet in width. Manufactured homes and other structures above surface shall be set back at least 10 feet from the right-of-way of internal private streets.
(d) Yard regulations. Manufactured home spaces shall have a minimum side and rear yards of 10 feet. No structures above surface shall be a located within the minimum yard area.
(e) Manufactured home placement. Manufactured homes shall be placed in designated pad sites and shall not obstruct any road, private pavement, sidewalk, or public utility easement.
(f) Utilities. All manufactured home parks shall be provided with central water system and sewer system, approved by the Virginia Health Department, and all manufactured homes within a manufactured home park shall be required to hook up to such systems. Each manufactured home space shall be provided with electrical service installed in accordance with the National Electrical Code.
(g) Public areas. A minimum of 500 square feet per manufactured home space of recreational area shall be provided in common area on the site. Fifty (50) % of the required area shall be outside of floodplains and have a slope of not more than 10%. Sufficient recreation facilities such as playground equipment, playfields and courts, picnic tables, and benches, as deemed appropriate at time of plan review, shall be installed within the required recreation area. Recreational facilities shall be designed, constructed and maintained to be safe for users. All required safety fall zones and surfacing standards shall be met. The size and shape of each recreation area shall be adequate for the intended use.
(h) Service areas and accessory uses. Centrally located service buildings may provide common laundry facilities, office space for management and accessory uses customarily incidental to the operation and maintenance of a manufactured home park.
(i) Access. Manufactured home parks shall have access to a paved public street. The design and construction of the interior street system shall be sufficient to adequately serve the size and density of the development. All interior streets shall conform and be constructed to the specification of the Town of Abingdon Streets Standard.
(j) Floodplain. No manufactured home site shall extend into a floodplain.
(k) Refuse Storage. An acceptable garbage and refuse collection program and temporary storage system shall be provided, with such program and physical system subject to final plan approval.

Section 7-2-24. Mixed use structure.

(a) Dwelling units shall be allowed by-right on the second floor or any higher floor.
(b) Dwelling units occupying the first floor of any structure shall only be allowed under the following circumstances:
  (1) If the building fronts on a public street, the residential portion on the first floor shall be shielded by office or retail space or a lobby that maintains a commercial appearance.
  (2) At least 50% of the first floor area shall be dedicated to non-residential use.

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Section 7-2-25. Mobile vending.

(a) Mobile vendors must obtain a Town Mobile Vending permit and a business license from the Town of Abingdon.
(b) Mobile restaurants must maintain a valid health permit issued by the Virginia Department of Health.
(c) No music shall be played that is audible outside of the vehicle unless a Noise Permit has been applied and approved from the Town of Abingdon.
(d) Mobile vending vehicles shall not block:
    (1) The main entry drive isles or impact pedestrian or vehicular circulation overall,
    (2) Other access to loading areas, or
    (3) Emergency access and fire lanes, and
    (4) Must be positioned at least 15 feet away from fire hydrants, any fire department connection (FDC), driveway entrances, alleys, and handicapped parking spaces.
(e) A mobile vendor may operate between 6 a.m. and 9 p.m. Sunday to Thursday and between 6 a.m. to 11 p.m. Friday and Saturday (including set-up and break-down) on any one day at any single location, except during national holidays and Town events during which a mobile vendor may operate between 6 a.m. and 12 a.m. midnight. The vehicle and all accessory structures shall be removed each day.
(f) No signs may be displayed except:
    (1) Those permanently affixed to the vehicle.
    (2) One A-framed sign not to exceed four feet in height and six square feet of display for each of the two sides; the sign cannot block any passageways.
(g) Trash receptacles shall be provided, and all trash, refuse, or recyclables generated by the use shall be removed from the site by the operator at the end of the business day.
(h) No liquid wastes shall be discharged from a mobile restaurant.
(i) No mobile vendor shall locate within 100 feet of the entrance to a business that sells similar product (determined by measuring from the edge of the Mobile Vendor to the main public entrance of the brick-and-mortar establishment) unless permission by the owner of the brick-and-mortar establishment is provided.
(j) No mobile vendor shall locate within 100 feet of a single family or two-family residential use.
(k) The operation of the mobile vendor or use of a generator should be no louder than 50 dBA at 100 feet away. Excessive complaints about vehicle or generator noise will be grounds for the Administrator to require that the Mobile Vendor change location on the site or move to another property.
(l) Mobile vending shall occur within a movable licensed vehicle. Mobile vending cannot occur in a non-motorized structure (detached flat bed, truck beds, tractor trailers, semi-truck trailers or other structures).

Section 7-2-26. Outdoor sales, seasonal.

(a) Each stand for the retail sale of holiday goods, including fireworks, shall obtain a zoning permit by the Administrator prior to setup and sales.
(b) Each stand shall be permitted for a period not to exceed 60 consecutive days.
(c) No more than four permits shall be issued for the same lot during a calendar year.

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(d) No permit shall be issued to an applicant unless and until at least 30 consecutive days after a permit issued to that applicant for the same or an adjacent lot or parcel has expired.
(e) The outdoor sales stand or display shall setback at least 15 feet from any public right-of-way and outside any required landscape buffer.
(f) Parking shall be supplied on the site of the primary use and not along the public right-of-way.

Section 7-2-27. Outdoor storage.

(a) Outdoor storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than six feet nor more than ten feet in height. All fences and walls shall have a uniform and durable character and shall be properly maintained.
(b) When fences and walls are adjacent to business or residential districts, a landscaped buffer must be provided to break visibility of the fence in accordance with the landscape Section of this Ordinance.
(c) Outdoor storage shall be located on the side or rear of the main structure and screened from view from any adjacent roadway.
(d) No wall or fence screening a storage area shall encroach into a sight distance triangle.
(e) Parts, materials, and equipment stored in a storage area shall not be stacked higher than the screening wall or fence.
(f) No outdoor storage shall be located within 50 feet of a residential district.

Section 7-2-28. Parking lot, commercial.

(a) No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.
(b) Parking shall be the principal use of all parking facilities. Spaces may be rented for parking, but no other business of any kind shall be conducted in the structure or lot except Town sanctioned Outdoor markets or permitted mobile vending.
(c) A rail, fence, wall, or other continuous barricade of no less than three (3) feet tall to retain all cars completely within the property shall be provided except at exit or access driveways; provided, however, that screening shall be provided on each side of a parking area which abuts upon any residential district or use or faces across a street, alley or place from any lot in a residential district or use. Screening shall be in conformance with the regulations set forth in Article VIII – Community Design Standards.

Section 7-2-29. Public park and recreation area.

(a) Any outdoor activity area, swimming pool, ball field, or court that adjoins a residential lot line shall include screening and buffering in accordance with Article VIII – Community Design Standards.
(b) Where nighttime lighting is proposed, it shall be set to automatically extinguish during park closure. If games/events are extended beyond normal park hours, lighting shall extinguish 1 hour after last game/event of the day. In addition to the screening and buffering required in Article VIII, Large evergreen trees shall be required to appropriately screen and protect against light trespass of any adjoining residences.
(c) The active recreational area, including but not limited to swimming pools, ball fields, or courts, shall not be located closer than 50 feet to any property line.

DRAFT

Section 7-2-30. Sawmill, portable.

(a) No structure and no storage of lumber, logs, chips, or timber shall be located closer than 100 feet to any lot line.
(b) No saw, planer, chipper, conveyor, chute, or other like machinery shall be located closer than 200 feet to any dwelling not located on the same property.
(c) No sawing, planing, chipping, or other operation, or other processing machinery shall be conducted between 8:00 p.m. and 7:00 a.m. No loading or unloading or processing of wood products shall occur between 12:00 midnight and 7:00 a.m.
(d) All timbering and milling operations, including reforestation or restoration and disposal of timber stumps, sawdust, and other debris, shall be conducted in accordance with Title 10.1 of the Virginia Code and the regulation of the Virginia Department of Forestry.

Section 7-2-31. Shopping center.

(a) The following general standards shall apply to all shopping centers:
    (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
    (2) The scale, massing, and building design shall be compatible with surrounding developments. The structures shall be oriented with pedestrian entrances from the street.
    (3) No outdoor display of goods, except for plants or flowers, shall be permitted.
    (4) Individual businesses within a shopping center shall also be subject to the requirements of this Article.

Section 7-2-32. Short-term rental.

(a) The following definitions shall apply as used in this Section:
    (1) Booking transaction means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.
    (2) Guest or transient means a person who occupies a short-term rental unit.
    (3) Short-term rental means a residential dwelling unit that is used or advertised for rent for transient occupancy in increments of fewer than 30 consecutive days. This use type does not include bed-and-breakfast establishments and does not apply to month-to-month extensions following completion of a year's lease.
    (4) Primary resident (or host) means the owner of the short-term rental unit, or lessee of the short-term rental unit with a lease agreement that is one year or greater in length, who occupies the property as his or her principal place of residence and domicile. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.
    (5) Residential dwelling unit means a residence where one or more persons maintain a household.
(b) Registration and other requirements.
    (1) No host shall operate a short-term rental business without having registered with the Administrator as required by Virginia Code § 15.2-983, as amended.

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(2) The Administrator will report all registrations to the Town of Abingdon Finance Department for the collection of the transient lodging tax and the Business, Professional, and Occupational License (BPOL) tax as set forth in the Town Code.

(c) The registration form shall include the following information:
  (1) The name, telephone number, address, and email address of the host.
  (2) A reminder about the importance of having appropriate levels of insurance that covers the rental unit, the host, and the guests.

(d) The registration shall be valid January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year and shall be renewed annually.

(e) Signage shall be no more than four (4) square feet in area.

(f) Registration may be revoked if more than three substantiated complaints are received within a 12-month period.
  (1) A formal complaint must be filed with the Town of Abingdon Code Compliance Officer to be considered received. Code compliance procedures will be followed including written statement, site visit and follow up.
  (2) Upon verification that there have been three (3) substantiated concerns, a formal revocation hearing with the Planning Commission will be utilized to determine if a registration is to be revoked.
  (3) Before any suspension or cancellation can be effective, the Administrator shall give written notice to the short-term rental host.
  (4) The notice of suspension or cancellation issued under the provisions of this Ordinance shall contain:
    a. A description of the violation(s) constituting the basis of the suspension or cancellation; and
    b. If applicable, a statement of acts necessary to correct the violation.

(g) Any short-term rental business in violation of zoning regulations, including operation without registering, is subject to all relevant penalties as set forth by the Town.

(h) The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.

(i) The unit shall meet all applicable building codes.

(j) Use regulations.
  (1) No recreational vehicles, buses, or trailers shall be used in conjunction with the short-term rental use to increase the occupancy of the rental unit.
  (2) The host shall not permit occupancy of a short-term rental unit for a period of less than overnight.

(k) Registration suspension or cancellation.
  (1) A registration may be suspended or cancelled for the following reasons:
    a. Failure to collect and/or remit the transient occupancy tax or BPOL tax.
    b. Three or more substantiated complaints (including, but not limited to, noise and excess trash) within a 12-month period.

(l) Penalty. It shall be unlawful to operate a short-term rental:
  (1) Without obtaining a BPOL license and a registration as required by this Article;
  (2) After a registration has been suspended or cancelled; or,

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(3) In violation of any other requirement of this Article.

Section 7-2-33. Solar energy, medium-scale.[2]

(a) Intent.
  (1) The intent of this Section is to allow medium-scale solar energy facilities in a manner that promotes the development of renewable energy sources, while limiting and mitigating impacts on natural resources and existing agricultural, forestry, residential, commercial, industrial, historical, cultural, and recreational uses of property, or the future development of such uses of property within the Town.
  (2) The purpose of this Section is to outline the process and requirements for the construction, installation, operation, and decommissioning of medium-scale solar energy facilities that ensures the protection of health, safety, and welfare, while also avoiding adverse impacts on Town resources.
  (3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to solar energy facilities.

(b) Compliance.
  (1) All medium-scale solar energy facilities shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration ("FAA"), State Corporation Commission ("SCC") or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.
  (2) The design and installation of all medium-scale solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.

(c) Grid Tied System. No grid-tied system shall be installed until evidence has been given as part of the application that the owner has been approved by the utility company to install the system.

(d) Height Limits.
  (1) If the medium-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the facility's height shall not exceed 15 ft. at the tallest point.
  (2) If the medium-solar energy facility is roof-mounted or otherwise integrated into a principal or accessory building, the facility's height shall not exceed the maximum height limit of the district in which it is located.

(e) Setbacks. The solar energy facility shall comply with all setback requirements of the district in which it is located.
  (1) Regardless of whether a medium-scale solar facility is accessory to another use on the lot, all medium-scale solar facilities shall comply with the district's principal structure setbacks.

[2] Editor's Note: New use standards added October 2022, per staff request.

(f) Landscaping and Screening. Landscaping and screening shall be provided for ground mounted solar to block visibility of the panel(s) and ancillary equipment from adjacent properties. All landscaping and screening shall be in accordance with Article VIII, Community Design Standards, of this Ordinance.

(g) Design Standards.
  (1) The lowest surface of any panel shall be a maximum of 4 ft. above the finished grade on which the panel is located.
  (2) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.

(h) Liability Insurance. The owner shall provide proof of adequate liability insurance for a medium-solar facility prior to beginning construction and before the issuance of any permits.

(i) Decommission and Reclamation.
  (1) All applications for a medium-scale solar energy facility shall require a Decommission and Reclamation plan, as provided in 7-2-33 (j), below.
  (2) Medium-scale solar energy facilities which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the Town may require evidentiary support that a longer repair period is necessary.
  (3) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.
  (4) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either complete all decommissioning activities and remove the solar energy facility in accordance with the Decommission and Reclamation Plan or resume regular operation within 30 days.
  (5) If the owner of the solar facility fails to remove the installation in accordance with the requirements of the Decommission and Reclamation Plan, or within the proposed date of decommissioning, the Town may collect the surety and the Town or hired third party may enter the property to physically remove the installation.

(j) Decommission and Reclamation Plan.
  (1) All Decommissioning and Reclamation Plans shall be certified by an engineer or contractor with demonstrated expertise in solar facility removal, and shall include the following:
    a. The anticipated life of the project;
    b. An estimated deconstruction schedule;
    c. The estimated decommissioning cost in current dollars.
    d. The estimated cost of decommissioning shall be guaranteed by bond, letter of credit, or other security approved by the Town.
      1. The owner shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the medium-scale solar facility.
      2. The escrow account agreement shall prohibit the release of the bond without the written consent of the Town. The Town shall consent to the release of the bond upon on the owner's compliance with the approved Decommission and Reclamation

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Plan. The Town may approve the partial release of the bond as portions of the approved Decommission and Reclamation Plan are performed.

3. The dollar amount of the bond shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.
4. The owner or occupant shall recalculate the estimated cost of decommissioning every five years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or occupant shall deposit additional funds into the bond to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than ninety percent (90%) of the original estimated cost of decommissioning, then the Town may approve reducing the amount of the bond to the recalculated estimate of decommissioning cost.

(2) Decommission shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural uses.

(3) The site shall be graded and re-seeded or replanted within 12 months of removal of solar facilities to restore it to as natural a pre-development condition as possible.

a. Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request shall be approved by the Board of Supervisors.

(4) Hazardous material from the property shall be disposed of in accordance with federal and state law.

Section 7-2-34. Solar energy, small-scale.[3]

(a) Intent.

(1) The intent of this Section is to allow small-scale solar energy facilities in a manner that promotes the development of renewable energy sources, while limiting and mitigating impacts on natural resources and existing agricultural, forestry, residential, commercial, industrial, historical, cultural, and recreational uses of property, or the future development of such uses of property within the Town.

(2) The purpose of this Section is to outline the process and requirements for the construction, installation, operation, and decommissioning of small-scale solar energy facilities that ensures the protection of health, safety, and welfare, while also avoiding adverse impacts on Town resources.

(3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to solar energy facilities.

(b) Compliance.

(1) All small-scale solar energy facilities shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration ("FAA"), State

[3] Editor's Note: New use standards added October 2022, per staff request.

Corporation Commission ("SCC") or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.

(2) The design and installation of all small-scale solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.

(3) Site Plans shall be required for all small-scale solar energy facilities, in accordance with Article III, Permits and Applications, of this Ordinance.

(c) Height Limits.

(1) If the small-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the facility's height shall not exceed 15 ft. at the tallest point.

(2) If the small-solar energy facility is roof-mounted or otherwise integrated into a principal or accessory building, the facility's height shall not exceed the maximum height limit of the district in which it is located.

(d) Setbacks. The solar energy facility shall comply with all setback requirements of the district in which it is located.

(1) Regardless of whether a small-scale solar facility is accessory to another use on the lot, all small-scale solar facilities shall comply with the district's principal structure setbacks.

(e) Landscaping and Screening. Landscaping and screening shall be provided for ground mounted solar to block visibility of the panel(s) and ancillary equipment from adjacent properties. All landscaping and screening shall be in accordance with Article VIII, Community Design Standards, of this Ordinance.

(f) Design Standards.

(1) If the small-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, then:

a. The lowest surface of any panel shall be a maximum of 4 ft. above the finished grade on which the panel is located.

b. All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.

(g) Decommission.

(1) Small-scale solar energy facilities which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the facility is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the Town may require evidentiary support that a longer repair period is necessary.

(2) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.

(3) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either remove the solar energy facility or resume regular operation within 30 days.

DRAFT

(4) If the owner of the solar facility fails to remove the installation within the proposed date of decommissioning, a hired third party may enter the property to physically remove the installation.
(5) Decommission shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural uses.
(6) Hazardous material from the property shall be disposed of in accordance with federal and state law.

Section 7-2-35. Stable, commercial.

(a) The lot shall be a minimum of 5 acres.
(b) Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage shall be located at least 200 feet from any residential district lot line and any existing dwelling unit not located on the same parcel.
(c) Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage shall be located at least 100 feet from any adjacent lot line not within a residential district.
(d) Any buildings for the keeping of animals shall be located at least 100 feet from any highway or other right-of-way for passage.
(e) Riding surfaces shall be covered and maintained with a substance to minimize dust and erosion.
(f) Fencing and other means of animal confinement shall be maintained at all times.
(g) Pens, stalls, and grazing areas shall be maintained in a sanitary manner.

Section 7-2-36. Stable, private.

(a) Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage shall be located at least 200 feet from any residential district lot line and any existing dwelling unit not located on the same property.
(b) Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage shall be located at least 100 feet from any adjacent lot line not within in a residential district.
(c) Any buildings for the keeping of animals shall be located at least 100 feet from any highway or other right-of-way for passage.
(d) Riding surfaces shall be covered and maintained with a substance to minimize dust and erosion.
(e) Fencing and other means of animal confinement shall be maintained at all times.
(f) Pens, stalls, and grazing areas shall be maintained in a sanitary manner.

Section 7-2-37. Store, general.

Stores 50,000 square feet or greater require a Special Use Permit.

Section 7-2-38. Temporary construction trailer.

(a) Temporary construction trailers and temporary buildings, used in conjunction with construction work only and not for residential occupancy, may be permitted in any district during the period construction work is in progress.
(b) All yard requirements of the district for a principal structure in which the temporary building or construction trailer is located shall be met.

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(c) A temporary permit is issued for a period of twelve (12) months only upon showing by the applicant of a valid and approved building permit for a dwelling or a commercial, industrial, or public structure or development, public facility or public utility. Such temporary permit may be renewed for a maximum of an additional twelve (12) months only if the applicant satisfactorily demonstrates to the Administrator that unavoidable circumstances caused a delay in the construction.

Section 7-2-39. Tradesperson services.

Outdoor storage as an accessory use, where permitted, shall not exceed 30% of the total site area and shall be subject to the use requirements of this Article.

Section 7-2-40. Utility service, major/minor.

(a) For utility uses requiring a structure, not including public water and sewer lines and appurtenances, service lines to consumers, water towers, and above and below ground cables, wires or pipes where such uses are located in easements:
   (1) If visible from adjacent AFOS, Residential, PUD, OI, or PTD properties that are occupied by a residential dwelling, the use shall be located within an enclosed structure having a style and character compatible with the surrounding residential structures or shall be screened from view in accordance with Article VIII – Community Design Standards.

Section 7-2-41. Veterinary clinic.

(a) Any treatment rooms, cages, pens, or kennels shall be maintained within a completely enclosed soundproof building.
(b) Such hospital or clinic shall be operated in such a way as to produce no objectionable noise or odors outside its walls.
(c) Any associated commercial kennel is considered a separate use and must follow the commercial kennel permissions and use standards.

Section 7-2-42. Warehousing and distribution.

Outdoor storage as an accessory use, where permitted, shall not exceed 30% of the total site area and shall be subject to the use requirements of this Article.

Section 7-2-43. Wireless facility, broadcasting or communication tower.

(a) The standards of this Section apply whenever a special use permit is sought for a broadcasting or communications tower, as this use is defined in the definitions of this Ordinance. Any wireless communication antenna which meets the definition of a "Administrative review-eligible project" as defined in the Code of Virginia § 15.2-2316.6, is considered a "Utility Service, Minor" by this Article and is not subject to the provisions of this Section.
(b) General standards:
   (1) The following sites shall be considered by applicants as the preferred order of location of proposed broadcasting or communication facilities:
      a. Existing broadcasting or communication towers.
      b. Public structures, such as water towers, utility structures, fire stations, bridges, steeples and other public buildings not utilized primarily for residential uses.
      c. Property zoned Agricultural.

(c) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of Town Council that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna shall consist of any of the following:
  (1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, as documented by a qualified and licensed professional engineer.
  (2) Existing towers or structures do not have sufficient height to meet applicant's engineering requirements, as documented by a qualified and licensed professional engineer.
  (3) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced modified or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
  (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers and structures, or the existing antenna would interfere with applicant's proposed antenna.
  (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are deemed unreasonable.
  (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unreasonable.

(d) The maximum height of any Broadcasting and Communication Tower shall be made a condition of the special use permit. Exceptions provided when included in a church steeple, bell tower, water tower, light pole, or other similar architecturally compatible structure,

(e) Towers and equipment attached to existing structures shall not extend more than 25 feet beyond the existing structure and must be designed to be architecturally compatible.

(f) Broadcasting or communication towers shall conform with each of the following minimum yard requirements:
  (1) Towers shall have a minimum front, side, and rear yard equal to the height of the tower.
  (2) Tower's guys and accessory structures shall satisfy the minimum yard requirements of the underlying zoning district.
  (3) Towers shall not be located between the main structure and a public street.
  (4) No habitable structures or places where people gather shall be located within any "fall zone" as certified by a registered professional engineer licensed in Virginia.
  (5) A tower's yard may be reduced or its location in relation to a public street varied, at the sole discretion of the Town Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, utility pole, water tower, public facility, or similar structure.

(g) More than one tower may be permitted on a lot provided all yard requirements have been met.

(h) All broadcasting or communication facilities shall be designed, structurally, electrically, and in other respects, to accommodate both the applicant's antennas and comparable antennas for at least three additional users, if the tower is over 100 feet in height, or for at least two additional user if the tower is over 60 feet in height.

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(i) Proposed towers and antennas shall meet the following design requirements:
  (1) Towers and antennas shall be designed to blend into the surrounding environment using color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
  (2) Broadcasting or communication towers shall be of a monopole design unless the Town Council determines that an alternative design would be more compatible with the surrounding environment.
  (3) Towers shall be designed to collapse fully within the lot lines of the subject property in case of structural failure.

(j) *Replacement.* Existing towers in place as of the date of adoption of this Article may be replaced without the need for an SUP, subject only to administrative site plan, zoning permit, building permit, and other applicable approvals if the following are met:
  (1) The development standards supplied in this Section are met with the exception that:
    a. The replacement tower is not required to meet current yards so long as the replacement tower and equipment compound do not encroach further than the existing tower; and,
    b. The replacement tower is not required to meet the height limitations so long as the replacement tower does not exceed the existing tower height more than 10%.
  (2) The existing tower being replaced, including tower base and foundation, must be removed within six months of the initial operation of the new tower.

(k) Towers shall be illuminated as required by the Federal Communications Commission, (FCC) but no lighting shall be incorporated if not required by the FCC, other than essential security lighting. Site lighting shall be full cut-off and directed downward. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(l) A buffer yard shall be provided surrounding the facility. The special use permit application shall include a landscape plan showing the locations, species, and size at planting for the landscaping proposed. Evergreens shall have an initial height and spacing sufficient to provide immediate screening of the accessory ground mounted equipment or structures.

(m) Signage on site shall be limited to company name with contact information, no trespassing or safety signs to be positioned on the fence surrounding the facility. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(n) No new or existing telecommunications service shall interfere with public safety communications. Before the introduction of new service or changes in existing service, telecommunications providers shall notify the Town at least ten calendar days in advance of such changes and allow the Town to monitor interference levels during the testing process.

(o) There shall be no outdoor storage associated with the facility.

(p) A bond, whose amount shall be approved by the Administrator shall be required to assure the removal of an abandoned telecommunications facility. All towers and associated facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Administrator. In the event that a tower is not removed within six months of the cessation of operations at a site, the tower and associated facilities may be removed by the Town, utilizing the bond and any remaining costs of removal assessed against the owner of the tower or the landowner.

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(q) *Applications requirements*. In addition to the outlined special use permit requirements outlined in Article III – Permits and Applications of this Ordinance the following are also required with broadcasting and communication tower requests:
  (1) A map showing the designated search ring.
  (2) Identification of the intended service providers of the tower.
  (3) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the tower area, lease area and access to the tower.
  (4) Verifiable evidence of the lack of feasible antenna space on existing towers, buildings, or other structures suitable for antenna location within the coverage area.
  (5) An engineering report stating the number of collocation spaces on the proposed tower.
  (6) An agreement allowing the Town to collocate on the tower for the purpose of emergency service communications.
  (7) A proposed construction schedule.
  (8) The applicant shall certify through a written statement that the facility meets or exceeds the standards for electrometric radiation as set by the Federal Communications Commission ("FCC") at the time of the application.
  (9) A radio frequency propagation plot indicating the coverage of the applicant's existing wireless communications sites within the area and coverage prediction of the proposed facility.
  (10) The applicant shall provide at least two actual photographs of the site that include simulated photographic images of the proposed tower. The photographs with the simulated image shall illustrate how the facility will look from adjacent roadways, nearby residential areas, or public building such as a school, religious assembly, and the like. Town staff reserves the right to select the locations for the photographic images and require additional images. As photo simulations may be dependent upon a balloon test first being conducted, the applicant is not required to submit photo simulations with their initial application but must provide them prior to the public hearing with the Planning Commission.
  (11) List of all adjacent property owners, their tax map numbers, and addresses.
  (12) Aerial imagery which shows the proposed location of the tower, fenced area, and driveways with the closest distance to all adjacent property lines and dwellings.
  (13) The Town may require other information deemed necessary to assess compliance with this Article.

(r) Procedures and Process.
  (1) *Balloon test.* A balloon test shall be required for new towers prior to the public hearing with the Planning Commission.
    a. The applicant shall arrange to raise a colored balloon (no less than three feet in diameter) at the maximum height of the proposed tower and within 50 horizontal feet of the center of the proposed tower.
    b. The applicant shall inform Town staff and adjacent property owners in writing of the date and times of the test at least seven but no more than 14 days in advance. The notice will direct readers to a new date if the test is postponed due to inclement weather. The applicant shall request in writing permission from the adjacent property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.

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c. The date, time and location of the balloon test shall be advertised in the Town's newspaper of record by the applicant at least seven but no more than 14 days in advance of the test date. The advertisement will direct readers to a new date if the test is postponed due to inclement weather.
d. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen.
e. Signage shall be posted on the property to identify the property where the balloon is to be launched. The signage will direct readers to a new date if the test is postponed due to inclement weather. This signage shall be posted a minimum of 72 hours prior to the balloon test. If inclement weather postpones the test, then cancellation of the test for that day shall be clearly noted on the signage.
f. If the wind during the balloon test does not allow the balloon to sustain its maximum height or there is significant fog or precipitation which obscures the balloon's visibility then the test shall be postponed and moved to the alternate inclement weather date provided in the advertisement. Town staff reserves the right to declare weather inclement for purposes of the balloon test.

(2) *Community meeting.* A community meeting shall be held by the applicant prior to the public hearing with the Planning Commission.
a. The applicant shall inform Town staff and adjacent property owners in writing of the date, time, and location of the meeting at least seven but no more than 14 days in advance.
b. The date, time, and location of the meeting shall be advertised in the Town's newspaper of record by the applicant at least seven but no more than 14 days in advance of the meeting date.
c. The meeting shall be held within the Town, at a location open to the general public with adequate parking and seating facilities which may accommodate persons with disabilities.
d. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant and provide feedback.
e. The applicant shall provide Town staff with a summary of any input received from members of the public at the meeting.

(3) Approval process and time restrictions.

(4) The approving bodies, in exercise of the Town's zoning regulatory authority, may disapprove an application on the grounds that the tower's aesthetic effects are unacceptable, or may condition approval on changes in tower height, design, style, buffers, or other features of the tower or its surrounding area. Such changes need not result in performance identical to that of the original application.

(5) Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, and areas containing unique natural features, scenic roadways or historic areas; the concentration of towers in the proposed area; and, whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive visual impact.

(6) The approving bodies, in accord with State Code § 15.2-2316.4:2, may disapprove an application based on the availability of existing wireless support structures within a reasonable

distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

(7) Unless some other timeframe is mutually agreed upon, an application for a tower shall be reviewed by the Town and a written decision shall be issued within 150 days of a completed submission.

(8) Unless some other timeframe is mutually agreed upon, an application for collocation shall be reviewed by the Town and a written decision shall be issued within 90 days of a completed submission.

(9) A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified or mutually agreed upon.

(10) If the Town disapproves an application, it must provide the applicant with a written statement of the reasons for disapproval. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided. The written statement must contain substantial record evidence and be publicly released within 30 days of the decision.

(11) *Appeal.* An applicant adversely affected by the disapproval of an application for a standard process project may file an appeal within 30 days following notice to the applicant of the disapproval.

Section 7-2-44. Wireless facility, small cell.

(a) In accordance with Code of Virginia § 15.2-2316.4, small cell facilities shall be permitted by right in all zoning districts subject to the following general performance standards.

(1) The small cell facility shall be installed by a wireless services provider or wireless infrastructure provider on an existing structure.

(2) The wireless services provider or wireless infrastructure provider has obtained permission from the owner of the existing structure to collocate the small cell facility on the existing structure and to collocate the associated transmission equipment on or proximate to the existing structure.

(3) Each antenna is located inside an enclosure of, or the antenna and all its exposed elements could fit within an imaginary enclosure of, no more than six cubic feet; and

(4) Excluding electric meter, concealment, telecommunications demarcation boxes, backup power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services, all other equipment associated with the facility does not exceed 28 cubic feet, or such higher limit as may be established by the Federal Communications Commission.

(5) A wireless services provider or wireless infrastructure provider may submit up to 35 permit requests for small cell facilities on a single application. Permit application fees shall be in accordance with Code of Virginia § 15.2-2316.4, Paragraph B(2) of the Code of Virginia.

(6) Permit applications for small cell facilities shall be reviewed and approved as follows:

a. Permit applications for the installation of small cell facilities shall be approved or disapproved within 60 days of receipt of the complete application. The 60-day period may be extended by staff upon written notification to the applicant, for a period not to exceed an additional 30 days.

b. Within ten days of receipt of an application submission and a valid electronic mail address for the applicant, the applicant shall receive an electronic mail notification if the application is incomplete. If the application is determined to be incomplete, the notification shall specify the missing information which needs to be included in a resubmission in order to be determined complete.
c. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The disapproval may be based only on any of the following reasons:
    1. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities.
    2. Public safety or other critical public service needs.
    3. In instances where the installation is to be located on or in publicly owned or publicly controlled property (excluding privately owned structures where the applicant has an agreement for attachment to the structure), aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property.

(b) A permit application approval shall not be unreasonably conditioned, withheld, or delayed.
(c) An applicant may voluntarily submit, and staff may accept, any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.
(d) The submission of a permit application shall represent a wireless services provider's or wireless infrastructure provider's notification of the Town as required by Code of Virginia § 15.2-2316.4(A).

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ARTICLE VIII. – Community Design Standards

Division 1. – Lighting.

Section 8-1-1. Purpose and Intent.

The purpose of this Division is to:

(1) Permit the use of exterior lighting at the minimum level necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce;
(2) Ensure exterior lighting does not adversely impact land uses on adjacent land by minimizing light trespass, obtrusive light, and glare;
(3) Curtail light pollution, reduce sky glow, and preserve the nighttime environment for astronomy, wildlife, and enjoyment of residents and visitors; and,
(4) Ensure security for persons and property.

Section 8-1-2. Applicability.

(a) *General*. The provisions of this division shall apply all development in the Town unless exempted in accordance with this Section.
(b) *Conformance with all applicable codes*. All outdoor lighting shall be installed in accordance with the provisions of this Ordinance, applicable Electrical and Energy Codes, and applicable Sections of the Building Code.
(c) *Time of review*. Review for compliance with the standards of this division shall occur as part of the review of an application for a site plan, planned development, certificate of approval, certificate of zoning use, special use, or variance.
(d) *Existing development*. Compliance with these standards, to the maximum extent practicable, shall also apply to redevelopment of an existing structure, building, or use when it is expanded, enlarged, or otherwise increased in intensity equivalent to or beyond 50%.
(e) *Signs*. Lighting for signage shall be governed by the standards set forth in Division 4 of this Article.
(f) *Exemptions*. The following are exempted from the exterior lighting standards of Article VIII:
  (1) Lighting within a public street right-of-way or easement that is used principally for illuminating a roadway;
  (2) Lighting exempt under state or federal law;
  (3) Lighting for public monuments and statuary;
  (4) Lighting that is required under the Uniform Statewide Building Code;
  (5) Construction, emergency, or holiday decorative or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way and is used for 90 days or less;
  (6) Temporary lighting for circuses, fairs, carnivals, theatrical and other performance areas, provided such lighting is turned off not more than one hour after the last performance/event of the day and discontinued upon completion of the final performance/event;
  (7) Security lighting provided it is directed downward, does not glare onto adjacent property, and is controlled and activated by motion sensor devices for a duration of 15 minutes or less;
  (8) Lighting for flags of the United States of America or the Commonwealth of Virginia, or any department, division, agency or instrumentality thereof, and other noncommercial flags expressing constitutionally protected speech;
  (9) Architectural lighting of 40 watts incandescent or less;

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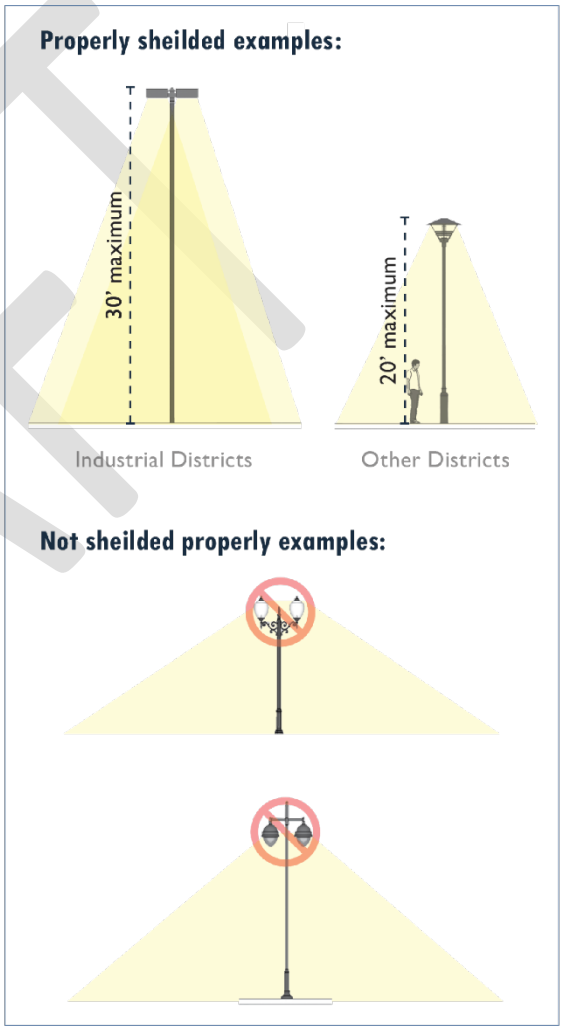
(10) Field lighting for an outdoor athletic facility, provided it is directed downward and is turned off, within one hour, upon completion of the final game;
(11) FAA-mandated lighting associated with a utility tower or airport; and,
(12) The replacement of a failed or damaged luminaire that is one of a matching group serving a common purpose installed prior to the adoption of this division.

Section 8-1-3. Standards.

(a) *Hours of illumination.* Institutional uses, commercial uses, and industrial uses that are adjacent to existing residential development shall extinguish all exterior lighting, except lighting necessary for security or emergency purposes, within one hour after closing and shall not turn on such lights until within one hour of opening. For the purposes of this subsection, lighting necessary for security or emergency purposes shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways, or to illuminate outdoor storage areas. Lighting activated by motion sensor devices is encouraged for these purposes.
(b) *Uniformity.* Outdoor luminaires shall be of uniform style for each project site and conform to the design of the project.
(c) *Shielding.* Each outdoor luminaire subject to these outdoor lighting requirements shall be a full cutoff luminaire and aimed and controlled such that directed light is directed inward to the property and confined to the object intended to be illuminated. Directional control shields shall be used when necessary to limit stray light and prevent glare to adjacent properties and vehicular public rights-of-way.
(d) *Color Temperature.* All exterior lights shall be 3,000 Kelvin light color temperature or less.
(e) *Type.* High-pressure sodium vapor or light emitting diode (LED) lights shall be the preferred type of exterior site lighting. The use of mercury vapor lights shall be prohibited in any exterior lighting applications, except for under-canopy lighting for gasoline pump islands, bank, or other drive-through or drive-in facilities.
(f) *Canopy Lighting.* Light fixtures under any canopy shall be recessed into the canopy ceiling with a flat lens to prevent glare.
(g) *Height.* Any pole-mounted exterior lighting shall not exceed a height of 30 feet in height in Industrial districts and 20 feet in height in all other districts.

Figure 8.1 Lighting Height and Shielding Examples



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Section 8-1-4. Compliance.

(a) The lighting standards shall be enforced by the Administrator. Modifications of the lighting standards contained herein may be approved by the Administrator upon a determination that the lighting is necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce and does not adversely impact pedestrians, traffic, or adjacent properties.

(b) An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the Administrator in enforcement of this division as outlined in Article II

Division 2. Landscaping, Walls, and Fences.

Section 8-2-1. Purpose and Intent.

The purpose of this division is to establish standards for landscape architecture, site design, site buffering, and landscape screening, and to regulate the location, height, and appearance of fences and walls. With the intent of preserving and promoting the health, safety, and general welfare of the Town, this division is intended to:

(1) Preserve and enhance the aesthetic character and visual harmony of the Town;
(2) Protect the quality of the Town's natural streams and wetlands;
(3) Enhance erosion control;
(4) Improve the relationship between adjacent properties through screening, buffering, and proper placement and design of fences and walls;
(5) Promote economic development in the Town's business districts and main thoroughfares, and;
(6) Ensure the safety, security, and privacy of properties.

Section 8-2-2. Application of Landscape, Wall, and Fence Standards.

The requirements of this Division shall apply to new construction, developments, or redevelopments in all zoning districts requiring an approved site plan or zoning permit specified by the Ordinance.

Section 8-2-3. Landscape Plan Requirements.

(a) The landscape plan shall:
  (1) Be prepared and/or certified by a professional (engineer, architect, landscape designer); provided, however, that in the case of a single lot disturbing less than 10,000 square feet, the landscaping plan may be prepared by the property owner.
  (2) Cover the entire project area included in the overall site plan or development plan for which approval is sought.

(b) The landscape plan shall include:
  (1) Location, type, size, height, and number of proposed plantings.
  (2) Planting specifications or installation details. Taking care to consider appropriateness of plants and locations for the specific characteristics of the site and the purpose for installation.
  (3) Location and size of all existing plants and trees to be retained during construction, as well as protection measures to be implemented during construction.

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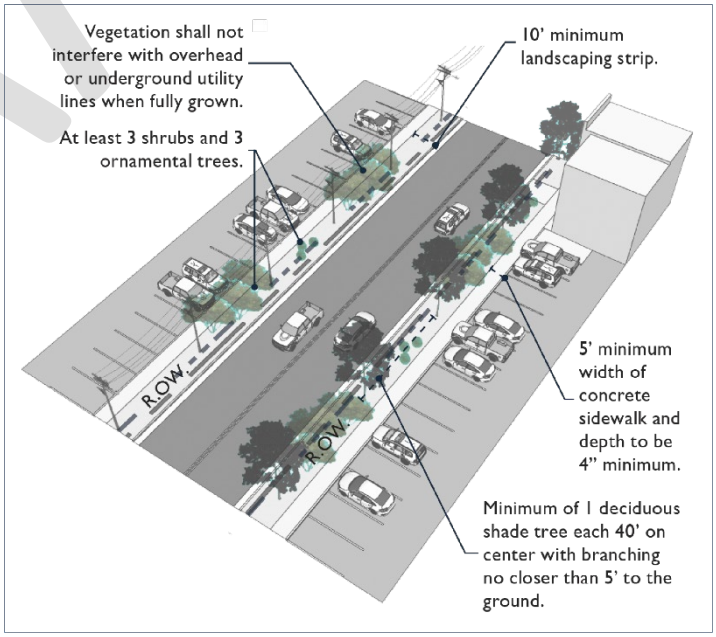
(4) Location, size, and other related design details for all hardscape improvements, ground-mounted signage, recreational improvements, and open space areas, fences, walls, barriers, and other related elements.
(5) Designation of required setbacks, yards, and screening areas.
(6) Location of other man-made site features, parking lots, hardscape improvements, overhead structures, and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements.
(7) A preference to design and plant materials which are native and with reduced water needs.

Section 8-2-4. Landscaping Requirements by Zoning District

(a) Residential and Planned Zoning Districts
  (1) One and Two-Family Dwelling
    a. New developments shall preserve existing or plant at least two (2) trees between the front property line and the minimum front yard setback line.
    b. For corner lots there shall be a minimum of two (2) trees per street frontage.
  (2) Multiple Family Dwellings
    a. New developments or redevelopments shall preserve existing or plant at least one (1) tree per 40 lineal feet of street frontage between the front property line and the minimum front yard setback line.
(b) Commercial Zoning Districts
  (1) New developments or redevelopments shall preserve existing or plant at least one (1) tree per 40 lineal feet of street frontage between the front property line and the minimum front yard setback line.
(c) Entrance Corridor
  (1) Within the Entrance Corridor (EC) Overlay Landscaping shall be used to soften the visual impact of development and enhance the appearance of the area. Landscaping shall be sufficient to soften the visual effects of development, reduce the effective visual mass of large buildings, and provide screening between the development, the street and surrounding lots.
  (2) *Right-of-way landscaping.* Landscaping shall be required along the property's border along road frontages, public rights-of-way, and access easements in the EC Corridor Overlay according to the following standards:

Figure 8.2 Entrance Corridor ROW Landscaping



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a. A landscape buffer of at least ten feet in width shall be landscaped with the following materials for each 40 feet of lineal street frontage:
   1. At least one deciduous tree, with branching no closer than five feet to the ground,
   2. At least three ornamental trees;
   3. At least three shrubs; and,
   4. Other ground cover reasonably dispersed throughout the buffer.

(3) Vegetation planted in the buffer shall be of a type and/or positioned so as to not interfere with overhead or underground utility lines when fully grown.

(d) Old and Historic District

(1) Parcels within the Old and Historic District that are also designated Entrance Corridor parcels often have zero structure setbacks to the right-of-way. Those parcels are not required to provide right-of-way landscaping.

Section 8-2-5. Screening.

(a) Where any a manufactured home park, multifamily, or nonresidential use (commercial, industrial, institutional) abuts a less intensive use a year-round visual screen between the properties in order to minimize visual and other adverse impacts must be implemented consisting of fencing, evergreens, boulders, mounds, or a combination of materials.

(b) In the above conditions, a continuous six-foot high buffer with a minimum width of 20 feet shall be required. Buffers shall be comprised of:

(1) A combination of solid masonry wall or opaque fence at least six feet in height and landscaping consisting of six deciduous trees per 100 linear feet of buffer; or,

(2) Landscaping consisting of:
   a. One (1) coniferous tree per seven linear feet of buffer, which shall be placed in two staggered rows six feet apart;
   b. One (1) understory tree per twenty-five linear feet of buffer;
   c. One (1) deciduous tree per fifty linear feet of buffer; and
   d. One (1) shrub per three linear feet of buffer.

(c) Plants used for screening shall be sufficiently large and planted in such a fashion that a year-round screen at least 6 feet in height shall be produced within one growing season.

(d) No buildings, structures, storage of materials, or parking shall be permitted within a screening area.

(e) Screening shall also be required to conceal specific features from both on-site and off-site views. Such features shall be screened at all times, regardless of adjacent uses, adjacent districts, or other proximate landscaping material. Specific features to be screened include:

(1) Waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers); Waste receptacles and refuse containers shall be fully enclosed with tightly fitting lids.

(2) Access to all grease containers, recycling and trash containers, and other outside storage shall be through gates capable of closure when not in use. All gates shall be closed and secured when not in use.

(3) Loading and service areas;

(4) Outdoor storage areas (including storage tanks);

(5) Ground-based utility equipment with size in excess of 12 cubic feet; and,

(6) Ground level mechanical units.

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Section 8-2-6. Parking Lot Landscaping.

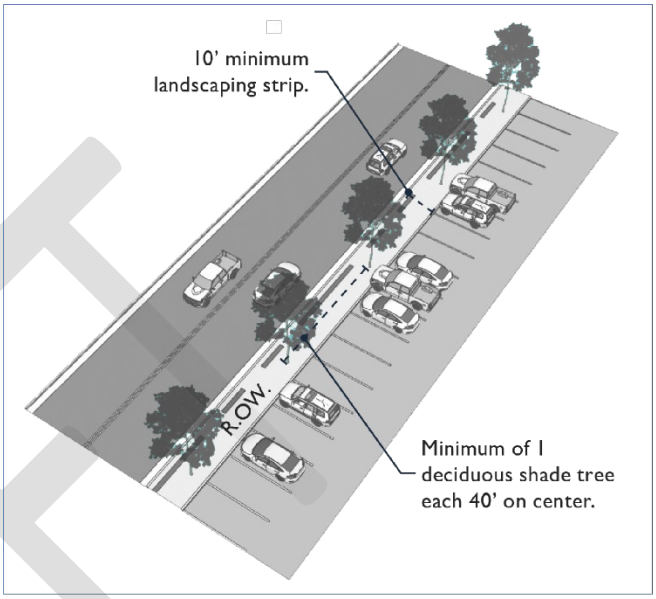
(a) All vehicle parking areas shall include landscaping as required in this Section to provide shade, screen views, and mitigate stormwater runoff. However, the landscape provisions of this division shall not apply to off-street parking for individual single or two-family residential dwellings or for parking garages or similar structures.

(b) *Parking Lot Landscape Buffers.*

(1) Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a public right-of-way or a property line not common with the right-of-way of a street, a landscaping strip of at least 10 feet in width shall be located between the parking lot and the abutting property line.

(2) A minimum of one deciduous shade tree for each 40 feet of contiguous property line shall be planted in the landscape strip.

Figure 8.3 Parking Lot Landscape Buffers

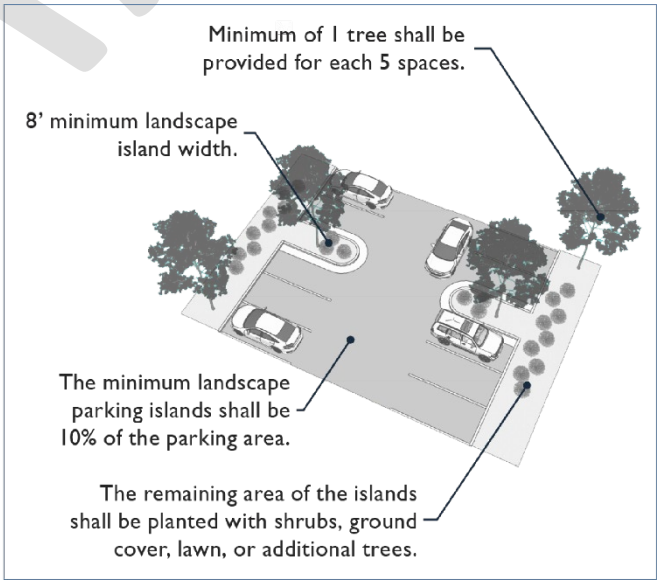


(c) Landscaped planting islands shall be developed interior to parking lots meeting the following criteria:

(1) The total size of the parking lot exceeds 20 total parking spaces; or,

(2) Parking lot layout incorporates three or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other.

Figure 8.4 Parking Lot Planting Islands



(d) *Parking lots with required planting islands.*

(1) The minimum landscape parking islands shall be 10% of the parking area.

(2) A minimum of one tree shall be provided for each five spaces of required parking. The remaining area of the island(s) shall be landscaped with shrubs, ground cover, lawn or additional trees.

(3) Planting islands shall have a minimum width of eight feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.

(4) In the case of redevelopment proposals, this parking lot tree requirement is only applicable to those proposals that necessitate additional parking spaces over those that are currently provided.

(e) The landscaping islands shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e. interior parking median or island) sufficient to protect and maintain all landscaping materials planted therein.

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(f) Parking lot landscaping shall be installed and continuously maintained by the owner according to the requirements contained in this Article.

Section 8-2-7. Tree and Plant Standards.

(a) Any required landscaping shall be installed prior to the issuance of a certificate of occupancy. When the planting of landscaping conflicts with the planting season, a certificate of occupancy may be issued subject to the owner or developer providing surety in an amount approved by the Administrator for any remaining plantings. The owner or developer shall provide a development agreement which sets a deadline by which the plantings will be installed to be approved by the Administrator. The surety and agreement shall be in a form approved by the Town Attorney.

(b) Existing healthy trees and shrubs shall be credited toward any minimum landscaping required by this division, provided they meet minimum size standards and are protected before and during construction and maintained thereafter in a healthy growing condition.

(c) The owner of the property upon which the required landscaping or buffering is installed shall be responsible for maintenance and replacement.

(b) All plantings shall be maintained in perpetuity in such a way as to ensure that the requirements of this Ordinance continue to be met. Any dead or dying plants shall be removed within thirty (30) days of notification by the Administrator and shall be replaced by the property owner during the next viable planting season.

(d) Landscaping materials should generally be sustainable and biologically diverse with emphasis on trees and plants native to Virginia. Suggested plants suitable for landscaping purposes as required in this Division may be found in Appendix A.

(e) Landscaping shall not obstruct the view of motorists using any street, private driveway, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.

(f) All required landscaping materials shall conform to the following minimum size or height standards at the time of planting:
   (1) Deciduous shade trees: 2" caliper
   (2) Ornamental and understory trees: 4' height
   (3) Coniferous trees: 6' height
   (4) Shrubs: 18" spread or height

Section 8-2-8. Tree protection standards.

(a) Trees which are to be preserved on site shall be protected before, during, and after the development process utilizing accepted practices. At minimum, the tree protection practices set out in the Virginia Erosion and Sediment Control Handbook, as amended, shall be utilized.

(b) Trees selected for preservation in order to obtain landscaping credits shall be shown on the landscape plan and clearly marked in the field. In woodland areas, groups of trees shall be selected for preservation rather than single trees wherever possible.

(c) Trees and groups of trees which are to be preserved shall be enclosed by a temporary fence or barrier to be located and maintained five feet outside of their dripline during construction. Such a fence or barrier shall be installed prior to clearing or construction, shall be sufficient to prevent intrusion into the fenced area during construction, and in no case shall materials, vehicles, or

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equipment be stored or stockpiled within the enclosure. Within the fenced area, the topsoil layer shall not be disturbed except in accordance with accepted tree protection practices.

(d) The developer shall be responsible for notifying all construction personnel of the presence and purpose of clearing limits and protective fences or barriers and for ensuring that they are observed.

(e) Where grade changes in excess of six inches from the existing natural grade level are necessary, permanent protective structures such as tree wells or walls shall be installed as recommended by the tree preservation and protection standards outlined in the State Erosion and Sediment Control Handbook.

(f) *Tree preservation standards*. In determining which trees shall be preserved, consideration shall be given to preserving trees which:
  (1) Are trees of ten-inch caliper or larger;
  (2) Are ornamental trees of any size;
  (3) Are trees within required setbacks or along boundaries unless necessary to remove for access, grading, circulation, utilities or drainage.
  (4) Are heritage, memorial, significant, and specimen trees;
  (5) Complement the project design including the enhancement of the architecture and streetscape appearance;
  (6) Can tolerate environmental changes to be caused by development (i.e., increased sunlight, heat, wind, and alteration of water regime);
  (7) Have strong branching and rooting patterns;
  (8) Are disease and insect resistant;
  (9) Complement or do not conflict with stormwater management and best management practice designs;
  (10) Are located in required buffer areas;
  (11) Exist in natural groupings, including islands of trees;
  (12) Do not conflict with necessary utility; and,
  (13) Have been recommended by the Commonwealth Department of Forestry, the county cooperative extension service, or a certified arborist or urban forester for preservation.

Section 8-2-9. Walls and Fences.

(a) Fences and walls may be used within landscaped areas to provide buffering, privacy, separation, security, or for aesthetic reasons, but may not create an unsightly or unsafe condition on or off of the public or private property on which the fence or wall is proposed.

(b) The provisions of this Section shall apply to all construction, reconstruction, or replacement of fences or walls except:
  (1) Those required for support of a principal or accessory structure;
  (2) Engineered retaining walls necessary to the development of a site; or,
  (3) Temporary fences for construction activities, trees protection, and erosion and sediment control.

(c) Fences or walls shall not be located within the public right-of-way.

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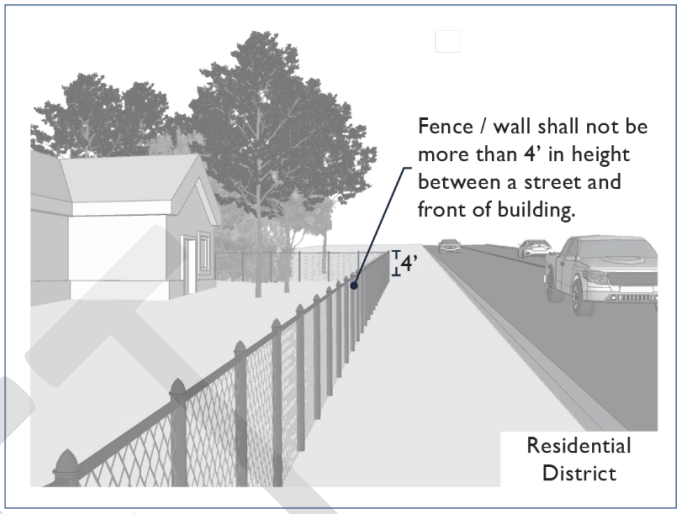
(d) Fences and walls may be located within any required yard or setback.

(e) Fences located within an easement shall receive written authorization from the easement holder or the Town (as appropriate). The Town shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.

(f) No fence or wall shall be installed in a manner or in a location so as to block or divert a natural drainage flow on to or off of any other land, unless the fence or wall has specifically been approved as part of an approved stormwater management plan.

Figure 8.5 Walls and Fences Height Example



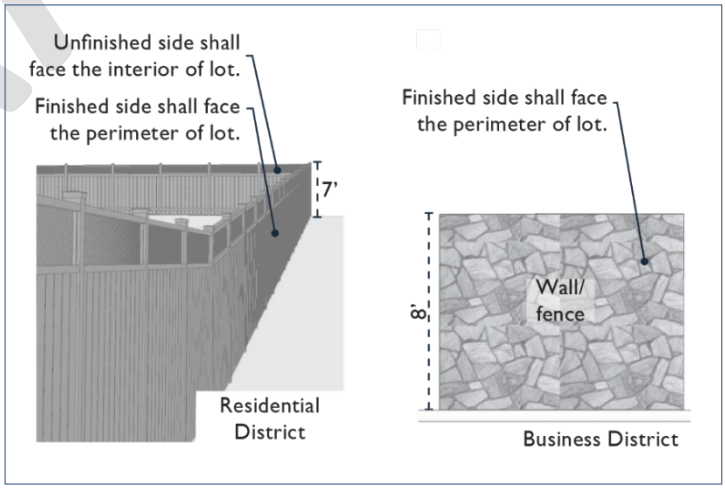
(g) Fences and walls within buffers shall be installed so as not to disturb or damage existing vegetation or installed plant material.

(h) No fence or wall shall be constructed in a manner or in a location that impairs safety or sight lines for pedestrians and vehicles traveling on public rights of way.

(i) Appearance.

(1) *Customary materials.* Fences and walls shall be constructed of any combination of treated wood posts and vertically-oriented planks, rot-resistant wood, wrought iron, decorative metal materials, brick, stone, masonry materials, or products designed to resemble these materials. Where wood, masonry, or other opaque materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.

Figure 8.6 Walls and Fences Appearance Example



(2) *Height.* Fences and walls shall be permitted in accordance with the following standards:

a. No fence or wall between a street and a front building line shall be more than four feet in height;

b. A fence or wall in any residential zoning district shall not exceed 7 feet in height above the existing grade without approval of a special use permit; and,

c. A fence or wall in any business zoning district shall not exceed 8 feet in height above the existing grade without approval of a special use permit.

(3) *Finished side to outside.* Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (e.g., one side has visible support framing and the

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other does not), then the more "finished" side of the fence shall face the perimeter of the lot rather than the interior of the lot.

(4) *Compatibility of materials along a single lot side*. All fencing or wall segments located along a single lot side shall be composed of a uniform style, material, and color compatible with other parts of the fence or wall.

(5) Chain link fencing shall be allowed, subject to the following requirements:

a. Agricultural Districts: Chain link fencing is permitted on lots within agricultural zoning districts.

b. Residential Districts: Chain link fencing is permitted on lots within residential zoning districts, provided it does not include opaque slats.

c. Industrial Districts: Chain link fencing shall be allowed on lots within Industrial zoning districts, provided it is coated with black or dark green vinyl. Where opaque fencing is required, the chain link fencing may include black or dark green opaque slats.

d. Business/Planned Districts: Chain link fencing shall only be allowed on lots within Business or PTD zoning districts where the chain link fencing is not visible from any street right-of-way. The chain link fencing shall be coated with black or dark green vinyl. Where opaque fencing is required, the chain link fencing may include black or dark green opaque slats.

e. Old and Historic Districts: Chain link fencing is prohibited.

(j) *Prohibited materials*. Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed into new building materials.

(k) *Maintenance.* All fences and walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition. The owner of the property on which a fence or wall is located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

Section 8-2-10. Compliance.

(a) The standards of this division shall be enforced by the Administrator. Modifications of the layout and design standards contained herein may be approved through a waiver by the Planning Commission upon a determination that the following conditions exist:

(1) The proposed layout and design provide landscaping which will have the same or similar screening impact, intensity, or variation throughout the year when viewed from adjacent properties or rights-of-way as that which would be required by strict interpretation of the standards contained in this subsection.

(2) The proposed layout and design fully integrate and complement the existing trees to be preserved on the site.

(3) Any trees or shrubs installed or preserved on the site which exceed the minimum numerical requirements of this chapter shall not be subject to the species mixture, locational, maintenance or replacement requirements contained herein.

(4) The Planning Commission through a waiver may reduce full buffering and screening to partial buffering and screening as deemed appropriate when uses are in-kind with adjacent uses.

(b) Any dead or dying plants shall be removed within thirty (30) days of notification by the Administrator and shall be replaced by the property owner during the next viable planting season.

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(c) An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the Administrator in enforcement of this division as outlined in Article II, Division 7 of this Ordinance.

Division 3. Parking and Loading.

Section 8-3-1. Purpose and Intent.

(a) The purpose of this Division is to ensure efficient traffic flow and to reduce hazards to public safety by establishing standards for off-street parking and off-street loading areas.
(b) This Division is intended to:
  (1) Ensure adequate parking is designed and constructed during the erection of all new structures and the modifications to existing structures.
  (2) Provide safe and convenient traffic flow and add to the beautification of the Town.

Section 8-3-2. Generally.

(a) Off-street parking and loading shall be provided in all zoning districts in accordance with the requirements of this division.
(b) For the purpose of this division, an off-street parking space is a paved all-weather surfaced area not in a street or alley.
(c) Parking shall be provided at the time of the erection of any building or structure, not less than the amount of parking space given in Article VIII, Section 8-3-9, Schedule of Required Spaces. Such space shall be maintained and shall not be encroached upon unless in conformance with the section on reduction below.
(d) Loading space, as required in Article VIII, Section 8-3-11, Off-Street Loading Requirements, shall not be construed as supplying off-street parking.

Section 8-3-3. Location in Relation to Use.

(a) All parking spaces required herein shall be located on the same lot with the building or principal use served; except that:
  (1) Upon approval of a special use permit by the Town Council.
  (2) Where an increase in the number of spaces is required where such spaces are/may be provided collectively or used jointly by two (2) or more buildings or establishments.
(b) A remote parking lot to satisfy the required spaces shall be established by a recorded covenant or agreement as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space.

Section 8-3-4. Joint Use of Spaces.

(a) *Religious assembly*. Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, office buildings and industrial establishments, lying within 600 feet of a religious assembly, as measured along lines of public access, that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on days used for religious assembly and events may be used to meet not more than 75% of the off-street parking requirements of a religious assembly use.

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(b) *Other places of public assembly*. Parking spaces already provided to meet off-street parking requirements for stores, office buildings, and industrial establishments, lying within 500 feet of a place of public assembly, as measured along lines of public access, that are not normally in use between the hours of 6:00 p.m. and 12:00 midnight and that are made available for other parking may be used to meet not more than 50% of the total requirements of parking space.

(c) In the case of mixed or joint uses of a building or premises having different peak parking demands, the parking spaces required may be reduced if approved by the Planning Commission or Administrator in conjunction with site plan approval. In such instances, the applicants shall demonstrate that the periods of peak use are separated sufficiently, and shared parking spaces are available to all uses sharing them, so as to not cause a parking demand problem.

Section 8-3-5. Reduction.

Off-street parking space required under this division may be reduced at a time when the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be to a level below the standards set forth in this division.

Section 8-3-6. Old and Historic District and the Entrance Corridor Parking or Unloading Waiver.

(a) In the established Old and Historic District or the Entrance Corridor area which encompasses primarily "downtown", alternative parking requirements can be approved by the Planning Commission and Town Council as a waiver.
   (1) Public and surrounding property owner notification of the request is required.
   (2) The request should include:
      a. The total amount of spaces required for the use;
      b. The location and how the existing parking does not support their requirement;
      c. How the applicant has attempted to acquire the required spaces; and
      d. The impact on the existing public parking inventory.

Section 8-3-7. Design Standards.

(a) *Surfacing*. Surfacing of off-street parking or driveways shall consist of an improved dustless surface. Areas that include lanes for drive-in windows or contain parking areas shall be graded and surfaced with asphalt, concrete, or other material that will provide equivalent protection against potholes, erosion, and dust.

(b) *Area*. Off-street parking areas shall be marked off into parking spaces with a minimum width of 9 feet and a minimum length of 18 feet; or in the case of parking spaces for trucks, buses, or special equipment, parking spaces of a minimum size to be determined by the Administrator based on the nature of the parked vehicles.

(c) *Handicap accessible parking*. Every land use shall include the number of handicap accessible off-street parking spaces in accordance with the requirements of the Virginia Uniform Statewide Building Code.

(d) *Separation from walkways and streets.*

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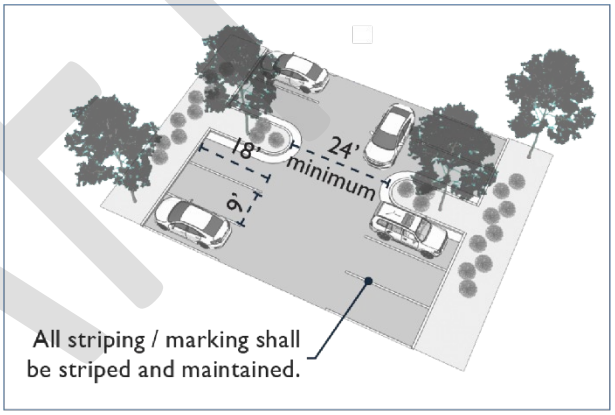
(1) Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, or curbing.
(2) Off-street parking shall not be located within five (5) feet of any commercial building.

(e) *Entrances and exits.* The location and design of entrances and exits shall meet the VDOT traffic safety and design standards. In general, there shall not be more than one entrance and one exit or one combined entrance and exit along any one street.

(f) *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. Off-street parking areas shall be maintained in a clean, orderly and, to the extent possible, dust-free condition at the expense of the owner or lessee.

(g) *Marking.* For all parking areas each parking space shall be striped and maintained. Parking spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used to ensure efficient traffic operation on the lot.

Figure 8.7 Parking Lot Design Standards



(h) *Arrangement of interior aisles.* All aisles within parking areas shall have a minimum width of 24 feet when the parking spaces are at a 90 degree angle with the aisle; 18 feet when the parking spaces are at 60 degree angle with the aisle; and 12 feet for parallel parking.

(i) *Lighting*. Adequate lighting shall be provided in accordance with Article VIII, Division 1 of this Article.

(j) *Screening.* Whenever a parking area is located in or adjacent to a residential district, it shall be effectively screened in accordance with Article VIII, Division 2. – Landscaping, Walls, and Fences, except in areas requiring natural air circulation, unobstructed view or other technical considerations necessary for proper operation, may submit a screening plan to be approved by the Administrator.

(k) *Fleet Vehicles*. Whenever daily or overnight storage of fleet vehicles is proposed, these vehicles shall be parked in off-street parking spaces located to the side or rear of the principal structure and screened in accordance with the requirements of Article VIII, Division 2. – Landscaping, Walls, and Fences. These off-street parking spaces shall be identified on any approved site plan.

Section 8-3-8. Obligations of Owner.

The requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the real estate on which any structure or use is located as long as such structure or use is in existence and the use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for the owner of any structure or use affected by this division to discontinue, change, dispense with, or cause the discontinuance or change of the required vehicle parking or loading space, apart from the alternate vehicle parking or loading space which meets with the requirements of and is in compliance with this division. It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for vehicle parking or loading space which meets the requirements of and is in compliance with this Division.

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Section 8-3-9. Schedule of Required Spaces.

Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, off-street parking spaces shall be provided according to the requirements for individual uses in the following table.

(1) Where fractional spaces result, the parking spaces required shall be increased to be the next highest whole number.
(2) For minimum numbers established on square footage the calculation shall be on usable area and not include storage space, utility closets and other building infrastructure features.
(3) Exemptions to off-street parking requirements are contained in Article VIII, Section 8-3-4 – Joint Use of Spaces, Section 8-3-5 – Reduction, and Section 8-3-10, Interpretation of Specific Requirements for Table 8.3.9

Table 8.3.9 Minimum Off-Street Parking Requirements

Uses	Minimum Number of Required Parking Spaces
A. Residential Uses	
a. Family daycare home (1-4 children)	1 plus residential requirement
b. Group home	1 for each employee on largest shift plus one per 4 residents.
c. Manufactured dwelling, single-family or two-family dwellings, accessory dwellings, townhouses, and group home	2 for each dwelling unit; 1 for each accessory dwelling
d. Manufactured home park	2 for each dwelling unit, plus 1 for owner/employee
e. Multi-family dwellings	2 for each dwelling unit
B. Public/Civic/Recreation Uses	
a. Education facility, college/university	1 for each employee on largest shift, plus 1 per 10 full time equivalent students
b. Education facility, primary/secondary	1 for each employee on largest shift, plus 1 space for each 4 seats in the largest assembly room
c. Public park and recreation area	1 space per 4 visitors at peak service
d. Recreational facility, private	1 per 5 members, or 1 for each 400 square feet of floor area, whichever is greater
e. Religious assembly; Place of assembly	1 per 4 fixed seats in main assembly area or 1 for each 100 square feet of assembly floor space without fixed seating
C. Commercial Uses	
a. Automobile repair service, car washes and gasoline stations	3 for each bay, stall, rack, or pit, plus 1 for each gasoline pump; minimum 5 spaces

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Table 8.3.9 Minimum Off-Street Parking Requirements	
Uses	**Minimum Number of Required Parking Spaces**
b. Automobile sales, rental/leasing; equipment sales/rental, heavy; and farm equipment and supply sales establishment	1 customer vehicle space for each 1,500 square feet of display area
c. Bed-and-breakfast	1 for each bedroom in addition to parking spaces required for permanent residents of the building
d. Brewery; Microbrewery	1 for each 150 square feet of food beverage preparation and consumption area, plus 1 per 800 square feet of operations
e. Commercial indoor recreation/amusement	1 space for each 3 persons based on maximum occupancy, plus 1 space per employee on largest shift
f. Commercial outdoor recreation/amusement	1 per each 3-person based on maximum occupancy load, plus 1 space per employee on largest shift
g. Day care center	1 for each 250 square feet
h. Farmer's market, seasonal outdoor sales	6, plus 1 per 250 square feet
i. Financial institutions	1 for each 500 square feet of floor area, plus 4 stacking spaces per service window
j. Funeral homes	1 for each 100 square feet of main assembly area, 30 spaces minimum
k. Garden center	1 for each 500 square feet
l. Hospitals	1 per patient bed
m. Hotel	1 for each bedroom or unit, plus required parking for any restaurant or assembly space
n. Nursing homes	1 per 4 beds
o. Office, general	1 for each 400 square feet of floor area not including halls and common areas
p. Offices, medical/clinic	1 per 200 square feet of floor area; 10 spaces minimum for a clinic
q. Mixed use structure	1 per 400 square feet of sales floor area, plus 1 space for each dwelling unit
r. Personal services; personal improvement services; professional studios; business support service	1 for each 500 square feet of floor area
s. Restaurants (except drive-in)	1 for each 150 square feet of floor space, including outside seating
t. Restaurants, drive-in	1 for each 150 square feet of floor area plus stacking spaces as required in Article VII – Use Performance Standards
u. Retail store (all types)	1 for each 250 square feet of floor area
v. Short-Term Rental	3 per unit or 1 per bedroom whichever is less
w. Shopping center	5 spaces per each 1,250 square feet of gross leasable floor area

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Table 8.3.9 Minimum Off-Street Parking Requirements	
Uses	**Minimum Number of Required Parking Spaces**
x. Tradesperson service; Catering facility	1 per 3 employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with business
y. Veterinary hospital, commercial kennel	1 for each 400 square feet of floor area
D. Industrial Uses	
a. Manufacturing, light; laboratory research and development; laboratory, pharmaceutical	1 per employee on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry
b. Warehousing and distribution	1 for each 1,250 square feet of floor area
E. Miscellaneous Uses	
a. Accessory dwelling unit	1 per unit
b. Home occupation	**Type A**: 1 plus residential requirement, **Type B**: 2 plus residential requirement

Section 8-3-10. Interpretation of Specific Requirements for Table 8.3.9

(a) The parking requirements above are in addition to space for storage of trucks, campers, recreation vehicles, or other similar vehicles used in connection with the use.

(b) The parking requirements in this division do not limit other parking requirements contained in the district regulations.

(c) The parking requirements in this division do not limit special requirements, which may be imposed for approval of a special use permit.

(d) For residential uses, the total number of off-street parking spaces provided inside a private garage shall be calculated based on the intended design of the garage.

(e) Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one (1) time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.

(f) 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.

(g) 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 (1) use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

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(h) 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 division for an increase in parking spaces of 10% or more, such additional spaces shall be provided on a 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 10% 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 10% or more.

Section 8-3-11. Off-Street Loading Requirements.

(a) Off-street loading shall be provided at the time of the erection of any building or structure or at the time any building or structure is altered, enlarged, or increased in capacity by adding dwelling units, guest rooms, floor area, or seats, or a change of use, not less than the amount of loading space given in Article VIII, Section 8-3-11, Off-street loading requirements.

(b) *Location*. All required off-street loading areas shall be located on the same lot as the use served and with the ability to be adequately screened as outlined in the design standards below.

(c) *Surfacing*. All off-street loading areas shall be surfaced with an improved dustless surface.

(d) *Utilization*. Space allocated to any off-street loading use shall not be used to satisfy the space requirements for any off-street parking area or portion thereof.

(e) *Specific requirements by use.* Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, or structurally altered to the extent of increasing the floor area by 25% or more, or any building in hereafter converted, for the uses listed below, when such buildings contain the floor areas specified, accessory off-street loading spaces shall be provided as required below or as required in subsequent sections of this Division.

Table 8.3.11 Minimum Off-Street Loading Requirements

Use or Use Category	Floor Area (SF)	Loading Spaces Required
A. Business and Industrial establishments (except those uses listed below)	0-9,999	None
	10,000-20,000	One
	20,001-100,000	One space, plus one space for each 20,000 sq. ft.
	Each 40,000 over 100,000	One Additional
B. Dwelling, multifamily; funeral home; hotel; office; hospital or similar institutions; or places of public assembly	0-4,999	None
	5,000-10,000	One
	10,001-100,000	Two
	100,001-200,000	Three
	Each 100,000 over 200,000	One Additional

Section 8-3-12. Interpretation of Specific Requirements for Table 8.3.11.

(a) *Loading 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 division do not limit special requirements which may be imposed in connection with uses permitted by approval of a special use permit

(b) *Joint use of space.* Where a building is used for more than one (1) 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 the use in the building for which the most spaces are required. In such cases, the Administrator may make reasonable requirements for the location of required loading.

Section 8-3-13. Design Standards.

(a) *Minimum size.* For the purpose of the regulations of this division, a loading space is a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks, and having a minimum area of 480 square feet, a minimum width of 12 feet, a minimum depth of 40 feet, and a vertical clearance of at least 15 feet.

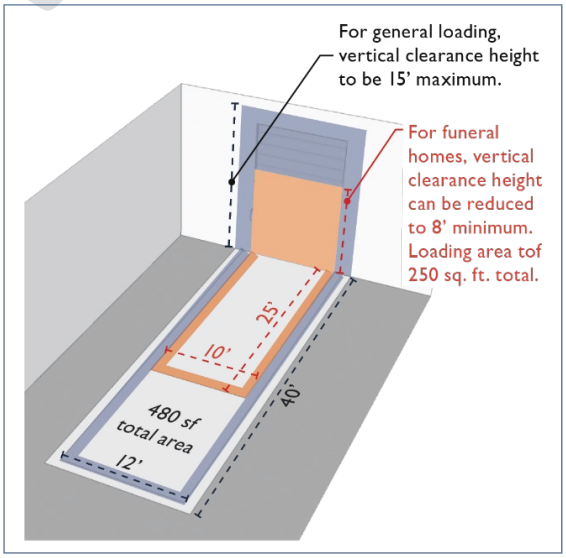
(b) *Screening.* Whenever an off-street loading area is located in or adjacent to a residential district, it shall be effectively screened in accordance with Article VIII, Division 2, except in areas requiring natural air circulation, unobstructed view or other technical considerations necessary for proper operation, may submit a screening plan to be approved by the Administrator.

(c) *Requirements for uses within the Entrance Corridor Overlay.* Loading docks shall be screened from view from public streets in compliance with the screening requirements of Section 8-2-8 of this Ordinance.

(d) *Loading space for funeral homes.* Loading spaces for a funeral home may be reduced in size to 10 feet by 25 feet and vertical clearance reduced to 8 feet.

(e) *Entrances and exits.* Location and design of entrances and exits shall be in accordance with VDOT traffic safety and design 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 a least one (1) 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.

Figure 8.8 Loading Space Standards



Division 4. Signs[1].

Section 8-4-1. Purpose and Intent.

(a) These sign regulations are intended to define, permit, and control the size, material, location, and condition of signs in a manner that as its first priority protects those who travel in and through the Town. Town Council has adopted these regulations in order to achieve the following community goals and objectives:

[1] Editor's Note: The sign regulations of the existing ordinance were recently adopted. Additional amendments are proposed and have been incorporated in this draft.

(1) Protect the health, safety, and welfare of the public.
(2) Equitably distribute the privilege of using the public environs to communicate private information.
(3) Safeguard the public use and nature of the streets and sidewalks.
(4) Protect and enhance the visual environment of the Town.
(5) Discourage the diminishing of property values in the Town.
(6) Minimize visual distractions to motorists using the public streets.
(7) Promote the economic growth of the Town by creating a community image that is conducive to attracting new business and industrial development.
(8) Permit reasonable effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk, density, and area.
(9) Promote the safety of persons and property by requiring that signs not create a hazard due to collapse, fire, decay, or abandonment.
(10) Ensure that signs do not obstruct fire-fighting efforts or create traffic hazards by confusing or distracting motorists or by impairing drivers' ability to see pedestrians, obstacles, other vehicles, or traffic signs.
(11) Promote commerce and trade, with recognition of the effects of signage on the character of the community.

(b) The Town Council finds that the regulations in this Article advance the significant government interests identified herein and are the minimum amount of regulation necessary to achieve those interests.

Section 8-4-2. Administration.

(a) Interpretation, conflict, and severability.
(1) The regulations set forth in this Article shall apply to all new signs, replacement signs, and their modification(s) established after the effective date of the Ordinance.
(2) Signs not expressly permitted are prohibited.
(3) Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations of such signs.
(4) This Article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech.
(5) Where this Article differs in any manner from the provisions of the Virginia Uniform Statewide Building Code, the Town Code, or any other ordinance or regulation of the Town, the ordinance, code, or regulation imposing the greatest restriction upon the use of any sign shall control.
(6) Should any Article, Section, subsection, sentence, clause, or phrase of this Ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It being the intent of the Town of Abingdon to enact each Section and portion thereof, individually, and each such Section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other Section or provision.

(b) Application and permit
(1) Sign Permit Required
a. No sign shall be erected, installed, altered, modified, refaced, re-hung, or replaced, without obtaining a permit pursuant to this Article, except as otherwise provided in this Article. Signs within the Town's old and historic district shall conform to the requirements

of such district and require a Certificate of Appropriateness issued by the Historic Preservation Review Board (HPRB).

b. For signs within the Town's entrance corridor, such permit shall conform to the requirements of such district and require Certificate of Appropriateness issued by the Planning Commission.

c. No permit shall be issued by the Administrator except upon a determination that a proposed sign is in conformity with the requirements of this Article and, where applicable, in conformity with the requirements of an approved site plan for the property upon which the sign is to be placed. Appeals from decisions of the Administrator shall be taken to the Town's Board of Zoning Appeals.

d. More than one sign on one building or group of buildings located on the same parcel of land may be included on one application provided that all such signs are applied for at one time.

e. After the issuance of an approved sign permit, the applicant may install and display the approved sign(s). Once installed, the Administrator may inspect the sign(s) for conformance with the approved sign permit and this Ordinance.

(2) An application for such a permit shall:

a. Specify the type of sign to be constructed and the zoning district in which this sign is to be located.

b. Be accompanied with plans including a sketch of the property indicating the lot frontage.

c. Indicate the square footage and location of all existing signs on the property.

d. The area, size, structure, design, location, lighting, and materials for the sign.

e. Contain written consent of the owner or lessee of the land or building upon which the sign is to be erected.

(3) Fee Required.

a. Applications for sign permits shall be submitted to the Administrator, and shall be accompanied by the required fee, as set forth within the uncodified fee schedule adopted by Town Council.

(4) Duration and Revocation of Permit.

a. Any sign permit shall be null and void if any sign for which the permit was issued is not installed in accordance with the permit within six months of the date of approval.

b. A sign permit shall become null and void if the use to which it pertains is not commenced within six months after the date the sign permit is issued. Upon written request and for good cause shown, the Administrator may grant one six-month extension.

c. Whenever the use of a building or land is discontinued by the specific business, the sign permit shall expire and all signs pertaining to that business shall be removed by the property owner within 30 calendar days of the discontinuance.

d. The Administrator shall revoke a sign permit if the sign does not comply with applicable regulations of this Article, building code, or other applicable law, regulation, or ordinance.

(c) Special Exceptions.

(1) Comprehensive Sign Plan.

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a. Special exceptions to this Article may be granted in B, M, and PTD districts as a comprehensive sign plan approved by special use permit. Special exceptions to the maximum height requirements in this Article shall not be permitted.
b. The Comprehensive Sign Plan is intended to promote consistency among signs within a development and enhance the compatibility of signs with the architectural and site design features within a development.

(2) Contents of Plan.
a. A Comprehensive Sign Plan, which may be a written document or drawings adequate to depict the proposed signs, shall include:
1. The proposed general locations for freestanding signs on a lot as well as the proposed location(s) for building signs on a building façade.
2. Types of signs proposed.
3. A listing of materials proposed for all sign structures and sign surfaces.
4. The maximum number and maximum size of proposed signs.
5. The type of illumination, if any, proposed for all signs, including whether internally illuminated or external illuminated and describing the type of light fixture proposed.
6. A description of any ornamental structure upon which a sign face is proposed to be placed.

(3) Amendment of Plan.
a. A Comprehensive Sign Plan may be amended by submitting a revised Comprehensive Sign Plan for consideration and determination through the special use permit process. Upon approval, the amended plan shall have the same force and effect as an approved Comprehensive Sign Plan.

Section 8-4-3. Exemptions.

(a) Signs not requiring permit.
(1) The following signs are allowed and do not require a permit:
a. Signs erected by the Town of Abingdon or required by law, including official traffic signs, wayfinding and topic specific signs, provisional warning signs, or sign structures, and temporary signs indicating danger.
b. Creeper Trail Signage.
i. Trailhead signage shall serve as a welcome point at the trailheads managed by the Town of Abingdon. Signage can vary in size and message but should be compatible with other trailhead signage along the trail.
ii. Trail Kiosks. Trail kiosks along the trail should be consistent in nature, including but not limited to map for location, rules and regulations, and both emergency and non-emergency contact numbers for the Town of Abingdon.
iii. Mile Marker Signage. Work with partners on the trail (Damascus and the Forest Service) to provide a consistent mile marker system and signage. Utilizing GPS/GIS mapping to pinpoint markers will allow for easier location during emergencies.
c. Roadway and Safety Signage.

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d. Wayfinding signage. The Town of Abingdon shall support tourist destinations, outdoor recreation, emergency management and other points of interest through a Master Wayfinding Plan.
e. Memorial plaques and building cornerstones not exceeding six square feet in area and cut or carved into a masonry surface or other noncombustible material and made an integral part of the building or structure.
f. On a property under construction or renovation, for sale, or for rent, temporary signs not exceeding four square feet for single-family detached properties or 18 square feet for all other residential, nonresidential, or mixed-use properties.
g. Window signs on the interior of the window.
h. Signs displayed on an operable truck, bus, or other vehicle while in use in the normal conduct of business. This Section shall not be interpreted to permit the parking for display purposes a vehicle to which a sign is attached or the use of such a vehicle as a portable sign.
i. House number, mailbox number, decorative yard signage.
j. Signs affixed to the interior of a permanent fence of a recreational or sports facility. Such signs shall be displayed only during the regular season of the individual sport.
k. Yard sale signs. Must be removed upon the completion of the sale / permit.

Section 8-4-4. Prohibited.

Prohibited signs.

(1) Any sign affixed to, hung, placed, or painted on any other sign, fence, cliff, rock, tree, natural feature, public utility pole or structure supporting wire, cable, or pipe, or radio, television, or similar tower provided that this prohibition shall not affect official traffic, parking, or informational signs placed on utility poles by the Town government.
(2) Any sign or banner within or across a public right-of-way, unless specifically approved by the Town Manager, or his designee.
(3) Any sign that, due to its size, illumination, location, or height, obstructs the vision of motorists or pedestrians at any intersection, or similarly obstructs the vision of motorists entering a public right-of-way from private property.
(4) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized Town official as a nuisance.
(5) Signs which obstructs any window or door opening used as a means of egress, prevents free passage from one part of a roof to any other part thereof, or interferes with an opening required for ventilation.
(6) Signs attached, painted, or mounted to unlicensed, inoperative, or generally stationary vehicles. Vehicles and trailers shall not be used primarily as static displays, advertising a business, product or service, nor utilized as storage, shelter, or distribution points for commercial products or services for the general public.
(7) Signs on the roof surface or extending above the roofline of a structure, building, or parapet wall.
(8) Off-premise signs, unless specifically permitted by this chapter.
(9) Any flashing sign, except those officially erected for safety purposes.

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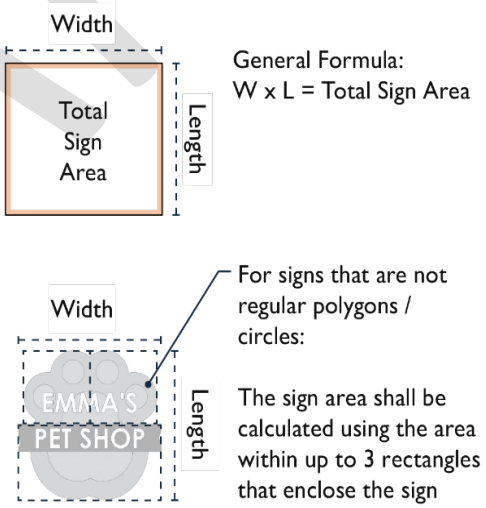
(10) Signs that emit sound, smoke, flame, scent, mist, aerosol, liquid, fluorescent colors, or gas.
(11) Signs commonly referred to as wind signs, consisting of one or more banners, pennants, ribbons, spinners, streamers or captive balloons, or other devises fastened in such a manner as to move upon being subjected to pressure by wind, and including inflatable signs.
(12) Signs that violate any provision of any federal or state law relative to outdoor advertising.
(13) Any sign representing or depicting specified sexual activities or specified anatomical areas or sexually oriented goods. Any sign containing obscene text or pictures as defined by the Virginia Code.

Section 8-4-5. General.

(a) Standards.
(1) Any sign displayed in the Town of Abingdon, shall comply with:
a. All provisions of this Article;
b. All applicable provisions of the Uniform Statewide Building Code and all amendments thereto; and,
c. All state and federal regulations pertaining to the display of signage.
d. Sign area calculations.
(2) The following method shall be utilized in the calculations of sign area:
a. The sign area permitted under this Article is determined by measuring the entire face of the sign including any wall work incidental to its decoration but excluding support elements for the sole purpose of supporting the sign.
b. For signs that are regular polygons or circles, the area shall be calculated by the mathematical formula for that polygon or circle. For signs that are not regular polygons or circles, the sign area shall be calculated using the area within up to three rectangles that enclose the sign face.
c. The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.

Figure 8.9 Calculating Sign Area



d. Whenever one sign contains information on both sides, sign area shall be calculated based on the largest sign face. Sides are not totaled.

(b) Minimum setback. The minimum setback from any right-of-way, unless otherwise specified, is half (1/2) the height of the sign.

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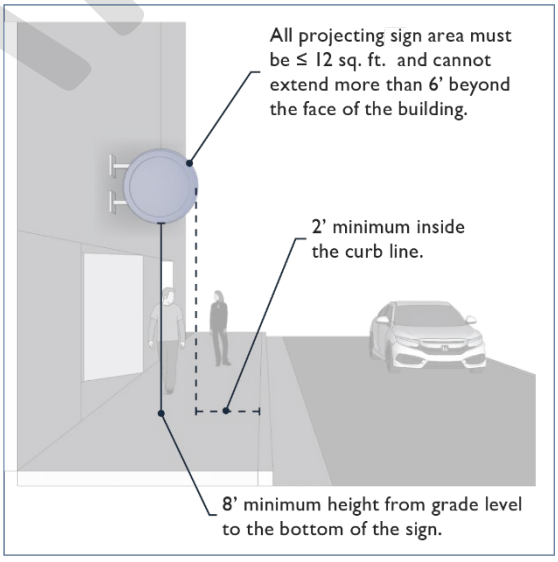
(c) Illumination.
  (1) All permitted signs may be indirectly lighted. Non-residential signs within a residential district may be illuminated as outlined in Section 8-4-6. Signs within a Business or Industrial district may be internally lighted, unless such lighting is specifically prohibited in this Article.
  (2) No sign shall be illuminated in such a way that light may shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit zoned.
  (3) Any electrical sign shall display the required UL, ETL, CSA, or ULC label.
  (4) Illumination shall be no greater than 10,000 nits or foot candles from sunrise to sunset or 700 nits or foot candles from sunset to sunrise and be equipped with automatic brightness control which can dim the display brightness when ambient conditions exist.
  (5) Electronic service lines shall be underground.

(d) Changeable signs.
  (1) Within any Business or Industrial district, one freestanding or wall-mounted sign per lot may be replaced with a changeable message sign subject to the following requirements:
  (2) Location, area, and height, requirements shall be the same as for freestanding or wall signs.
  (3) The message shall not be changed more than once every 12 seconds, move, flash, or display animation, as prohibited in this Article.
  (4) Any changeable message sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner, thereby causing motion, movement, flashing or any other similar effects, shall be repaired, covered, or disconnected by the owner or operator of such sign within 24 hours of notice of violation.
  (5) Light emitted from changeable signs shall not exceed three-tenths (0.3) foot candles over ambient light.
  (6) Existing non-conforming billboards cannot be converted to changeable signs.

(e) Projecting signs.
  (1) Signs projecting over public walkways shall be a minimum height of 8 feet from grade level to the bottom of the sign.
  (2) Projecting signs shall not extend more than six feet beyond the face of the building or beyond a vertical plane two feet inside the curbline.
  (3) Signs, architectural projections, or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the Town for such areas.

Figure 8.10 Projecting Signs



(g) Temporary signs.
  (1) Each temporary sign shall be maintained in good, safe condition, securely affixed to a building or the ground.
  (2) A temporary sign shall not be illuminated.
  (3) A temporary sign permit shall be applied for and approval obtained prior to the installation of all temporary signs, pennants and streamers.

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(4) Temporary sign permits shall be issued for no more than 30 days per quarter.
(5) Individual homeowners cannot advertise for businesses or events as that is considered off premise signage.
(6) Portable signs subject to the dimension requirements in this Article and provided they in no way obstruct vehicular travel, public parking and/or pedestrian movement along sidewalks and are removed when the establishment is closed for business, must apply for and obtain approval of a sidewalk encroachment permit if applicable.
(7) *Residential parcels.* Temporary signage shall be permitted on residential parcels for off-premise advertising granted they comply with the temporary sign square footage and duration.
   a. No permitting is required.
   b. Temporary off-premise signage is not to exceed 32 square feet.
   c. Signs shall be allowed no more than fourteen (14) days prior to the event and no more than three (3) days after its termination.
(8) *Construction sites.* Signs shall be permitted beginning when permits are issued for site preparation or construction and for the duration of actual construction and shall be removed within 15 days following the issuance of a certificate of occupancy, completion or abandonment of work, whichever occurs first.
   a. Such signs shall not exceed an area of 16 square feet and a height of six feet.
   b. Each sign shall be at least 20 feet from contiguous property lines of adjacent landowners and at least five feet from any right-of-way.
   c. Only one sign per street frontage shall be allowed.
   d. Temporary signage may include off-premise information.

Section 8-4-6. Districts.

(a) District regulations
(1) The following requirements shall apply in the designated district, as appropriate, to permitted uses by right and special uses as may be permitted, subject to all other requirements of this Ordinance.
(2) Sign area square footage limits are provided per sign unless specified as a total. Total area is calculated as an aggregate of all signs of that type.

Table 8.4.6(A) Maximum Sign Dimensions: AFOS District

Sign Type	Residential Uses			Non-Residential Uses and Neighborhood Signs		
	Number	Area	Height	Number	Area	Height
1. Freestanding	Not permitted	N/a	N/a	1 per street frontage	25 SF	15 ft.
2. Wall	Not permitted	N/a	N/a	1 per street frontage	25 SF	N/a
3. Minor	1 per street frontage	3 SF	N/a	Not limited	3 SF	N/a
4. Portable	Not permitted	N/a	N/a	1 per street frontage	6 SF	4 ft.
5. Temporary	Not limited	32 SF total	4 ft.	Not limited	32 SF total	4 ft.
6. Internally Illuminated	Not permitted	N/a	N/a	Not permitted	N/a	N/a

Table 8.4.6(B) Maximum Sign Dimensions: R-1, R-2, R-3, R-4 Residential Districts

Sign Type	Residential Uses			Non-Residential Uses and Neighborhood Signs		
	Number	Area	Height	Number	Area	Height
1. Freestanding	Not permitted	N/a	N/a	1 per street frontage, shall be monument only	16 SF	6 ft.
2. Wall	Not permitted	N/a	N/a	1 per street frontage	16 SF	N/a
3. Minor	1 per street frontage	3 SF	N/a	Not limited	3 SF	N/a
4. Portable	Not permitted	N/a	N/a	1 per street frontage	6 SF	4 ft.
5. Temporary	Not limited	32 SF total	4 ft.	Not limited	64 SF total	4 ft.
6. Internally Illuminated	Not permitted	N/a	N/a	Not permitted, except for Churches, Residential Care Facilities, Apartment Complexes, and Townhouses *	N/a	N/a

Table 8.4.6(C) Maximum Sign Dimensions: B-1, B-2, B-3, M-1, OI, and PTD Districts

Sign Type	Number	Area	Height
1. Freestanding	1 per street frontage	60 SF, except 200 SF allowed within 660 ft of I-81	15 ft, except 50 ft. allowed within 660 ft. of I-81
2. Projecting	1 per business per street frontage	12 SF	See Section 8-4-5
3. Wall	1 per business per street frontage	Front: 2 SF for every 1 LF of building face on which the sign is located; Side and Rear: 1 SF for every 1 LF of building face on which the sign is located	N/a
4. Canopy	1 per street frontage	0.5 SF per LF of canopy fascia on which the sign is mounted	Sign shall not extend above or be suspended below the horizontal plane of the canopy fascia
5. Portable	1 per business	12 SF	4 ft.
6. Temporary	Not limited	32 SF total	4 ft.
7. Minor	Not limited	3 SF	4 ft.

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Figure 8.11 AFOS and Residential District Freestanding Sign Examples

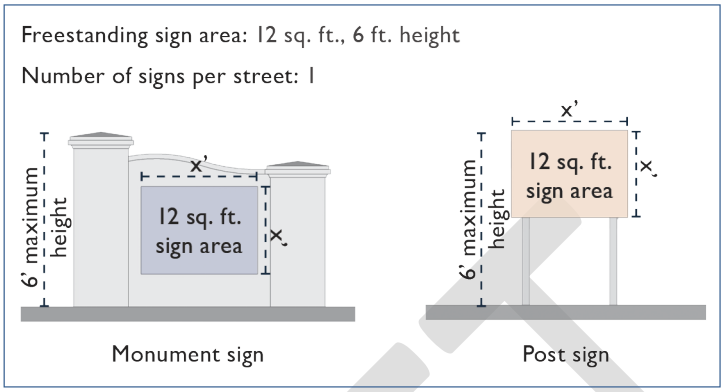
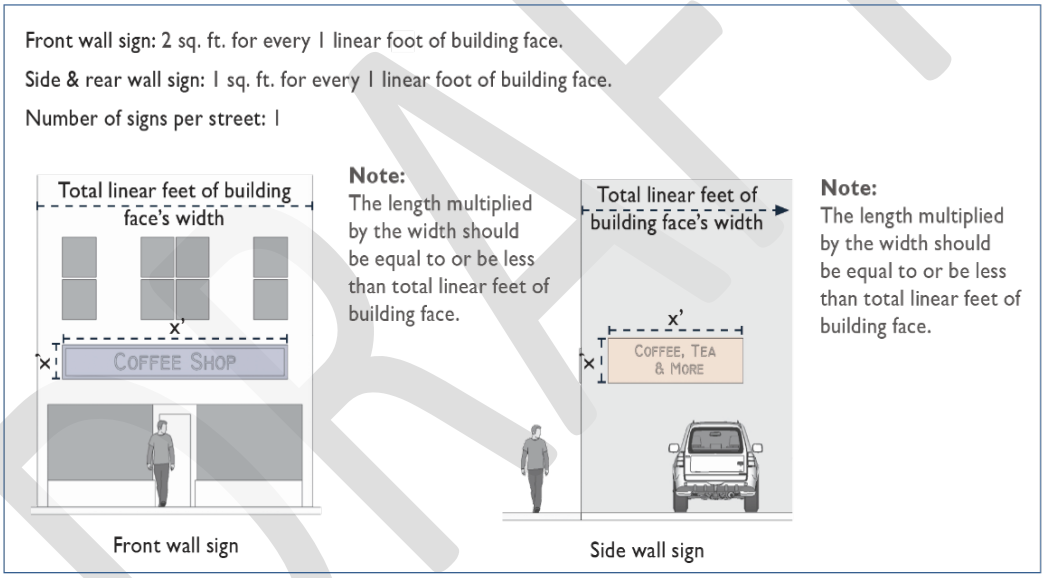


Figure 8.12 B-1, B-2, B-3, M-1, OI, and PTD Wall Sign Examples



(b) Old and Historic District.

(1) Signs within the Old and Historic District shall be subject to the Town of Abingdon Design Review Guidelines for the Old and Historic District, as amended, and require a Certificate of Appropriateness by the Historic Preservation Review Board (HPRB).

(2) The HPRB may approve the attachment or suspension of a sign from an existing freestanding or projecting sign or, in the case of a building on a site with more than one street frontage or more than one principal entrance, one additional freestanding or projecting sign per additional street frontage or principal entrance, if the HPRB determines that such an arrangement is in keeping with the architectural character of the property.

(3) Temporary signage is not allowed without HPRB approval.

(4) Sandwich board signs are allowed without HPRB approval.

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Section 8-4-7. Nonconforming Signs.

(a) Nonconforming signs.
  (1) Any sign legally existing at the time of the passage of this Ordinance that does not conform in use, location, height, or size with the regulations of the zone in which such sign is located, shall be considered legally nonconforming and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:
    a. A nonconforming sign shall not be enlarged nor shall any feature of a nonconforming sign including, but not limited to, illumination, be increased.
    b. A nonconforming sign shall not be moved for any distance on the same lot or to any other lot unless such change in location will make the sign meet all current requirements of this Article.
    c. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50% of its sign area may be restored within two years after such destruction or damage but shall not be enlarged in any manner. If such sign is destroyed or damaged to an extent exceeding 50%, it shall not be reconstructed but may be replaced with a sign that meets all current requirements of this Article.

(b) Exemption for certain existing signs.
  (1) Notwithstanding any contrary provision in this chapter, no nonconforming sign is required to be removed solely by the passage of time.

Section 8-4-8. Enforcement.

(a) Maintenance, repair, and removal.
  (1) Every sign permitted by this Ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the Administrator, or if any sign shall be unlawfully installed, erected, or maintained in violation of any of the provisions of this Ordinance, the owner thereof or the person or firm using same shall, upon written notice by the Administrator forthwith in the case of immediate danger, and in any case within not more than ten days, make such sign conform to the provisions of this Ordinance, or shall remove it. If within ten days the order is not complied with, the Administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
  (2) If a sign presents an imminent and immediate threat to life or property, then an authorized Town official may abate, raze, or remove it, and the Town may bring an action against the responsible party to recover the necessary costs incurred for abating, razing, or removing the sign.

(b) Removal of abandoned signs.
  (1) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove such sign, the Administrator shall give the owner 30 days' written notice to remove it. Upon failure to comply with this notice, the Administrator or his duly authorized representative may remove the sign at cost to the property owner.

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ARTICLE IX. – Nonconforming Uses, Lots, and Structures.[1]

Section 9-1. Intent.[2]

With the adoption of this Ordinance or subsequent amendments, there exists lots, structures, and use of land and structures in combination which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue as established prior to Ordinance adoption and in accordance with the Code of Virginia § 15.2-2307, as amended.

Section 9-2. Generally.[3]

(a) Except as otherwise provided in this Ordinance, any lawful use, building, or structure existing at the time of an amendment to this Ordinance may be continued even though such use, building, or structure may not conform to this Ordinance's provisions and shall be deemed nonconforming.

(b) A change in occupancy or ownership shall not affect the right for the nonconforming use to continue or the nonconforming building or structure to remain.

Section 9-3. Nonconforming Lots of Record.[4]

(a) Any lot of record at the time of the adoption or amendment of this Ordinance which is less in area or in width than the minimum required by the zoning district may be used or built upon, provided that if yard and/or setback requirements cannot be met, a variance shall be obtained through the variance processes outlined in Article III of this Ordinance.

(b) A developed nonconforming lot may continue in existence but may not be altered except in accordance with this article, to becoming conforming. Nonconforming lots may not become less conforming.

(c) A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the zoning district in which the lot is located through the following actions:

(1) A consolidation of the nonconforming lot with an adjacent lot;

(2) A boundary adjustment between two contiguous lots, one being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot

[1] Editor's Note: Existing text section 16-2-1 that requires nonconforming uses obtain a zoning permit within 60 days of adoption and section 16-4 outlining that district boundary changes that create nonconformities shall comply with the article, are not included in the proposed text. The Code of Virginia does not require that nonconforming uses obtain permits for nonconforming status nor that nonconformities due to district boundary changes must comply with article for the district, instead this article focuses on the types of nonconformity and related allowances and restrictions.

[2] Editor's Note: New text to introduce the article.

[3] Editor's Note: Existing text 16-1-1 and 16-1-2 are reframed and supplied in this section. However, text requiring the relocation of signs which are nonconforming due to rezoning, is removed. Sign nonconformity is located in Article VIII Division 4; nonconformities from Zoning Text Amendments and Zoning Map Amendments should be treated equally.

[4] Editor's Note: Existing text section 16-6 is utilized with additional text for clarity and information purposes.

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nonconforming, does not create an additional lot, and does not increase the nonconforming lot's nonconformity; or

(3) Rezoning to a different zoning district to meet the lot size, lot width, and lot frontage requirements of that district.

Section 9-4. Nonconforming Use. [5]

(a) A nonconforming use for which a zoning permit was issued legally prior to the adoption of this Ordinance, and for which the permit is still active but the use is not established, may proceed provided the use is established within 30 days after the adoption of this Ordinance.

(b) A nonconforming use for which a special use permit was lawfully granted prior to the adoption of this Ordinance may proceed in compliance with the issued permit and any limiting time for establishment. However, if the special use permit does not conditionally limit a time period for establishment, then the use must be established within 30 days after the adoption of this Ordinance.

(c) A legal nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for in this Section.

(1) A nonconforming use may change to a conforming use.

(2) The nonconforming use may be extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of enactment of this Ordinance provided there are no structural alterations, expansion, or enlargement except those required by law or lawful order.

(3) A nonconforming use may be changed to another nonconforming use of the same or of a more restricted classification. 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.

(4) A nonconforming dwelling unit may have a home occupation subject to the requirements of Article V1and V11.

(5) A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this Ordinance when:

a. The nonconforming use is discontinued for a period of two (2) years, regardless of whether or not equipment or fixtures are removed, and shall be deemed abandoned.

1. However, on application made to the Administrator by the owner or any party in interest, the Administrator may extend the aforesaid two-year period up to an additional two (2) years for good cause.

b. The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.

(6) 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

[5] Editor's Note: Existing text sections 16-1-3 through 16-1-5 are utilized here with modifications for clarity and additional text for specificity and to match the Code of Virginia. Used related text of 16-2-2 with modification to clarify only active permits of non-established uses; additionally, required that special use permits follow the time limits that are granted during approval.

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a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

(7) When evidence available to the Administrator is deemed 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.

Section 9-5. Nonconforming Structures, Buildings, and Improvements.[6]

(a) The construction of a nonconforming building for which a permit was issued legally prior to the adoption of this Ordinance may proceed, provided such building is completed within one (1) year after the adoption of this Ordinance.

(b) A nonconforming structure or nonconforming improvement may continue as it existed when it became nonconforming. A nonconforming structure or nonconforming improvement shall not be reconstructed, altered, or expanded in any manner, except as provided in this Section.

(c) A nonconforming building or structure shall include those circumstances where the Town has:
   (1) Issued a building permit or other permit authorizing construction and the building or structure was constructed in accordance with the building permit, and upon completion, the Town issued a Certificate of Occupancy; or
   (2) The owner of the building or structure has paid real estate taxes to the Town for such building or structure for a period of more than the previous 15 years.

(d) Additionally, a nonconforming building or structure shall include those circumstances where:
   (1) A permit was not required, and an authorized governmental official informed the property owner that the structure would comply with the Zoning and Subdivision Ordinance; and
   (2) The improvements were then constructed accordingly.
   (3) However, in any proceeding when the authorized town official is deceased or unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized town official made such statement.

(e) A nonconforming structure may be changed to make it a conforming structure.

(f) A building or structure nonconforming only as to height, area, or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect.

(g) Any nonconforming building or structure may be brought into compliance with the Uniform Statewide Building Code without affecting the nonconforming status of the building or structure.

(h) If a nonconforming structure is demolished or removed, no nonconforming structure shall be reestablished, except as provided under Section 9-6.

(i) If a nonconforming structure is removed for any reason to another parcel of land, regardless of distance, or the lot lines of the parcel on which it is located change, the structure shall thereafter conform to the requirements of the district in which it is located.

[6] Editor's Note: Includes new text to specify what qualifies as a nonconforming building or structure and the ability to meet building code without affecting nonconforming status. Existing text sections 16-5 and 16-7-1 through 16-7-4 are updated to meet the Code of Virginia and for readability.

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Section 9-6. Repairs and Maintenance.[7]

(a) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done if:
  (1) Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or
  (2) For any internal remodel; provided, that the cubic content of the structure as it existed at the time of passage or amendment of this Ordinance, shall not be increased.

(b) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.

(c) If a nonconforming building or structure is damaged or destroyed, even if 50% or greater, by fire, natural disaster or other act of God, such building or structure may be repaired, rebuilt or replaced provided that:
  (1) The nonconforming features are eliminated or reduced to the extent possible, without the need to obtain a variance;
  (2) The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code;
  (3) The requirements of the floodplain management regulations in the Town Code are met; and
  (4) The work is done within two years unless the building is in an area under a federal disaster declaration and was damaged or destroyed as a direct result of the disaster, in which case the time period shall be extended to four years.

(d) Owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this Section.

(e) If a nonconforming mobile home is removed other than by natural disaster or public action, it may not be replaced except as provided for below unless it complies with regulations within the Ordinance.
  (1) Nothing in this Section shall be construed to prevent the landowner or homeowner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

[7] Editor's Note: Added text to meet the Code of Virginia related to replacement of mobile homes. During the February 2022 worksession PC requested to allow full internal remodel of structures. Text has been edited to reflect this request.

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ARTICLE X. – Subdivision.

Division 1. In General.[1]

Section 10-1-1. Title.

This Article is a portion of the Zoning and Subdivision Ordinance of the Town of Abingdon, Virginia. It shall be permitted, for convenience, to be referred to as the "Subdivision Ordinance of the Town of Abingdon, Virginia" or "Ordinance."

Section 10-1-2. Recording of Ordinance.

In accord with the Code of Virginia § 15.2-2252, as amended, a certified copy of the adopted Subdivision Ordinance of the Town of Abingdon, Virginia and any and all amendments thereto shall be filed in the office of the Subdivision Agent (Agent) and in the Clerk's Office of the Circuit Court of Washington County, Virginia.

Section 10-1-3. Amendments.

Per the Code of Virginia, § 15.2-2251 and § 15.2-2253, as amended, this Article may be amended in whole or in part by the governing body; provided, that any such amendment shall either originate with or be submitted to the Planning Commission for recommendation; further provided, that no such amendment shall be adopted without a public hearing having been held by the governing body in accordance with the Code of Virginia § 15.2-2204, as amended. In no instance shall an amendment be adopted by the governing body of the locality without first seeking the recommendation of the Commission. If no recommendation is made by the Commission, the governing body may take action 60 days from their inquiry.

Section 10-1-4. Repeal.

Upon the adoption of this Ordinance, all Subdivision Ordinances heretofore adopted by the Town Council of the Town of Abingdon are hereby repealed.

Section 10-1-5. Applicability.

(a) No person shall subdivide any tract of land that is located within the Town of Abingdon except in conformity with the provisions of this Article, the Zoning and Subdivision Ordinance, and the provisions of Virginia law relating to land subdivision and development.

(b) Any owner or developer, of any tract of land situated within the corporate limits of the Town of Abingdon who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the Office of the Clerk of the Circuit Court of Washington County, Virginia. No such plat of a subdivision shall be submitted for recordation unless and until it shall have been approved and certified in accordance with the regulations set forth in this Ordinance.

[1] Editor's Note: Existing Ordinance sections 1.1 and 12.1-12.3 are included with text changes and Code of Virginia references for clarity. Portions of existing Ordinance sections 3.1 and 3.2 are included under Applicability.

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Section 10-1-6. Circumvention.

Development of two or more adjoining minor subdivisions, for the purpose of circumventing subdivision requirements shall not be permitted.

Section 10-1-7. Exemptions.

"Subdivision" shall not apply to:

(1) Existing Parcels. The sale or exchange of existing parcels of land between owners and the creation of boundary surveys which do not change or alter any boundary lines of a parcel.

(2) Utility Rights-of -Way; Public, Private Rights-of -Way. A bona fide division of a tract of land in order that one (1) or more of the resulting parcels may be used as part of a public or private right-of-way. If a parcel resulting from such division is ever to be used as a building site for other than a hereinabove described right-of-way, then before a building permit may be issued for such other use, the minimum requirements of this Ordinance shall be observed.

(3) Wills, Court Action. The partition of lands by will, by partition deed of intestate land, by the descendants of the deceased former owner or through action of a court of competent jurisdiction.

(4) Minor Subdivisions and Boundary Line Adjustments. These divisions and adjustments will be reviewed for suitability and lot standards through an administrative plat review process.

Division 2. Design Requirements.[2]

Section 10-2-1. Suitability of Land.[3]

(a) The Agent shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

(b) Land subject to flooding and land deemed to be topographically unsuitable, having unsuitable soils, or inadequate light and air shall not be platted for residential occupancy nor for such other uses as may increase danger of health, life, or property or may aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

(1) To ensure that owners will have sufficient land upon which to construct a structure that is flood free, compliance with floodway widths and the 100-year flood elevations, contained within the Town's Flood Insurance Study (FIS), is mandatory. The Town Engineer may require the applicant to provide elevation and flood profiles, based on a 100-year flood plain, sufficient to demonstrate the land to be completely free of the danger of flood water at an elevation of at least one foot below any probable floor level of any structure for human occupancy.

[2] Editor's Note: Does not include existing section 5.21 which allows the Planning Commission to require land for public uses but places limits and purchase requirements. Town staff, including the Town Attorney, should review this existing text and determine if incorporation is still applicable.

[3] Editor's Note: Item (a) is included as new text. Existing Ordinance sections 5.4 and 5.5 are included as items (b)(1) and (b)(2).

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(2) Except as provided herein the Town Engineer shall not approve streets subject to inundation or flooding by water. All streets must be adequately located above the line of flood elevation to prevent isolation of areas by flood. Drainage facilities in local, collector, and cul-de-sac streets shall be designed to handle a storm with an expected return period of once in every ten years. Drainage facilities in arterial streets shall be designed to handle a storm with a 25-year return period.

Section 10-2-2. Lots.[4]

(a) Lot Size. Lot area and dimensions shall be in accordance with the provisions of the Zoning and Subdivision Ordinance for the zone in which the subdivision is located.
(b) Lot Shape. The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and conform to requirements set forth herein. Lots shall not contain peculiarly shaped elongations which would be substantially unusable for normal purposes solely to satisfy necessary square footage or frontage requirements or to provide access to any lot that would otherwise not have road frontage.
(c) Abut on a public street. Each lot shall abut on a street dedicated by the subdivision plat or an existing publicly dedicated and maintained street, or on a street which has become public by right of use. Interior lots having frontage on two streets shall be avoided except where unusual conditions make this design necessary.
(d) Corner lots. Corner lots shall have extra width sufficient for maintenance of required setbacks on both streets as required by the Zoning and Subdivision Ordinance.
(e) Lot lines. Side lines of lots shall be approximately at right angles, or radial to the street line.

Section 10-2-3. Remnants.

All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots, rather than be allowed to remain as unmarketable or nonconforming parcels.

Section 10-2-4. Streets.[5]

(a) Generally.
(1) All streets in the proposed subdivision shall be designed and constructed by the subdivider in accordance with the minimum requirements of the Ordinance, at no cost to the locality.
(2) Unless otherwise provided herein or in the Zoning and Subdivision Ordinance, there shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street constructed to the standards of this code and accepted and maintained by the Town of Abingdon.

[4] Editor's Note: Existing Ordinance section 5.20 is included with the exception of item (g) related to ownership; this item is moved to section 10-5-3 as part of general platting requirements. Item (b) prevents reserve strips and flag lots and therefore additional text on these topics is eliminated.
[5] Editor's Note: New text ensures that the cost of construction of minimum requirements will not be borne by the Town of Abingdon. Existing Ordinance sections 5.8, 5.9, 5.11, 5.12, 5.13, 5.15, 5.16, 5.17, 5.18, 6.3, 6.4, 6.6, 6.7, and 6.12 are utilized and reorganized for clarity. Text changed from allowing Commission to approve approach angle and right-of-way grading changes to Town Council approval.

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(3) Street improvements shall be made in compliance with the latest edition of Road and Bridge Specifications of the Virginia Department of Transportation, where applicable.

(4) No development shall be approved if such development, at ultimate build out, will result in or increase traffic on the arterial or collector street to which it is connected, so that the street does not function at an average daily traffic level of service C or better, or a peak traffic level D, as described in "A Policy on Geometric Design of Highways and Streets", latest edition, published by the American Association of State Highway and Transportation Officials. The applicant may propose and construct approved traffic mitigation measures to provide adequate roadway capacity for the proposed development.

(b) Approach angle and intersections.

(1) Local streets shall approach the major or collector streets at an angle of not less than 80 degrees, unless the Town Council upon recommendation of the Town Engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching of existing patterns. Whenever possible, streets should intersect at a right angle. Where a deflection angle of more than two degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced.

(2) On streets 60 feet or more in width the centerline radius of curvature shall not be less than 300 feet, on other streets not less than 100 feet.

(3) Face of curb radii at intersections shall generally be not less than 30 feet for collector streets nor less than 20 feet for local streets. Face of curb radii at arterial street intersections shall be as determined by the Town Engineer.

(c) Minimum widths.

(1) The minimum width of existing and proposed streets, measured from lot line to lot line, shall be as shown on the street designation map incorporated in Addendum A.[6] The minimum width of streets, which do not appear on said map, shall be classified according to potential traffic load determined by the public works department as follows:

a. Arterial or thoroughfare streets: not less than 80 feet, or as shown on the current state transportation plan.

b. Collector streets: not less than 60 feet.

c. Local service streets which cannot be extended in the future: not less than 50 feet.

d. Alleys, if permitted: not less than 20 feet.

(2) Whenever subdivided property abuts an existing half street the remainder of the street shall be dedicated to make the right-of-way on the half-street abutting the subdivision comply with Section 10-2-6(c)(1) above.

(3) Streets shall be graded to the cross section and profile approved by the Town Council.

(4) Streets shall be surfaced to the following minimum pavement widths:

a. Collector streets: 40 feet (face of curb to face of curb).

b. Local service streets: 34 feet (including gutter pans).

c. Alleys: 16 feet.

(d) Street grades.

(1) On streets that are required to have a right-of-way width of 60 feet or more, grades shall not exceed 6%.

[6] Editor's Note: This text should be updated based on the availability and relevancy of Addendum A.

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(2) On streets and alleys permitted to have a right-of-way width of less than 60 feet, grades shall not exceed 12%.

(3) All streets and alleys, including those within platted areas which are dedicated for public uses, shall be graded to the full right-of-way width unless the Town Council permits a lesser graded width. In all cases the centerline of the roadway shall coincide with the centerline of the dedicated right-of-way.

(e) Cul-de-sacs.

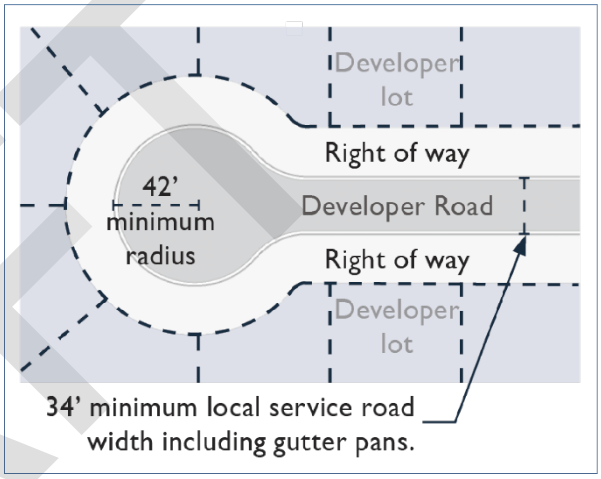
(1) Local terminal streets (cul-de-sac), designed to have one end permanently closed, shall not be longer than 1,000 feet, to the beginning of the turn-around.

(2) Each cul-de-sac must be terminated by a turn-around having a property line diameter of at least 100 feet.

(3) If surface water drains into the turn-around, due to the grade of the street, necessary storm drainage facilities, and drainage easements shall be provided.

(4) The minimum face of curb radius shall be 42 feet.

Figure 10.1 Cul-de-Sac Dimensional Standards



(f) Alleys.

(1) Alleys shall be provided in business and industrial districts, except that the Town Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading and unloading, and parking consistent with and adequate for the uses proposed.

(2) While not required, the Town Council may recommend alleys be provided to serve residential properties where such alleys are considered necessary. In any case, dead end alleys should be avoided where possible, but, if unavoidable, shall be provided with adequate turn-around facilities as recommended by the Town Council.

(g) Construction requirements.

(1) All roadways shall be paved with bituminous material, in accordance with the requirements of the Town of Abingdon, Department of Public Works for acceptance by that department and as approved by the Town Council after receiving the report and recommendation of the Town Manager. The subdivider shall be responsible for bringing roadways up to standard for initial acceptance by the Abingdon Department of Public Works.

(2) Curb and gutter shall be installed on both sides of all streets and shall conform to the Virginia Department of Highways and Transportation standard CG-6. When in the opinion of the Town Engineer curbing alone will satisfy the needs of the subdivision, curbs conforming to standard CG-2 shall be constructed on both sides of all streets. Curb depth below surface of pavement may be modified if so recommended by the Director of Public Works.

(3) Sidewalks of concrete or other approved material with a minimum width of five feet and a minimum thickness of four inches shall be installed on both sides of all streets when the adjacent property has an existing sidewalk or when in compliance with the Comprehensive Plan; provided, however, that where warranted, the Town Council may waive these requirements.

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(4) Where sidewalks and/or curbs and gutters are installed, drive entrances shall be constructed conforming to Virginia Department of Transportation Standard CG-9B or CG-9D as determined by the Town of Abingdon prior to construction. Where no sidewalk is constructed, an apron two feet wide shall be constructed conforming to section C-C of CG-9B and section A-A of CG-9D.

(h) Names.
(1) Unless the Town Council allows an exception, proposed streets which are obviously in alignment with others already existing and named, shall bear the names of the existing streets.
(2) In no case shall the name of the proposed streets duplicate existing street names regardless of the use of the suffix street, avenue, boulevard, drive, way, place, or court.
(3) Street names shall be indicated on the preliminary and final plats and shall be approved by the Town Council.
(4) Names of existing streets shall not be changed except by the approval of the Town Council. House numbers (911 addresses) shall be assigned by the Town of Abingdon.

(i) Signs. Street name signs shall be installed at all street intersections at locations approved by the Director of Public Works. Sign plates shall be of metal, black letters on a white background with letters and backgrounds fully reflectorized, attached to a post.

Section 10-2-5. Access.[7]

(a) Future access.
(1) Whenever an area is divided into lots and cannot be further divided, and the Town Council requires provisions for street access to adjoining property, proposed streets shall be extended by dedication and construction to the boundary of such property. Such dead-end streets shall be provided with a temporary turn-around.
(2) Whenever an area is divided into lots, containing one or more acres, and such lots can be re-subdivided into smaller building lots, consideration must be given to the highway, street and lot arrangement of the original subdivision so that additional local streets can be opened which will permit a logical arrangement of smaller lots. Easements, providing for the future opening and extension of such streets may, at the discretion of the Town Council, be made a requirement of the plat.
(3) Half streets along the boundary of land proposed for subdivision are not permitted.

(b) The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas where streets already exist. Collector and local streets shall be respectively extended as such. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property.

(c) When the area to be subdivided adjoins a railroad right-of-way, the intersection of the centerline of any street or highway paralleling the railroad with that of any street that crosses the railroad shall be a minimum of 150 feet from the line of the railroad right-of-way.

(d) Individual lots shall have only one point of ingress / egress per the VDOT Private Entrance Standard (PE-1).

[7] Editor's Note: Existing Ordinance sections 5.2, 5.7, 5.10, and 5.14 utilized with edits to resolve conflicting text, arbitrary terms, and provides the Town Council as the authority on requirements instead of the Planning Commission.

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Section 10-2-6. Blocks.[8]

(a) Length. Blocks shall not exceed 1,200 feet in length, and they shall not be less than 400 feet in length.

(b) Width. Blocks shall be wide enough to allow for two tiers of lots at minimum depth except where prevented by topographical conditions or width of property, in which case the Town Council may alter the width.

(c) Crosswalks. In blocks over 800 feet in length, the Town Council may require one or more public crosswalks, of not less than ten feet in width, to extend entirely across the block and at locations deemed necessary.

(d) Block orientations. Where a subdivision adjoins a major road, the Town Council may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

(e) Business or industrial blocks. Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

Section 10-2-7. Other Improvements.[9]

(a) Water lines. The water distribution system in the subdivision shall be as required and approved by the Washington County Service Authority. Mains shall be sized for adequate fire protection and fire hydrants shall be installed not more than 1,000 feet apart in a business district and not more than 2,000 feet apart in a residential district, as traveled by improved streets from the fire hydrant to the property.

(b) Sewer. All sewer installations shall conform to the requirements of the Town Ordinance pertaining to utilities (chapter 74). Based on distance to existing public sewer, gravity, and availability, the subdivider shall connect to the public sanitary sewer system or provide private septic. The sewer system connecting to public utility shall be approved by the Town of Abingdon, and construction shall be in compliance with the technical specifications for sanitary sewer construction for the Town of Abingdon and the State Department of Environmental Quality. Private septic facilities shall be approved by the Health Official and/or the Town of Abingdon for the adequate disposal of sanitary waste.

(c) Stormwater. Adequate facilities shall be provided for the disposal of stormwater. The storm drainage system shall be approved by the Town of Abingdon Department of Public Works. All stormwater facilities shall be constructed in accordance with the requirements as set forth in the Town's erosion and sediment control ordinance. Additionally, the use of low impact development practices should be considered and is encouraged wherever practical.

(d) Streetlights.

(1) Streetlights shall be provided on all collector, arterial, and local streets within or contiguous to a subdivision. The streetlight layout shall be in accordance with the VDOT Subdivision Street Guide (24VAC-30-91-160). The installation cost shall be paid by the subdivider. Each streetlight shall:

a. Consist of a uniform style within the subdivision and to adjacent streetlights.

[8] Editor's Note: Existing Ordinance section 5.19.

[9] Editor's Note: Existing Ordinance sections 6.8-6.11 are included with some reorganization for clarity.

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b. Be full cutoff luminaires and aimed and controlled such that light is directed and confined to the object intended to be illuminated.

Section 10-2-8. Easements.[10]

(a) In accordance with the Code of Virginia § 15.2-2241(2), as amended, the Town of Abingdon or it's Agent shall require that easements for drainage through adjoining property be provided by the subdivider when needed to adequately provide for drainage or flood control.
(b) In accordance with the Code of Virginia § 15.2-2241(6), as amended, once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision and a request is made to use the easement for said purpose, the developer shall grant the easement within 30 days or mutually agree on an alternate location for an easement.
(c) Where alleys are not provided in the plat, public utility easements of not less than ten feet in width shall be granted to the Town of Abingdon by the owner on each side of all rear lot lines and, where necessary, alongside lot lines. Easements of greater width may be required along lot lines or across lots when necessary for the extensions of main sewers or other utilities. Easements 20 feet in width shall be required for all public sanitary sewer lines, centered on existing or proposed sanitary sewer lines, within the area platted.
(d) No buildings or structures shall be permitted on easements.
(e) Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall at his own expense, make adequate provisions for the proper drainage of surface water.

Section 10-2-9. Monuments.[11]

(a) Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all monuments required by the Town of Abingdon are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Director of Public Works before any improvements are accepted by the Town Council.
(b) As allowed by the Code of Virginia § 15.2-2241(7), as amended, at least two concrete monuments shall be set in each subdivision block. Such monuments shall be four inches in diameter or square, two feet long, with a flat top, or other standard acceptable to the public works department. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade. A minimum of two monuments in each subdivision shall be tied to the Global Positioning System (GPS).
(c) The replacement of any monuments removed or destroyed during the development of the subdivision shall be the responsibility of the subdivider.

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[10] Editor's Note: Item (a) is provided as new text allowed by the Code of Virginia. Existing Ordinance section 5.21 (5) and 5.21 (6) are included in this section.
[11] Editor's Note: Follows the text of existing ordinance section 5.22 with incorporation of Code of Virginia reference and item (c) as best practice.

Section 10-2-10. Exceptions.[12]

(a) Planned large-scale developments. Whenever a subdivision is developed as a planned unit development or other large-scale development under appropriate provisions of the Zoning and Subdivision Ordinance, the Town Council may vary the requirements of lots, streets, access, and blocks as outlined in this Division in order to allow the subdivider more flexibility in the arrangements of the streets, blocks, and lots. Any such exception shall provide for the convenience, health, and safety of the probable future residents of the subdivision as well as the general welfare of the surrounding area.

(b) A planned unit development, including the large-scale construction of housing units together with necessary drives and access may be approved by the Town Council although the design of the project does not include standard lot and subdivision arrangements, if departure from the foregoing standard can be made without destroying the intent of the subdivision regulations.

(c) All other exceptions shall go before the Board of Zoning Appeals as outlined in Section 10-5-5 of this Article.

Division 3. Improvement Plans, Obligations, and Procedures.[13]

Section 10-3-1. Improvement Plans.[14]

(a) With, or prior to, the submittal of the final plat, the subdivider shall submit the following plans, profiles and cross sections, and specifications for the construction of the improvements for the subdivision as required in these regulations:

(1) Drainage plans.

(2) Soil erosion and sediment control plans.

(3) Street plans including width of roadways, cross sections and profiles with present and proposed grades and street intersection elevations and all drainage and utility features required, and other necessary data. The cross sections shall be taken and withdrawn at intervals of not more than 50 feet along the centerline, unless otherwise required by the Town of Abingdon, and shall extend out to the sides to that point where the proposed grade intersects the existing grade. In no case shall these cross sections be extended less than the full width of the right-of-way.

(4) Natural gas, water supply, and sewage disposal plans including drainage courses, existing sewers, water and gas mains and culverts, and other underground structures, showing pipe sizes, invert elevations, and grades.

(5) The plan and profile of proposed utility mains, sanitary sewers, and storm water drains, with location, grades, and pipe sizes indicated, and a plan of the proposed water distribution system showing pipe sizes and location of valves and fire hydrants.

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[12] Editor's Note: Existing Ordinance sections 5.25 and 5.26 included with Commission approvals and variations changed to Town Council. Additionally, due to the structural reorganization of Street Design Requirements, construction requirements for sidewalks are now included as an item the Town Council may vary.

[13] Editor's Note: All improvement plan requirements organized in this Division for ease of use.

[14] Editor's Note: Existing Ordinance section 9.1 and 8.3 item (13) are combined for one list of required plans.

(b) Improvement plans shall be drawn to a horizontal scale of at least one inch to 30 feet and a vertical scale of one inch to five feet or less. Elevations shall be referred to mean sea level with one or more benchmarks described on the plans.
(c) Improvement plans shall be prepared by a professional engineer or land surveyor, who shall endorse the plan.
(d) Standards, specifications and special provisions, approved by the Department of Public Works, may be required.
(e) The improvements plans shall include any information and notes, as set forth in the improvement plan submittal requirements, as published and revised, from time to time, by the Town of Abingdon Department of Public Works.

Section 10-3-2. Obligation of Improvements.[15]

(a) All improvements and facilities required by this Article shall be installed by the subdivider at their cost and are not the responsibility of the Town of Abingdon, as outlined in the Code of Virginia § 15.2-2268, as amended. No bond or other performance guarantee posted by the subdivider shall be released until construction has been completed, inspected, and approved by the Town of Abingdon. Periodic partial release is allowed as outlined in the Code of Virginia § 15.2-2245, as amended, and Section 10-4-4 of this Article.
(b) As allowed by the Code of Virginia, § 15.2-2243 and § 15.2-2242(5), as amended, the Town of Abingdon shall require a subdivider or developer of land to pay his pro rata share of the cost of providing reasonable and necessary road improvements, sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by them but necessitated or required, at least in part, by the construction or improvement of his subdivision or development as per Town of Abingdon water and sewer regulations.
(c) Any improvements, which are installed and constructed as part of a subdivision or development, which are not required but will come under control of the Town of Abingdon, shall be installed and constructed in accordance with good engineering practices and approved by the Town Engineer.
(d) Inspection during and after installation of improvements will be made by representatives of the Town of Abingdon and approving agencies to ensure conformity with approved plans and specifications. The subdivider shall notify the Town of Abingdon in writing at least three days before commencing construction or installation on any item of improvement and of each phase of street construction. The subdivider shall also notify the Town of Abingdon upon completion of each improvement item or phase of street construction. The subdivider shall provide adequate competent supervision on the project site during construction of the required improvements and shall keep one set of approved plans, profiles, and specifications on the project site at all times when work is being performed.

[15] Editor's Note: New text and Code of Virginia references added to ensure state code compliance and allow for pro rata share of the cost of road and other improvements. Existing Ordinance sections 6.1 and 6.2 also included.

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Section 10-3-3. Procedure for Plan Approval and Revisions.[16]

(a) Improvement plans for the design and construction of required public facilities shall be submitted and approved prior to or with the final plat. The Town Engineer shall approve or disapprove plans within 30 days of their submission. The Town Engineer shall provide plans and specifications for installation or modification of the water system to the Washington County Service Authority for approval. In the event of the failure of the Town Engineer to act within such period, the plans may be submitted, after 10 days' notice to the Town of Abingdon, to the Circuit Court for its approval or disapproval.

(b) Prior to final approval by the Town of Abingdon, improvement plans shall be signed by the owner of the land proposed for subdivision. The signature shall certify that the owner is aware of the design requirements imposed by the plan and other applicable town codes and shall further certify that the owner agrees to comply with these requirements, unless modified in accordance with the Town Code.

(c) The Town of Abingdon must approve, in writing, by written change order format, any significant deviation from previously approved plans and specifications. Requests for such deviations, accompanied by revised plans, shall be made by a licensed professional and presented to the Director of Public Works, who will implement the review and approval process.

Division 4. Guarantees.

Section 10-4-1. Required to be Guaranteed.[17]

(a) Guarantees for Improvements Shown on Plat. Before any subdivision plat will be finally approved the subdivider shall, in lieu of completed construction, furnish a bond in an amount approved by the Agent to guarantee completion of the public and other site-related improvements in accordance with specifications and construction schedules established. The guarantee shall be payable to and held by the governing body. However, in accordance with the Code of Virginia § 15.2-2241(B), as amended, any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this Article shall only apply to, or include the cost of, any facility or improvement shown or described on the approved plat or plan of the project for which such guarantee is being furnished.

(b) Guarantees for Dedicated Public Uses. In accordance with the Code of Virginia § 15.2-2241.1, as amended, provided the developer and the governing body have agreed on the delineation of sections within a proposed development, the developer shall be required to furnish a bond for construction of public facilities only when construction plans are submitted for the section in which such facilities are to be located.

(c) Only those improvements not essential to human habitation can be completed under an improvements agreement. Essential health and safety improvements include, but are not limited to, road access to the Subdivision, road access to each Lot, sewage disposal and water supply facilities, fire protection facilities, intersection improvements, traffic safety signage and must be

[16] Editor's Note: Existing Ordinance sections 9.2 and 9.3 utilized.

[17] Editor's Note: Existing Ordinance section 6.14 incorporated with text modifications to add additional detail, more closely follow the Code of Virginia, and include Code of Virginia references.

DRAFT

completed by the developer.Other improvements requiring a guarantee include, but are not limited to:

(1) Structures necessary to ensure stability of critical slopes;
(2) Stormwater management facilities;
(3) Erosion and sediment control measures required as a condition to grading, building, or other permits; and
(4) Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, paving, private recreational facilities, and pavement marking, required by this Article but not completed prior to issuance of occupancy certificate.

Section 10-4-2. Types of Guarantees.

The subdivider shall furnish a performance bond or other approved guarantee, made payable to the Town of Abingdon, by a surety company authorized to do business in the Commonwealth of Virginia and approved by the Town Attorney.

Section 10-4-3. Amount.[18]

In determining the cost of required improvements and the amount of the guarantee, the Town of Abingdon shall require the developer's engineer to prepare the data for review by the Town Engineer. The amount shall be calculated to secure the installation of the required improvements in a workmanlike manner and in accordance with the plans and specifications plus, an additional 10% of the total estimated cost of construction to cover administrative costs, inflation, and potential damage to existing roads or facilities, as permitted by the Code of Virginia § 15.2-2241, as amended.

Section 10-4-4. Release.[19]

(a) As outlined in the Code of Virginia § 15.2-2245, as amended, the subdivider may apply for the periodic partial and final complete release of any bond required under this Article.
   (1) Periodic Partial Release.
      a. Upon the completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request with the Agent for a partial release of such guarantee.
      b. The Agent may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable. The Agent shall not refuse to make a periodic partial or final release of guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by such bond, escrow, letter of credit or other guarantee.
      c. The Agent shall act upon the written request for a partial release within 30 days of receipt.

[18] Editor's Note: Added text requiring that 10% be added to the total construction cost estimate. This is a best practice that will help cover inflation and potential unforeseen costs. The Code of Virginia prevents this from being more than 10%.
[19] Editor's Note: Existing Ordinance section 6.15 incorporated with additional detail and reference to the Code of Virginia.

d. If no action is taken by the Agent within the 30-day time period, the request for partial release shall be approved, and a partial release shall be granted to the subdivider or developer.
e. If the Agent notifies the subdivider or developer in writing of any specified defects or deficiencies in construction and/or any defects or deficiencies in any suggested corrected measures prior to the expiration of the 30-day notice above, the performance guarantee shall remain in full force and effect, until such time as any and all defects or deficiencies have been corrected and the appropriate agencies have agreed that the deficiencies have been corrected.
f. Up to 90% of the original amount of the performance guarantee may be released through periodic partial releases, based upon the percentage of public facilities completed and approved by the Town of Abingdon or other agency having jurisdiction.

(2) Final Release.
a. Upon final completion of the facilities, the subdivider or developer may file a written request for final release of the guarantee. Along with the request for final release, the subdivider shall submit one set of paper prints and one digital copy of as-built plans presented to the Director of Public Works, prior to acceptance by the Town of Abingdon. The as-builts should include, but are not limited to, the sanitary sewer, water distribution system, street lighting, street(s), and drainage.[20]
b. The Agent and/or Director of Public Works may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.
c. The Agent shall either accept the facilities and release the remaining guarantee or notify the applicant that the facilities are not accepted and that there are specific defects or deficiencies in construction.[21]
d. If the Agent fails to act within the 30-day time period, then the applicant may make an additional request in writing for final release, sent by certified mail to the Town Manager. The Town Manager shall act within 10 working days of the request. If no action is taken, the request shall be deemed approved and final release granted to the applicant.

(b) For the purposes of this Section, a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia, § 54.1-400, as amended, or from a department or agency designated by the Town of Abingdon may be accepted without requiring further inspection of such facilities.

(c) For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, as amended, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

[20] Editor's Note: Previously staff noted that this is required but not utilized in practice. Requiring as-builts is a best practice, but this can be removed if not beneficial for Abingdon. Additionally, if the requirement is maintained the type of submittal documents can be updated as desired.

[21] Editor's Note: Existing Ordinance section 6.15 includes text stating that public facilities are not officially accepted until 12 months after notice of completion. This text has not been included. It is assumed the Town utilizes some agreement for warranty of facilities when taking over ownership and therefore this text would not be needed.

DRAFT

Section 10-4-5. Extensions for Completion. [22]

If guaranteed facilities are not timely completed in a manner acceptable to the Town of Abingdon, with consideration given to the size and nature of the facilities and due diligence of the developer to complete, the Town Council shall direct the Agent to proceed via the provisions for default or allow an extension of time for the completion of facilities, not to exceed one year, provided that:

(1) All surety consents have been acquired and approved by the Town of Abingdon;
(2) The owner has submitted an acceptable revised schedule for completion; and
(3) Inspection of existing physical improvements is found to be satisfactory.

Section 10-4-6. Default.[23]

In the event of default in the construction of guaranteed facilities, the Agent is authorized to take such action as may be required to protect the Town of Abingdon including, but not limited to:

(1) Draw or make demand on the owner or developer's security;
(2) Contract for the completion of the work, following the rules for public procurement; and
(3) Bring an action at law against the owner, developer, financial institution, or surety.

Division 5. Platting Requirements, Generally.[24]

Section 10-5-1. Approval Required Before Sale.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or their representative shall apply in writing to the Agent for the approval of the subdivision plat. No lot shall be sold until a final plat for the subdivision shall have been approved and recorded in the manner provided in this Article.

Section 10-5-2. Changes to Plats.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after approval has been endorsed, in writing, on the plat or sheets, unless authorization for such change has been granted in writing by the Agent.

Section 10-5-3. Separate Ownership.

Where the land covered by a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership before approval of the final plat, and such transfer certified to the Town Council by the Clerk of the Circuit Court of Washington County, Virginia.

DRAFT

[22] Editor's Note: This is new text provided as a best practice. However, other localities allow the Agent to grant extensions, but based on previous staff comment this has been modified with Town Council direction.
[23] Editor's Note: This is new text that supports the previous section.
[24] Editor's Note: Existing Ordinance sections 3.2, 4.10, and 5.20 (g).

Section 10-5-4. Recording.[25]

(a) As required by the Code of Virginia, §15.2-2254, as amended, any owner or developer of any tract of land situated within the Town of Abingdon who subdivides the same shall cause a plat of subdivision to be made and recorded in the Office of the Clerk of Circuit Court of Washington County. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the Agent in accordance with the regulations set forth in this Article.

(b) As directed by the Code of Virginia § 15.2-2241 (8), as amended, after the Agent has approved the final plat, the subdivider shall file such plat for recordation in the Clerk's Office of the Circuit Court within 6 months after approval thereof; otherwise, such approval shall become null and void. However, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the Town Council or Agent, or where the developer has furnished a guarantee to the Town Council or Agent by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the approved guarantee agreement, whichever is greater.

(c) To entitle a final plat to be entered in the proper books in the Office of the Clerk of Circuit Court of Washington County, the certificate of consent as outlined in the Code of Virginia, § 15.2-2264, as amended, together with the certificates of approval of the Agent, shall accompany it. These certificates shall be lettered or printed legibly on the face of the final plat. After the final plat shall have been approved by the Agent, the Clerk of Circuit Court shall sign the plat and cause a certified copy of the resolution approving such plat to be attached to the plat and returned to the Subdivider.

(d) A recorded plat or final site plan shall be valid for a period of not less than five years from the date of approval of said plat or plan, as required by the Code of Virginia §15.2-2261, as amended.

(e) If the provisions of a recorded plat or final site plan, which was specifically determined by the Town Council and not its Agent, to be in accordance with the zoning conditions previously approved pursuant to the Code of Virginia §§ 15.2-2296 through 15.2-2303, as amended, conflict with any underlying zoning conditions of such previous rezoning approval, the provisions of the recorded plat or final site plan shall control, and the zoning amendment notice requirements of the Code of Virginia § 15.2-2204, as amended, shall be deemed to have been satisfied.

(f) Recordation of plats shall act as transfer of streets, termination of easements and rights-of-way as outlined in the Code of Virginia § 15.2-2265, as amended.

Section 10-5-5. Variations and Exceptions. [26]

(a) Where the Board of Zoning Appeals finds that extraordinary hardships, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, they may approve variations or exceptions to the regulations, provided that such variations or exceptions shall not

[25] Editor's Note: Additional text with state code references are added to ensure compliance with the Code of Virginia.

[26] Editor's Note: Existing Ordinance sections 10.1 and 10.2 are edited to meet the Code of Virginia. Additionally, approval of variations and exceptions is changed from Town Council to the BZA to align with other variance processes.

DRAFT

have the effect of nullifying the intent and purpose of this Ordinance; and further provided the Board of Zoning Appeals shall act in accordance with Article III, Division 5 of this Ordinance and not approve variations or exceptions to the regulations of this Ordinance unless it shall make findings based upon the evidence presented to it and in compliance with the Code of Virginia §15.2-2309, as amended.

(b) Any such variation or exception, authorized under the provisions of this Section, shall be printed on the plat with the reasoning set forth on which the variation or exception was justified.

Division 6. Boundary Line Adjustment and Minor Subdivision Approval.[27]

Section 10-6-1. Preliminary Plat, Boundary Line Adjustment or Minor Subdivision.

Prior to submission of a final plat for a boundary line adjustment or minor subdivision, the Subdivider may have a preliminary conference and provide a sketch plan as outlined in Section 10-7-1 (a)(3)b below.

Section 10-6-2. Final Plat, Boundary Line Adjustment or Minor Subdivision.

(a) The plat submitted for final approval and subsequent recording shall be digitally provided along with one paper copy clearly and legibly drawn with a scale of not more than 100 feet to the inch on sheets not larger than 18″ × 34″ or the largest size acceptable by the Circuit Court of Washington County nor smaller than 11″ × 17″ in size with a one-inch clear margin on the left edge and a one-half-inch margin on all other edges.[28]

(b) In addition to the requirements of the preliminary plat, the final plat shall, as required by the Code of Virginia §15.2-2241, as amended, meet the standards for plats under § 42.1-82 of the Virginia Public Records act and include the following:

(1) Certificates signed by surveyor or other duly authorized professional recognized under the Code of Virginia § 54.1-400, as amended, setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat.

(2) As outlined in the Code of Virginia § 15.2-2264, as amended, it shall contain in addition to the surveyor's certificate, a statement to the effect that, "the platting or dedication of the following described land (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any, "which shall be signed by the owners, proprietors and trustee,

[27] Editor's Note: Two significant process changes are included with platting. The existing Ordinance requires preliminary plats; however, the Code of Virginia only allows mandatory preliminary plats for subdivisions with more than 50 lots, otherwise preliminary plats are optional. The text has been revised to conform with the Code of Virginia. Additionally, the existing Ordinance allowed administrative approval of subdivisions if the lots were greater than 5 acres and did not include a new street, but it did not allow administrative approval of single lots or subdivisions with few lots. The text has been revised to allow administrative approval of single lots and minor subdivisions (3 or less lots). The text no longer identifies by lot size or the construction of a street.

[28] Editor's Note: The Town should review this requirement and provide edits based on current need for review and recording.

DRAFT

if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds, and when thus executed and acknowledged upon approval as herein specified, shall be filed and recorded in the Office of the Clerk of the Circuit Court of Washington County, Virginia, and indexed under the names of the owners of the land signing such statement and under the name of the said subdivision.

(3) Names of subdivision, town, magisterial district, county, state, owner, and subdivider; addresses of owner of record and subdivider; north point; the scale, date of drawing and any revisions; number of sheets; and the name of the licensed professional making the survey. If shown on more than one sheet, match lines shall clearly indicate where the several sheets join.

(4) Boundary survey with an error of closure within the limit of one in 10,000.

(5) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dash lines, and identification of the respective tracts shall be placed on the plat. Replats shall indicate original data.

(6) The accurate location and dimensions by bearings and distances, with all curve data of all lot and street lines and center lines of streets; boundaries of all easements, parks, school sites, or other public areas; the number and area of all building lots; the total area of subdivision; the delineation of flood plains; the identification of graves, objects or structures, marking a place of burial; all existing and platted streets, their names, numbers and widths; names of owners and their property lines, both within the boundaries of the subdivision and adjoining such boundaries.

(7) All dimensions shown in feet and decimals of a foot to the closest 1/100th of a foot; all bearings in degrees, minutes, and the nearest ten seconds.

(8) The data for all curves along street right-of-way lines shall be shown in detail at the curve or at a curve data table showing the following: delta, radius, arc, tangent, chord and chord bearing.

(9) All survey monuments and benchmarks, together with their description.

(10) Private restrictive covenants and their period of existence. Should these restrictions be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference shall be made thereto on the plat.

(11) The accurate outline, dimensions and purposes of all property which is offered for dedication, is to be reserved for acquisition for public use, or is to be reserved by deed covenant for the common use of the property owners in the subdivision.

(12) Temporary turnarounds where required. When one or more temporary turnarounds are shown, the following note shall be included on the plat: "The area on this plat designated as temporary turnaround will be constructed and used as other streets in the subdivision until [name of street] is extended to [end point], at which time the land in the temporary turnaround areas will be abandoned for street purposes and will revert to adjoining lot owners".

(13) The location of all minimum building setback lines, side yards and rear yards.

(14) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and centerlines of streets, boundaries of all proposed or existing easements, parks, school sites, all existing public and private streets, their names, numbers and widths,

DRAFT

existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits, including their size and type, watercourses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining the boundaries.

(15) In accordance with the Code of Virginia § 15.2-2258, as amended, the location of any drainage district, mapped dam break inundation zone, grave, object or structure marking a place of burial shall be identified.

(16) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, drainage structures, curb and gutters, and water lines.

(17) Written and signed statements of the appropriate officials of the availability of gas, electricity and water to the proposed subdivision.

Section 10-6-3. Final Approval Procedure for Boundary Line Adjustment and Minor Subdivisions.[29]

(a) Review. Prior to recordation, all plats of a boundary line adjustment or minor subdivision shall be reviewed by the Agent. The Agent shall examine the proposed plat with the subdivider and shall determine the following:

(1) Conformity to this Ordinance, and all other ordinances and regulations in force which affect divisions. Parameters for review include but are not limited to:

a. The proposed lot for size, shape, configuration.
b. The existing or proposed right-of-way for compliance with this Ordinance.
c. Verification of number of lots divided from tract.
d. Compliance with the minimum standards of design.
e. Submission and approval of any required Improvement Plans and has made satisfactory arrangements for performance bonds to cover the cost of necessary improvements.

(2) The Town Engineer has certified that the proper plans for drainage and flood control have been made, as demonstrated by a contour map of the proposed area, with contour intervals of two feet and drainage plans with flood control devices.

(3) The plat is sufficient to accomplish a proper development and to provide adequately for the health, safety, and convenience of the proposed residents therein and for adequate access. Including but not limited to:

a. Existing physical features such as natural drainageways, swamps, and wooded areas.
b. Existing easements and covenants affecting the property.
c. Surrounding land uses, streets, and existing buildings.

(b) Action by the Agent. Upon receipt the Agent shall examine the final plat and all necessary certificates to determine conformance with this Article and shall within 30 days of its submission, unless the time is extended by the Agent in agreement with the Subdivider, either approve or disapprove said final plat. After the Agent reviews the final plat, such review and the date thereof shall be noted on the plat.

[29] Editor's Note: New text outlining the new administrative process for single and minor subdivision (3 or less lots) approval.

Division 7. Major Subdivision Approval.[30]

Section 10-7-1. Preliminary Plat, Major Subdivision

(a) Preliminary Phase.

(1) All proposed major subdivisions involving more than 50 lots shall submit a preliminary plat for approval and shall submit a narrative describing how the subdivision aligns with the Comprehensive Plan.

(2) When the subdivision is less than 50 lots, such preliminary plat or a sketch plan may be submitted voluntarily by the subdivider.

(3) Prior to the submission of a preliminary plat within the jurisdiction of the Town of Abingdon, the Subdivider shall make known their intentions to the Agent. During this preliminary phase, the following actions shall be taken:

a. Application. The Subdivider or their representative shall file an application to subdivide with the Agent. The application shall establish the Subdivider's intention as to subdivision.

b. Preliminary Conference.[31] The Subdivider, or their representative shall meet informally with the Agent for the purpose of presenting a general sketch plan of their proposal, including, but not limited to:

1. Existing physical features such as natural drainageways, swamps, and wooded areas.
2. Existing easements and covenants affecting the property.
3. Surrounding land uses, streets, and existing buildings.
4. Sketch plans and a written description regarding future land use, street and lot arrangement, number of lots, and tentative lot sizes; preliminary proposals regarding water supply, sewage disposal, surface drainage, street improvement, and land to be dedicated for public streets and other public uses.
5. Evidence of consultation with, and tentative approval of, public utility companies concerned.

c. The Agent shall discuss the proposed subdivision with the Subdivider and advise them of procedural steps, design and improvement standards and general plat requirements. The Agent may also consult with the Director of Public Works and Town Engineer for assistance. The Agent shall then proceed with the following investigations:

1. Advise the Subdivider of existing town plans which might affect the proposed subdivision.
2. Check the existing zoning of the tract and make recommendations if a zoning change is necessary or desirable.
3. Inspect the site or otherwise determine its relationship to existing and proposed streets, utility systems and adjacent land uses and determine any known problems.
4. Upon completion of investigations described above, the Agent shall advise the Subdivider in writing of any necessary changes in their sketch plan. The Agent's comments shall not constitute a formal approval or disapproval of the subdivision.

(b) Preliminary Plat.

[30] Editor's Note: Existing Ordinance sections 4.9, 5.3, and 8.3 are incorporated with information added for signatures and certificates and references to the Code of Virginia.

[31] Editor's Note: Similar to existing Ordinance section 4.1 with additional detail added.

DRAFT

(1) Filing of the Preliminary Plat. The preliminary plat shall show graphically all facts needed to enable the Agent and other public bodies to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public interest. The submission shall include the following:

a. Application for Approval. Written application by the owner or their representative for subdivision plat approval, on forms furnished by the Agent.

b. Preliminary Plat. The preliminary plat shall be clearly and legibly drawn to a scale of one inch equals 100 feet or less and shall be plainly marked "preliminary plat." The preliminary plat may be prepared by the owner of the land, urban planners, land planners, architects or others having training or experience in subdivision planning or design. The plat shall contain the following information:[32]

1. The proposed subdivision name or identifying title.
2. Name and address of record owner, subdivider and preparer of the preliminary layout.
3. Date, magnetic north point, scale, and key map showing the general location of the proposed subdivision in relation to surrounding developments and landmarks.
4. The zoning classifications and proposed use for the area being subdivided.
5. Total acreage of the subdivision, deed reference, and map of survey of the tract boundary made and certified by a land surveyor.
6. Tax map designation or geographic parcel identification number, if available, for the subject and surrounding properties.
7. The metes and bounds descriptions of the proposed lots and lot areas in acres and square feet. The frontage of each lot and the frontage at the setback line.
8. Location of property lines, existing easements, buildings, watercourses, areas subject to flooding, including delineation of flood plain districts, existing and proposed utilities, culverts, and other essential features.
9. The names of all subdivisions, immediately adjacent, and the names of owners of record of adjacent property.
10. Location, names and present width of existing and proposed streets, highways, easements, building lines, alleys, location of existing and proposed utilities, parks and other public open spaces.
11. All parcels of land proposed to be dedicated for public use, the conditions of such dedication, and percentage of land to be subdivided as common open spaces, park or public lands.
12. Connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
13. Provisions for collecting and discharging surface drainage and preliminary plans for any bridges or culverts which may be required.
14. Location and identification of graves, objects, or structures making a place of human burial.

[32] Editor's Note: Existing Ordinance section 7.2 is utilized with changes in organization and additional items added based on Code of Virginia.

(2) Review.[33] In addition to the below, the Town Council, Planning Commission, and Agent will act accordingly with regards to timeframes of resubmittals and other agency reviews, as outlined in the Code of Virginia § 15.2-2259, as amended.

a. Upon receipt of all necessary data, recommendations and applications, a preliminary plat shall be reviewed by the Agent to determine its conformity to this Ordinance, and all other ordinances and regulations in force which affect subdivisions.

b. The Agent shall transmit copies of the preliminary plat, or appropriate portions thereof, to the Town Manager, Town Engineer, Director of Public Works, appropriate utility companies, Health Department, Washington County Service Authority, and other pertinent Town and State Officials and agencies as deemed necessary by the Agent for recommendations. State agencies and other public authorities shall complete their review within 45 days of receipt of the plat.

c. The Agent shall transmit copies of the preliminary plat for any major subdivision to the Planning Commission for review and recommendation and then to the Town Council for approval. [34]

d. The Agent shall, within 60 days of receipt of a completed application for the approval of a preliminary plat or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response, approve or disapprove the plat, or approve it with modifications, noting thereon any changes that will be required. The Agent will approve or disapprove a preliminary plat for a major subdivision as directed by the Town Council. If agreed to by the Subdivider, the time may be extended for no more than 30 days after which one copy shall be returned to the Subdivider with the date of the approval or disapproval, and the reason therefor in letter form, accompanying the plat.

e. Approval of a preliminary plat shall not constitute approval of the final plat or authorization to proceed on construction improvements. It shall be deemed as an expression of approval of the layout submitted on the preliminary plat, and as a guide to the preparation of the final plat.

f. As dictated by the Code of Virginia §15.2-2260(F), as amended, an approved preliminary subdivision plat shall be valid for a period of five years, provided the subdivider submits:

1. A final plat for all or a portion of the property within three years of such approval; and
2. Thereafter diligently pursues approval of the final plat which shall include that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final plat or modifications thereto.

g. Once an approved final plat for all or a portion of the property is recorded, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded final plat of subdivision for the property.

[33] Editor's Note: Existing Ordinance sections 4.2, 4.4, and 4.5 utilized with modifications to streamline text and add Code of Virginia references. Text also states the Agent will provide the written recommendation to align with existing process.

[34] Editor's Note: The Town Council is added as the approving authority. Submission of preliminary plats will most likely be for major subdivisions and Town Council should be aware of and provide feedback for these projects.

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Section 10-7-2. Final Plat, Major Subdivision.

(a) Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted.

(b) The subdivision plat submitted for final approval and subsequent recording shall be digitally provided as well as one paper copy clearly and legibly drawn on with a scale of not more than 100 feet to the inch on sheets not larger than 18″ × 34″ or the largest size acceptable by the Circuit Court of Washington County nor smaller than 11″ × 17″ in size with a one-inch clear margin on the left edge and a one-half-inch margin on all other edges.[35]

(c) In addition to the requirements of the preliminary plat, the final plat shall, as required by the Code of Virginia §15.2-2241, as amended, meet the standards for plats under § 42.1-82 of the Virginia Public Records act and include the following:

(1) Two (2) signature lines shall be drawn and labeled "Subdivision Agent" and "Chairperson of Town Council". [36]

(2) Certificates signed by surveyor or other duly authorized professional recognized under the Code of Virginia § 54.1-400, as amended, setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat.

(3) As outlined in the Code of Virginia § 15.2-2264, as amended, it shall contain in addition to the surveyor's certificate, a statement to the effect that, "the platting or dedication of the following described land (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any, "which shall be signed by the owners, proprietors and trustee, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds, and when thus executed and acknowledged upon approval as herein specified, shall be filed and recorded in the Office of the Clerk of the Circuit Court of Washington County, Virginia, and indexed under the names of the owners of the land signing such statement and under the name of the said subdivision.

(4) Names of subdivision, town, magisterial district, county, state, owner, and subdivider; addresses of owner of record and subdivider; north point; the scale, date of drawing and any revisions; number of sheets; and the name of the licensed professional making the survey. If shown on more than one sheet, match lines shall clearly indicate where the several sheets join.

(5) Any other applicable certificates as required for approval as shown in Addendum B.[37]

(6) Boundary survey with an error of closure within the limit of one in 10,000.

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[35] Editor's Note: The Town should review this requirement and provide edits based on current need for review and recording.

[36] Editor's Note: The Town should review this requirement and provide edits based on desired process and approval.

[37] Editor's Note: This text should be updated based on the availability and relevancy of Addendum B. It may no longer be necessary if all items are contained in the proposed ordinance text.

(7) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dash lines, and identification of the respective tracts shall be placed on the plat. Replats shall indicate original data.

(8) The accurate location and dimensions by bearings and distances, with all curve data of all lot and street lines and center lines of streets; boundaries of all easements, parks, school sites, or other public areas; the number and area of all building lots; the total area of subdivision; the delineation of flood plains; the identification of graves, objects or structures, marking a place of burial; all existing and platted streets, their names, numbers and widths; names of owners and their property lines, both within the boundaries of the subdivision and adjoining such boundaries.

(9) All dimensions shown in feet and decimals of a foot to the closest 1/100th of a foot; all bearings in degrees, minutes, and the nearest ten seconds.

(10) The data for all curves along street right-of-way lines shall be shown in detail at the curve or at a curve data table showing the following: delta, radius, arc, tangent, chord and chord bearing.

(11) All survey monuments and benchmarks, together with their description.

(12) Private restrictive covenants and their period of existence. Should these restrictions be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference shall be made thereto on the plat.

(13) The accurate outline, dimensions and purposes of all property which is offered for dedication, is to be reserved for acquisition for public use, or is to be reserved by deed covenant for the common use of the property owners in the subdivision.

(14) Temporary turnarounds where required. When one or more temporary turnarounds are shown, the following note shall be included on the plat: "The area on this plat designated as temporary turnaround will be constructed and used as other streets in the subdivision until [name of street] is extended to [end point], at which time the land in the temporary turnaround areas will be abandoned for street purposes and will revert to adjoining lot owners".

(15) The location of all minimum building setback lines, side yards and rear yards.

(16) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and centerlines of streets, boundaries of all proposed or existing easements, parks, school sites, all existing public and private streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits, including their size and type, watercourses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining the boundaries.

(17) In accordance with the Code of Virginia § 15.2-2258, as amended, the location of any drainage district, mapped dam break inundation zone, grave, object or structure marking a place of burial shall be identified.

(18) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewers or other disposal of sanitary wastes, pavement, sidewalks, drainage structures, curb and gutters, and water lines.

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(19) Written and signed statements of the appropriate officials of the availability of gas, electricity and water to the proposed subdivision.

(b) The applicant for any major subdivision development shall also provide a traffic impact analysis which, at a minimum, includes the following information:

(1) Peak hour trip ends generated by the development as described in "Trip Generation", latest edition, published by the Institute of Transportation Engineers.

(2) Information on the street in which the connection is being made: peak hour traffic along with its directional distribution, lane and shoulder widths, the type of terrain, and the percentage of trucks, buses, and RV's on the connection street. The development engineer shall use this information to conduct a traffic capacity analysis as described in "The Highway Capacity Manual", latest edition, published by the Transportation Research Board. Additionally, the engineer shall determine if a left or right turn lane is necessary utilizing the "Minimum Standards of State Entrances" document, latest edition, published by the Virginia Department of Transportation. All or part of the traffic analysis may be waived by the Director of Public Works depending upon the type and size of development, the condition of the connection street, or an interpretation of the minimum information given above.

Section 10-7-3. Final Approval Procedure for Major Subdivisions. [38]

(a) The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this Ordinance, and has made satisfactory arrangements, as hereinbefore provided, to cover the cost of necessary improvements.

(b) The final plat shall not be approved until the Town Engineer shall certify that the proper plans for drainage and flood control have been made, as demonstrated by a contour map of the proposed area, with contour intervals of two feet and drainage plans with flood control devices.

(c) Final plat. During the final plat stage, the following actions shall be taken:

(1) Filing of final plat. The Subdivider shall file with the Agent the final plat which shall conform to the requirements of this Article.

a. Final plat may constitute all or a portion of the approved preliminary plat. A final plat may constitute only a portion of the area contained in the approved preliminary plat provided that the public improvements constructed in the area covered by the plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, and convenience of the proposed residents therein and for adequate access to contiguous areas.

b. The plat. Each plat shall, as required by the Code of Virginia §15.2-2241, as amended, meet the standards for plats under § 42.1-82 of the Virginia Public Records Act and show correctly on its face sufficient engineering data to reproduce any line on the ground, as well as include the items expressed in Section 10-6-2 and 10-7-1 above.

(2) Action by the Agent.

a. The Agent shall transmit copies of the plat, or appropriate portions thereof, to the Town Manager, Town Engineer, Director of Public Works, appropriate utility companies, Health Department, Washington County Service Authority, and other pertinent Town of

[38] Editor's Note: This proposed section references approval by the Town Council Chairperson and Agent, but this text should be edited to reflect the desired process.

Abingdon and State Officials and agencies as deemed necessary by the Agent for recommendations. State agencies and other public authorities shall complete their review within 45 days of receipt of the plat. Upon receipt of approval from all state agencies and authorities, the Agent shall act upon the plat within 35 days.

b. The Agent shall transmit copies of the final plat for any major subdivision to the Planning Commission for review and recommendation and then to the Town Council for approval.
   1. The Planning Commission and Town Council shall ensure that the plat is in conformance with any approved preliminary plat, and all requirements of this Ordinance and other ordinances of the Town of Abingdon are met.
   2. The Town Council shall communicate the result of its review of the Final Plat to the Applicant no later than 60 days after the plat submittal or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response.
      i. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat.
      ii. If the review is favorable, the Town Council shall authorize the Chairperson and Agent to approve, sign, and date the final plat.

(3) The passage of the resolution accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the owner shall cause such plat to be recorded in the Office of the Clerk of the Circuit Court of Washington County and shall file satisfactory evidence of such recording with the Town Engineer before the Town of Abingdon shall recognize the plat as being in full force and effect.

(4) Approval of the final plat shall not be deemed the acceptance by the Town of Abingdon of any street, alley or other public space shown on the plat for maintenance, repair or operation thereof.

(5) When the final plat has been approved by the Town Council, the performance bond accepted, and the final plat has been signed and certified, one copy shall be delivered to the Town Engineer and one original to the subdivider for filing and recording.

Division 8. Vacation of Plats.[39]

Section 10-8-1. Vacation.

(a) Pursuant to Code of Virginia, § 15.2-2278, as amended, any recorded plat of subdivision may be vacated as outlined in the Sections below, taken from the Code of Virginia, § 15.2-2270 et seq, as amended. The effects of such vacations are outlined in the Code of Virginia, § 15.2-2274, as amended.

[39] Editor's Note: Existing Ordinance Article XI references Code of Virginia §§ 15.2-2271 through 15.2-2278 but does not supply any processes. Proposed text has been edited to include Code of Virginia references and text and to include processes.

(b) Boundary lines. As allowed by the Code of Virginia, § 15.2-2275, as amended, the Agent may approve the boundary lines of any lot or parcel of land to be vacated, relocated, or altered as part of an otherwise valid and properly recorded plat of subdivision or re-subdivision approved as provided in this Article or properly recorded prior to the applicability of this Article, and executed by the owner or owners of the land. The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

(c) Interest to the Town of Abingdon. Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to the Town of Abingdon as a condition of the approval of a site plan may be vacated by the Town Council according to the two methods listed in the Code of Virginia, § 15.2-2270, as amended.

(d) Before sale of lot.

(1) Minor Subdivision. An approved and recorded plat of subdivision, or part thereof, may be vacated prior to the sale of any lot therein by the Agent utilizing the procedures set forth in the Code of Virginia, § 15.2-2271, as amended.

(2) Major subdivision. An approved and recorded plat of subdivision, or part thereof, may be vacated prior to the sale of any lot therein by the Town Council utilizing the procedures set forth in the Code of Virginia, § 15.2-2271, as amended.

(e) After sale of lot.

(1) Minor subdivision. An approved and recorded plat of subdivision, or part thereof, may be vacated after the sale of any lot by the Agent utilizing one of the two methods specified in the Code of Virginia, § 15.2-2272, as amended.

(2) Major subdivision. An approved and recorded plat of subdivision, or part thereof, may be vacated after the sale of any lot by the Town Council utilizing one of the two methods specified in the Code of Virginia, § 15.2-2272, as amended.

(f) Duties of the Clerk. According to the Code of Virginia, § 15.2-2276, as amended, the Clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

Division 9. Enforcement, Violations, and Fees.[40]

Section 10-9-1. Enforcement.

As provided in the Code of Virginia § 15.2-2254, as amended, the following applies:

(1) No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of the Code of Virginia and this Article.

(2) No plat of any subdivision shall be recorded unless and until it has been submitted and approved in accordance with this Ordinance.

(3) No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of this Article. However, nothing herein contained shall be construed as preventing

[40] Editor's Note: Portions of existing Ordinance sections 13.1, 13.2, and 4.3 are incorporated in this Division.

the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(4) No clerk of any court shall file or record a plat of a subdivision required by this Article to be recorded until the plat has been approved as required herein. The penalties provided by Code of Virginia § 17.1-223, as amended, shall apply to any failure to comply with the provisions of this subsection.

(5) No building permit shall be issued nor shall construction be authorized by the Town of Abingdon on lands where a subdivision plat is required to be approved and recorded as provided in this Article and no Certificate of Occupancy shall be issued until the compliance with this Article and other applicable provisions regarding the use of any structure or land where a subdivision plat is required to be approved and recorded as provided in this Article has been approved by the Agent and recorded in the office of the Clerk of the Circuit Court.

Section 10-9-2. Violation and Penalty.

(a) As allowed by the Code of Virginia, § 15.2-2254, as amended, any person violating any provision of this chapter shall be subject to a fine of not more than five hundred dollars ($500.00) for each lot or parcel of land subdivided, transferred or sold in violation of this chapter and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

(b) In addition to a fine, the Town Attorney may take such other legal action as may be necessary to enforce the provisions of this Ordinance, including suit for injunction, for abatement or other appropriate proceeding.

Section 10-9-3. Fees.

As allowed by the Code of Virginia, § 15.2-2241 and § 15.2-2273, as amended, there shall be a charge to compensate the Town of Abingdon for the costs incurred during the examination and approval or disapproval of every subdivision plat or lot required to be reviewed by the Agent and/or Town Council. This fee shall be payable to "Treasurer, Town of Abingdon," in such amount as set by schedule adopted ordinance of the Town Council.

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Article XI – Definitions.

Section 11-1. Word Usage.

For the purposes of this Ordinance, certain words or terms shall be defined as follows:

(1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.
(2) The word "shall" or "must" is always mandatory; the word "may" is permissive.
(3) The words "used for" include "designed for," "arranged for" or "occupied for."
(4) The word "building" includes "structures" and shall be construed as if followed by the phrase "or part thereof."
(5) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization" or other similar entities.
(6) The word "erected" shall be deemed also to include "constructed, reconstructed, altered, placed, or moved".
(7) The terms "land use" and "use of land" shall be deemed also to include "Building use" and "use of Building".
(8) Unless otherwise specified, all distance shall be measured horizontally and at right angles to the line in relation to which the distance is tied.
(9) The words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

Section 11-2. General and Use Definitions.

Abutting. Having a common border with another or being separated from such other only by a right-of-way, alley, or easement.

Access. The right of pedestrians and vehicles to cross to or from a public right-of-way and private property.

Accessory building. A building subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building. The term "accessory building" also includes, but is not limited to, gazebos, carports, private greenhouses, and sheds which may be modular in nature and are delivered to the site and which may or may not have a foundation.

Accessory dwelling unit. An ancillary or secondary dwelling unit that exists as a standalone structure, or in a detached structure on the same lot as the principal dwelling unit.

Accessory use. Uses of land and buildings that are found on the same parcel as the principal use but are subordinate and incidental, including parking.

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Acreage. A parcel of land, regardless of area, described by metes and bounds which is not necessarily a numbered lot in any recorded subdivision plat.

Administrator. The official, or an authorized agent thereof, responsible for administering and enforcing the Zoning and Subdivision Ordinance of the Town; also referred to in this Ordinance as the Director of Community Development or designee .

Adult use. Any adult bookstore/video store, adult mini motion-picture theater, adult motion-picture theater, a business providing adult entertainment or any other establishment, including without limitation, any adult modeling studio, adult cocktail lounge or adult nightclub, that regularly emphasizes an interest in matter relating to specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons. The term includes without limitation any of the following: adult store, adult merchandise, adult bookstore/video store, adult entertainment, adult mini-motion picture theater, adult motel/hotel, and adult motion picture theater.

Agent, subdivision. The administrative official, or an authorized agent thereof, responsible for administering and enforcing the Subdivision portion of the Zoning and Subdivision Ordinance of the Town; also referred to in the Subdivision Article, as the Agent.

Agriculture. The tilling of the soil, the raising of crops, horticulture, forestry, gardening, and the keeping of farm animals and fowl. This use does not include Agricultural, intensive as defined by this Ordinance and pursuant to the Code of Virginia §15.2-2288.6. See also "Farm Animal".

Agriculture, intensive. The commercial confined keeping of animals and storage of agricultural products with accessory uses including storage bins and litter/manure storage. The operations of the use may generate dust, noise, odors, pollutants, or visual impacts that could adversely affect adjacent properties.

Agritourism. Pursuant to the Code of Virginia, any activity carried out at a farm winery, farm brewery, farm distillery, or an agricultural operation, that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions, regardless of whether or not the participant paid to participate in the activity. These rural activities also include, but are not limited to, farm tours, tours of an individual agricultural operation, hayrides, heirloom plant and animal exhibits, crop mazes, and educational programs, workshops, or demonstrations related to agriculture or silviculture, but does not include Places of Assembly. All agritourism events shall take place on an operational farm and be subordinate to the agriculture operation.

Airport. Virginia Highlands Airport.

Alley. A permanent service way providing a means of access to abutting properties and not intended for general traffic circulation.

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

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Amateur radio antennas. A freestanding or building-mounted structure, including any base, tower or pole, and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

Ancillary. See "Accessory use".

Antenna or antenna array. One or more whips (omni-directional antenna), panels (directional antenna), discs (parabolic antenna) or similar devices used for broadcast, transmission and/or reception of radio frequency signals. Reference to an antenna or antenna array does not include the support structure. The following shall be excluded for the purposes of this Ordinance from the definition of antenna and antenna array: amateur radio antennas, satellite earth station antennas one meter in diameter or less; receive-only home television antennas; and satellite earth station antennas two meters or less in diameter located in a commercial or industrial zoning district.

Appurtenance. A feature or structure attached to a building that is used for or in connection with a building, incidental to such building and for its benefit.

Architectural projection. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning", "Canopy (attached)", and "Canopy (freestanding)."

Assembly, place of. The use of land for a meeting place where persons gather together for purposes of attending civic or cultural events on a regular or recurring basis including but not limited to, museums public theatres. A gathering of less than 25 persons shall not be considered a Place of Assembly provided the gathering is accessory and incidental to the principal use. Exempt from this definition are Agritourism and Event Venue Facility as otherwise defined in this Ordinance.

Base flood. For the purposes of this Ordinance, the 100-year flood. The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation. The Federal Emergency Management Agency designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this Ordinance, the 100-year flood or one percent annual chance flood.

Basement. Any area of the building having its floor surface sub-grade (below ground level) on any side.

Bed and breakfast. A dwelling unit occupied by the owner that provides temporary lodging wherein food service shall be limited to breakfast and light fare for guests of the Bed and Breakfast.

Block. An area of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or boundary lines of the Town of Abingdon.

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Board of Zoning Appeals. A quasi-judicial board appointed to review appeals and requests for variances made by individuals with regard to decisions of the Director of Community Development or designee in the interpretation of this Ordinance and to authorize, upon appeal, variances from the terms of this Ordinance when justified by special conditions.

Brewery or distillery. A facility for the production and packaging of beer or spirits for distribution, retail, or wholesale, on or off premise, with a capacity of more than 1,000 barrels per year for breweries and distilleries have a capacity greater than 5,000 gallons a year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

Brewery, distillery, or winery, farm. A farm licensed as a brewery, distillery, or winery in accordance with the Code of Virginia. Greenhouses, hothouses, or plant nurseries are permitted for the purpose of starting seedlings to be planted for farm use, but not for direct sale. On premise sale, tasting, or consumption of beer, wine, or alcoholic beverages, produced or raised on the tract, and sale of beer, wine, and alcoholic beverage related items incidental to the sale of beer, wine or alcoholic beverages is permitted. Construction of a stand or shelter for the sale of such goods is also permitted.

Brewery, distillery, or winery, micro. A facility for the production and packaging of beer, wine, or alcoholic beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 1,000 barrels per year of beer or wine, or not more than 5,000 gallons of distilled spirits. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district, but does not include Assembly, place of as defined in this Ordinance.

Buffer. A strip of land, which may or may not have trees and shrubs planted for screening purposes, designed to set apart and protect one space or activity from an adjacent space or activity.

Building. Any structure having a roof supported by columns or walls.

Building code. The Uniform Building Code of Virginia.

Building elevation. The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

Building height. The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of: the roof, if a flat roof; the deck line of a mansard roof; or the mean height level between the eaves and ridge of a gable, hip or gambrel roof. 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.

Building line. The perimeter of that portion of a building or structure nearest a property line and representing the minimum distance which all or any part of the building is set back from the property line, but excluding open steps, terraces, cornices, and other ornamental features.

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Building official. An appointed official of the Town who is responsible for making and certifying building inspections.

Building permit. The approval required under the Uniform Statewide Building Code for or in connection with the construction, reconstruction, alteration, repair, or conversion of certain buildings and structures. This permit is obtained from the Town's Building Code Official.

Business support service. The use of land for the sale, rental, or repair of office equipment and supplies or the provision of services used by office and service establishments. Typical uses include, but are not limited to, office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, or information technology support services.

By right. A use permitted or allowed in the district involved which complies with the provisions of these zoning regulations and other applicable Ordinances and regulations.

Caliper. A measure of tree size, determined by measuring the diameter of the tree at breast height.

Campground, public or private. An area that provides recreational opportunities on a daily or overnight basis, upon which are located sites for three or more travel trailers, camping trailers, pickup truck campers, motor homes, tents, or other recreational vehicles or structures for seasonal or temporary recreational occupancy. The term "campground" includes the land and buildings used by recreational vehicle parks and civic, religious, and social organizations for social, recreational, educational and/or religious activities on a seasonal basis.

Canopy (attached). An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

Canopy (freestanding). A freestanding structure composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

Car wash. A structure or portion thereof containing facilities for washing and/or waxing motor vehicles, typically using production-line automated or semiautomated methods for washing, whether or not employing a chain conveyor, blower, steam cleaning or similar mechanical devices operated either by the patron or others. Car washes are a separate use and not treated as an accessory to gasoline stations, automobile service, or other similar uses.

Carport. A space outside a single-family or two-family dwelling, and contiguous thereto, wholly or partially covered by a roof but without side enclosure(s), used for the shelter of motor vehicles. See building definition.

Catering facility. An establishment in which food and meals are prepared on premises, and where such food and meals are delivered to another location for consumption for a fee.

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Cemetery. Any land or structure used or intended to be used for the interment of human remains. Additionally, a cemetery includes mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas (Code of Virginia § 15.2-2288.5). The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

Certificate of appropriateness, Historic Preservation Review Board. A permit issued by the Historic Preservation Review Board granting an applicant approval for the erection, reconstruction, alteration, restoration, change, demolition, relocation, or excavation of a site or structure in a historic district as seen from a public right of way or place. If not visible from a public right of way a COA is not required.

Certificate of appropriateness, Planning Commission. A permit issued by the Planning Commission granting an applicant approval for the erection, reconstruction, alteration, restoration, change, demolition, relocation, or excavation of a site or structure in the entrance corridor overlay.

Certificate of occupancy. The permit issued by the building code official that is required under the Uniform Statewide Building Code prior to the use or occupancy of certain buildings and structures.

Commission. The Planning Commission of the Town of Abingdon.

Comprehensive plan. The document as required by the Code of Virginia § 15.2-2223 et seq. and as approved and adopted by the Town Council.

Concept plan. A generalized plan indicating the boundaries of a tract or tracts of land and presenting the general arrangement of proposed facilities, uses, structures, and improvements.

Conditional zoning. A method for rezoning that permits the reasonable and orderly development and use of land with special restrictions in those situations in which unique, specific circumstances indicate that the existing zoning district regulations are not adequate.

Construction material sales. An establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but this use shall not include automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

Copy. Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

Cottage housing development. A cluster or group of small detached housing units.

Council. The Town Council of Abingdon, Virginia.

County. The County of Washington, Virginia.

Courthouse. A building in which the courts of law are regularly held.

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Cul-de-sac. A local street with only one (1) outlet and having a turnaround for reverse traffic movement.

Data center. A specialized computer service business that houses electronic web sites and provides data-serving and other services for compensation. This type of facility may contain a network operations center (NOC), a restricted access area containing automated systems that constantly monitor server activity, web traffic, and network performance for irregularities. Also commonly referred to as a hosting site, hosting center or application service provider (ASP). See also "Warehousing and distribution."

Day care, center. Any facility operated for the purpose of providing care, protection, and guidance for individuals. This term includes nursery schools, preschools, day care centers for adults, and other similar uses but excludes any facility offering care to individuals for a full twenty-four-hour period. Excluded from this definition is Family Day Home and Educational Facility, Primary or Secondary as defined by this Ordinance.

Day care, family home (1-4 children). A day care program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for up to four children at any one time, exclusive of the provider's own children and any children who reside in the home.

Day care, family home (5-12 children). A day care program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for between five and twelve children at any one time, exclusive of the provider's own children and any children who reside in the home.

Density. The number of dwelling units that are allowed on an area of land, which shall be permitted to include dedicated streets contained within the development. Density is determined by dividing the total number of residential units or lots to be located on the parcel by the area of the base parcel.

Developer. Any person, group or persons, corporation, or other legal entity having an interest in land who directly or indirectly sells, leases, or develops or offers to sell, lease, or develop, or advertises for sale, lease, or development any lot, tract, parcel, site, unit, or interest for residential, commercial, or industrial development as defined herein.

Development. A tract or multiple abutting tracts of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production. (See § 15.2-2201 Code of Virginia, 1950, as amended)

Director of Community Development. The Director of Community Development for the Town of Abingdon or the official performing the duties of the Director of Community Development or duly authorized representative.

Director of Public Works. The Director of Public Works for the Town of Abingdon or the official performing the duties of the Director of Public Works or duly authorized representative.

DRAFT

Dish antennas. A satellite antenna, also known simply as a "dish," used for satellite communication and broadcast reception.

District. See "Zoning district".

Drive through facility. An establishment accommodating the patron's automobile from which the occupants may be served or provided a service while in the automobile rather than within a building or structure.

Driveway. A private access from a public street, private road, or alley to the interior of a lot or parcel of land.

Dwelling, or dwelling unit. A building, or any portion thereof, containing a complete set of living accommodations suitable for occupancy by one or more persons, consisting of sleeping, bathroom, and kitchen facilities.

Dwelling, manufactured. A structure which: (1) Is transportable in one or more sections; (2) Is eight feet or more in width and 40 feet or more in length in the traveling mode, or is 320 or more square feet when erected on-site; (3) Is built on a permanent chassis; (4) Is designed to be used as a Dwelling Unit for one Family, with or without a permanent foundation, when connected to the required utilities; and (5) Includes the plumbing, heating, air conditioning, and electrical systems necessary for the structure. For purposes of this chapter, a Manufactured Dwelling must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 CFR Part 3280, including the ANSI standards incorporated therein by reference. For purposes of this chapter, a Manufactured Dwelling must bear a data plate declaring that it meets HUD standards.

Dwelling, multifamily (MFD). A building, or portion thereof, arranged or designed to contain three or more dwelling units.

Dwelling, single-family (SFD). A site built or modular building designed for and used exclusively as one dwelling unit for permanent occupancy by one family, which is surrounded by open space or yards on all sides.

Dwelling, townhouse (TH). A row of three or more single-family attached dwelling units, under single or multiple ownership, separated from one another by continuous vertical walls without openings from basement floor to roof between units.

Dwelling, two-family (TFD). A building, or portion thereof, containing two dwelling units. Such units share at least one common wall or ceiling that separates living space (i.e., living room, kitchen, bedroom, bathroom, etc.). Unlike dwelling, townhouse, each dwelling unit is located on the same parcel and are not located on individual lots.

Easement. A right expressed in a recorded writing, given by the owner of land to another party for specific limited use of that land.

DRAFT

Educational facility, college/university. An educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate, or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls, and other physical plants associated with the college or university use.

Educational facility, primary/secondary. A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

Engineer, professional. A person who is qualified to practice engineering by reason of their special knowledge and use of mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and experience, and whose competence has been attested, through licensure, as a professional engineer by the Commonwealth of Virginia.

Engineer, town. An employee of the Town of Abingdon who reviews subdivision plans and site plans for new developments or upgrades to existing developments as well as reviews all infrastructure plans of the Town to ensure that such plans comply with Town ordinances and other applicable regulations.

Equipment sales/rental and supplies, heavy. An establishment primarily engaged in the sale or rental of tools, tractors, construction equipment, commercial equipment, agricultural implements, and similar industrial equipment. Included in this use type is the incidental storage, maintenance, and servicing of such equipment. Also included in this definition are feed and seed stores; custom milling, milk depots and creameries; fertilizer storage in bags; and bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building.

Equipment shelter. An enclosed structure or housing, including cabinets and sheds, located at the base of a communications facility mount, within which is housed equipment for the facility, including such items as batteries, backup power supply, electrical equipment, base transceiver stations, etc.

Erected. Built, constructed, reconstructed, moved upon, placed altered, or any physical operations on the premises required for building. Excavations, fill, drainage, and the like shall be considered a part of erection.

Event Venue Facility. An establishment that hosts events on a regular or recurring basis including but not limited to banquet facilities, conference centers, and wedding venues. Exempt from this definition are Assembly, place of and Agritourism as otherwise defined in this Ordinance.

Exterior runs. When referring to facilities associated with animal boarding/grooming facilities, animal shelters, kennels, or veterinary clinics, shall mean and refer to any outdoor areas and facilities in which animals are exercised, boarded, groomed, or otherwise kept or cared for.

FAA. The Federal Aviation Administration.

Family. A person living alone, or any of the following groups living together as a single housekeeping unit in a dwelling: (1) any number of persons related by blood, marriage, adoption, guardianship, or duly-

DRAFT

authorized custodial relationship; (2) up to four unrelated people; (3) two unrelated people and any children related to either of them; (4) residents of an assisted living facility or group home as allowed by the Code of Virginia §15.2-2291. Domestic servants, employed and residing on the premises, shall be considered as part of the family.

Family health care structure, temporary. Pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person, or in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person and the other requires assistance with one or more activities of daily living as defined in § 63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

Farm animal, Domestic. Any animal other than a dog or a cat normally kept outside of a dwelling unit. Domestic farm animals include, but are not limited to, chickens, cows, geese, goats, horses, llamas, and pigs. The keeping of farm animals is considered an agriculture use.

FCC. The Federal Communications Commission.

Fill. The placing of any material which results in increasing the natural ground surface elevation.

Financial institution. An establishment whose principal purpose is the provision of financial services, including but not limited to, insured depository institutions, credit unions, Federal home loan banks, small business investment companies, depository institution holding companies, mortgage lending, or other institutions as defined by federal statute.

Floor. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Flea market and auction sales. Occasional or periodic commercial activities held groups of sellers rent space on a short-term basis to display, barter, or sell second-hand goods to the public; or one or more sellers bring goods for auctioning to the public. This does not include Wayside stand or Outdoor market as defined in this Ordinance.

Frontage, building. The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

Functional classification rating. The characterization of a particular highway or street as one of several types, or classes, of roads (such classes indicating the character of the traffic carried by the street, i.e., local or long-distance, and the degree of land-access the street allows), with reference to a rating system established by the Federal Highway Administration (FHWA) and implemented by the Virginia Department

DRAFT

of Transportation (VDOT). For urban areas such as the Town of Abingdon, highways and streets will generally fall into one of four classes: urban principal arterial streets, minor arterial streets, collector streets, and local streets. Where a zoning determination relies on whether one street has a higher functional classification rating than another, the street that provides for greater through-travel between major trip generators shall be deemed the one with the higher classification rating (for example, a principal arterial street is a higher functional classification than a local street).

Funeral home. An establishment engaged in undertaking services such as preparing the dead for burial and arranging and managing funerals. A crematorium with no more than two incinerators shall be considered an accessory use to a funeral home.

Garden center. An establishment or place of business primarily engaged in retail sales from the premises of trees, shrubs, seeds, fertilizers, pesticides, plants, and plant materials primarily for agricultural, residential, and commercial consumers. Such an establishment typically sells products purchased from others, but may sell material which they grow themselves.

Gasoline station. Any place of business with fuel pumps and underground storage tanks that provides retail sale of fuels and oil for motor vehicles. A store associated with automobile fuel sales shall be considered a gasoline station.

Governing body. The Town Council of the Town of Abingdon, Virginia.

Group home. A licensed residential facility in which no more than eight mentally ill, intellectually disabled, or developmentally disabled persons or no more than eight aged, infirmed or disabled persons reside, with one or more resident counselors or other resident or nonresident staff persons. Such facility shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia § 54.1-3401. Such facility shall be licensed by the Commonwealth of Virginia Department of Behavioral Health and Development Services (Code of Virginia § 15.2-2291).

Health official. The Health Director or sanitarian of Washington County, Virginia, or the Director's duly authorized representative.

High intensity discharge lamp. A mercury vapor lamp, a metal halide lamp, or a sodium lamp (high pressure and low pressure).

High-pressure sodium vapor. A High Intensity Discharge light source in which the arc tube's primary internal element is Sodium Vapor.

Highway Engineer. The resident engineer employed by the Virginia Department of Transportation.

Historic Preservation Review Board (HPRB). A board of the local government consisting of such appointed members whose functions include administration of the regulations for the historic district(s) to the ends of preserving historical and archaeological resources.

DRAFT

Historic structure. 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.

Home occupation, category A. Any occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling and which is carried on wholly or in part within a main building or accessory building by a member of the immediate family and no employees or clients come to the property.

Home occupation, category B. Any occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling and which is carried on wholly or in part within a main building or accessory building by a member of the immediate family and up to one employee outside of the family. No more than 500 square feet or 30%, whichever is greater, of the dwelling unit shall be used in connection with the occupation.

Home occupation, category C. Home occupation requiring a Special Use Permit due to:

(1) Home occupation that is visible or audible beyond the property lines, or
(2) Home occupation requiring a demand for parking beyond that which is required for a single dwelling unit in the underlying district, or
(3) Home occupation is beyond the definition and use performance standards of "Home occupation, category A" & "category B".

Hospital. A building or group of buildings, having room facilities for overnight patients, used for providing services for the in-patient medical, surgical, or obstetrical care of sick or injured humans, and which may include related facilities, central service facilities and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operations.

Hotel. The use of land for transitory lodging or sleeping accommodations offered to the public for compensation. Typical uses include hotels, motels, motor lodge, travel lodges, or hostels, but not including a Bed-and-breakfast.

Jurisdiction. The area or territory subject to the legislative control of the Town Council.

DRAFT

Kennel, commercial. Any location where raising, grooming, caring for, or boarding of four or more dogs, cats, or other small animals over four months of age for commercial purposes is conducted. Commercial indicates money has been exchanged for either an animal or a service. However, less than four breeding animals does not constitute a commercial kennel.

Laboratory, research and development. An establishment whose principal purpose is the research, compounding and/or packaging of scientific products, or research and development of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes and light manufacturing may be associated with this use.

Lamp. The component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.

Landscaping. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features, and contouring of the earth.

Laundry, commercial. Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Licensed professional. For the purpose of this Ordinance, a licensed professional is a land surveyor or professional engineer duly licensed by the State of Virginia.

Light emitting diode. A semiconductor light source that emits light when current flows through it. Also referred to as an LED.

Loading space. A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of trucks.

Lot. A parcel of land that is either shown on a recorded subdivision plat or described by metes and bounds or other legal description.

Lot area. The total horizontal area within the lot lines of the lot.

Lot coverage. Lot coverage means that percentage of a lot which when viewed from above would be covered by a structure or structures or any part thereof, including driveways, decks, stairs, and eaves.

Lot frontage. A portion or portions of a lot abutting street right-of-way. Also referred to as street frontage.

Lot of record. A lot, a plat or other legal description of which has been recorded in the office of the Clerk of the Circuit Court of Washington County, Virginia, prior to the effective date of this Ordinance.

Lot, corner. A lot abutting upon two or more street rights-of-way at their intersection.

DRAFT

Lot, depth of. The mean horizontal distance between the front and rear lot line.

Lot, double frontage. A lot having a frontage on two nonintersecting street rights-of-way as distinguished from a corner lot.

Lot, flag. Any lot, except a lot fronting on a cul-de-sac, that has a lot frontage that is less than the minimum lot width required for the zoning district.

Lot, interior. A lot other than a corner lot.

Lot, through. A lot having a pair of opposite lot lines along two, more or less parallel, roads and which is not a corner lot. Except for a lot in a residential or residential townhouse district which has a buffer along a road, both road lines shall be front lot lines. For a lot with a buffer along a road, the land adjacent to the buffer shall be the rear lot line.

Lot width. The horizontal distance between side lot lines measured along the front building setback line.

Lumen. A standard unit of measurement of luminous flux.

Luminaire. A complete electric light unit.

Luminaire, full cutoff. An outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected downward (below the horizontal plane).

Luminaire, outdoor. A luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign, except that it does not include an internally illuminated sign.

Manager. The Town Manager for the Town of Abingdon or duly authorized representative.

Mansard. An inclined decorative roof-like projection that is attached to an exterior building facade.

Manufactured home park. A parcel of land under one ownership that has been planned and improved for the placement of two or more mobile homes for rental purposes for nontransient use. This use may include all improvements, building, structures, recreation areas, or other facilities for the use of the residents of such development.

Manufactured home sale. An establishment engaged in the sale or rental of manufactured homes.

Manufacturing, light. An establishment primarily engaged in the on-site production of goods by hand manufacturing, assembly, packaging or fabrication of materials and products within enclosed structures without significant external effects such as smoke, noise, soot, vibration, odor, and the like. Uses may include assembly of electrical appliances; manufacture of musical instruments, toys, and novelties; manufacture of pottery and figurines by kilns fired only by gas or electricity; manufacturing, processing,

DRAFT

packaging, or treating of bakery goods, confectionary items, cosmetics, toiletries, pharmaceuticals, toiletries, or other like items. Excluded from this definition is "Professional studio."

Mercury vapor lamp. A gas discharge lamp that uses an electric arc through vaporized mercury to produce light.

Mixed use development. A building or project containing residential uses in combination with commercial and/or institutional uses. No use that is or will be merely accessory to, or ancillary to, a residential use shall qualify as a commercial or industrial use, for purposes of this definition.

Mixed use structure. A building containing residential uses in addition to non-residential uses permitted in the zoning district. Mixed use structure should not be confused with a mix of uses each in separate structures in a single development.

Mobile vending. A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, service, and/or selling of food or other goods and operated at temporary locations. This definition shall include all mobile vending, retail products, food trucks, food trailers, and food carts and shall not apply to those selling in short bursts of 30 minutes or less at a single location and moving to multiple properties through the course of a business day, such vehicles may include, but are not limited to, ice cream trucks.

Modular home or structure. A dwelling unit constructed on-site in accordance with the Virginia one- and two-family dwelling code or with the commercial code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. This is an allowed form of construction in all districts.

National Geodetic Vertical Datum (NGVD). A vertical control used as a reference for establishing varying elevations within the floodplain.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after September 29, 2010, and includes any subsequent improvements to such structures. For floodplain management or development purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the Town of Abingdon and includes any subsequent improvements to such structures.

Nonconforming lot. An otherwise legally platted lot that does not conform to the minimum area, width, or lot frontage requirements of this Ordinance for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

Nonconforming sign. Any sign that was permitted under a previous regulation that presently does not conform to the requirements of this Ordinance.

DRAFT

Nonconforming structure. An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Ordinance, or is designed or intended for use that does not conform to the use regulations for this Ordinance, for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

Nonconforming use. 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 Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance. Any use that was unlawful on the date of adoption of this Ordinance shall remain unlawful and shall not be a nonconforming use.

Nursing home. A use providing bed care and in-patient services for persons requiring regular medical attention but does not include a facility providing surgical or emergency medical services or a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Office, general. The use wherein the primary purpose is the conduct of a business or profession such as, but not limited to accounting, tax preparation, lenders and securities brokers, architecture, computer software, or information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, theology, real estate, or travel. Retail Sales do not comprise more than an Accessory Use of the primary activity of a General Office. This definition does not include Office, Medical/Clinic as defined.

Office, medical/clinic. The use of a site for facilities which provide diagnoses, minor surgical care, or outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia.

Official map. A map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233, et seq., Code of Virginia, 1950, as amended). See § 15.2-2201, Code of Virginia, 1950, as amended.

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

One-hundred-year flood (100-year flood). The flood having a one percent chance of being equaled or exceeded in any given year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

Open space. Land area not covered by buildings, roads, driveway and parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas. Except as otherwise provided by this title, open space includes setback areas that meet the requirements defined in this Ordinance. Open space does not include public rights of way for roads, sidewalks, or trails.

DRAFT

Open space, common. Private open space provided within a development which is provided for, and which is permanently accessible to, all residents and tenants of the development.

Outdoor market. Retail sale of goods, wares, fresh fruits and vegetables, and other food and related items, with spaces occupied by several different temporary tenants on a short-term or daily basis outdoors; but this term does not include Wayside stand or Flea market as defined in this Ordinance.

Outdoor storage. The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

Owner. The person or entity who owns all or a portion of a facility. For the purposes of this Ordinance, the owner of premises on which a sign is located is presumed to be the owner of the sign unless acts to the contrary are officially recorded or otherwise brought to the attention of the Director of Community Development or designee.

Parapet. The extension of a building façade above the line of the structural roof.

Parking lot, commercial. A site for surface parking of operable vehicles, recreational vehicles, and boats, which is fee based and provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this Ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

Parking space. An area for an automobile or other motor vehicle; such space being exclusive of necessary drives, aisles, entrances and exits and being fully accessible for the parking or storage of permitted vehicles.

Performance bond. A surety bond, cash deposit or letter of credit approved by the Town Attorney and made out to the Town of Abingdon in an amount equal to the full cost of the improvements which are required by these regulations, said cost being estimated by the developer's engineer and approved by the Town Engineer. A performance bond may also be referenced as "Performance Guarantee" or "Guarantee".

Personal services. Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature and/or the provision of informational, instructional, and similar services. Typical uses include beauty and barber shops; grooming of pets; seamstresses, tailors, or shoe repairs; laundromats and dry-cleaning stations serving individuals and households; driving schools; health or physical fitness studios; dance studios; handicraft and hobby instruction.

Physical improvements. Any structure such as drainage structures, central water system, central sewage disposal systems, bridges, lines, culverts, etc., and such other improvements as the Agent may designate.

Planning Commission. A commission of the local government consisting of such appointed members whose functions include advisory or nontechnical aspects of planning and may also include such other powers and duties as may be assigned to it by the Town Council.

DRAFT

Planned unit development. A form of development characterized by unified site design, intended to allow for a variety of housing types and densities, clustering of buildings, common open space, and/or a mix of building types and land uses, in which project planning and density calculations are performed for the entire development rather than on an individual lot basis.

Plans, improvement. The maps or drawings accompanying a subdivision plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the Subdivision Article as a condition of approval of the plat.

Plat. A map or plan of a tract or parcel of land which is to be, or which has been subdivided. Includes the term map, plot, replat, or replot. When used as a verb, "plat" is synonymous with "subdivide".

Plat, final. The map of a subdivision submitted and approved by the Town of Abingdon, and subsequently recorded in the Office of the Clerk of the Circuit Court of Washington County, Virginia.

Plat, preliminary. The preliminary drawing or drawings, including the elements required by this Ordinance, indicating the proposed manner or layout of the subdivision.

Portable storage container. A portable, weather-resistant receptacle designed and used for the temporary storage (60 calendar days or less) or shipment of materials, household goods, wares, or merchandise. The term shall not include containers used for the collection of solid waste by the Town. Portable storage containers are not structures and cannot be utilized for retail activity, as permanent storage on residential or commercial property.

Premises. A single lot, or an area of multiple, contiguous lots under common ownership, along with any building(s) or structure(s) occupying it.

Professional studio. A workspace for artists or artisans, including individuals practicing one of the fine arts or skilled in an applied art or craft. Excluded from this definition is "Manufacturing, light."

Proffer. A voluntary offer that addresses an impact or impacts from use of property or development, tendered by an applicant for conditional rezoning.

Property. Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.

Public authority. Any agency or body, any official, or any representative of local, State, or Federal government.

Public hearing. A meeting announced and advertised for soliciting formal public comment on matters under consideration.

Public park and recreation area. Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses. This use shall not include Public Use as defined in this Ordinance.

DRAFT

Public use. The use of land, exclusively for public purposes, by any department or branch of the federal government, Commonwealth or any political subdivision, public authority, or any combination thereof. Included in this definition are public parking facilities. This use shall not include Public Park and Recreational Area, Educational Facilities, Utility Service (major or minor), or Courthouse as defined in this Ordinance.

Public water and sanitary sewer systems. A water or sanitary sewer system owned and operated by a municipality or county, or owned by a private individual or a corporation approved by the governing body and properly licensed by the state corporation commission.

Quasi-public. Essentially a public use, although under private ownership or control.

Quorum. A majority of the authorized members of a board or commission.

Recreation/amusement, indoor commercial. An establishment that provides an enclosed building for indoor sports or recreation and/or multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Uses include but are not limited to bowling alleys, ice- and roller-skating rinks, indoor racquetball, swimming, billiard halls, game rooms, video arcades, and commercial theatres.

Recreation/amusement, outdoor commercial. Participant or spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, paintball facilities, sports arenas, motorized model airplane flying facilities, rodeos, and outdoor amusement parks.

Recreational vehicle. A type of portable structure without a permanent foundation which can be towed, hauled, or driven and primarily designed as temporary living (15 day or less) accommodations for recreational, camping, and travel use and including, but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Registered design professional. An architect or engineer registered or licensed to practice professional architecture or engineering as defined by statutory requirements of the professional registration laws of the state in which the project is to be constructed.

Religious assembly. A use located in a permanent building and providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

Renovation. Interior or exterior remodeling of a structure, other than ordinary repair.

Reserve strip. A narrow plot of land adjacent to a public street, of insufficient depth for subdivision, retained by the subdivider to prevent access to the street, by the owner of adjoining property.

Restaurant. An establishment in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery

DRAFT

shops, eat-in delis and refreshment stands. Drive-up or curb-side pick-up may be offered incidental to this use. Excluded from this definition are Restaurant, drive-in; Mobile vending; and Bakeries.

Retirement home. An establishment or institution, public or private, providing minimal care of elderly persons. "Minimal residential care" as used herein is a lesser degree of care than provided by a nursing home or hospital.

Right-of-way width. The total width of the strip of land dedicated or reserved for public travel within which roadway, curbs, gutters, sidewalks, planting strips, and undeveloped land may be located.

Right-of-way, public. A legally established area or strip of land on which an irrevocable public right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

Roadway. That paved portion of the street available for vehicular traffic, and where curbs are laid, the portion from face to face of curbs.

Roof line. The top edge of a peaked roof, or in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

Sawmill, portable. A facility which is movable and temporarily located on privately owned real estate, used for the sawing, chipping, or shaving of wood for the purpose of processing of timber cut only from that real estate which the mill is located, or from real estate immediately contiguous or adjacent thereto.

Screening. Landscaping, solid fencing, or masonry walls, or combination thereof, that physically and visually separates different uses, or that shields uses or their appurtenances, such as dumpsters and mechanical equipment, from adjacent property or uses.

Self-storage, indoor. A building designed to provide interior rental storage to individuals. Each storage space shall be interior to the building or buildings and have a main entrance for accessing, loading, and unloading of stored goods. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Self-storage, outdoor. A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Setback. See "Yard".

Shelter, residential. A facility promoting temporary housing and feeding for one or more individuals who are otherwise temporarily or permanently homeless. Ancillary community support services may be provided including, but not limited to, childcare, counseling, food distribution, or vocational training.

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Shopping center. A group of commercial establishments, otherwise permitted within the zoning district that are planned, developed, owned, and managed as a unit related in location, size, and type of shops to the area that the unit serves and providing site parking in relationship to the types and sizes of stores.

Short-term rental. A residential dwelling unit that is used or advertised for rent for transient occupancy in increments of fewer than 30 consecutive days. This use type does not include bed-and-breakfast establishments and does not apply to month-to-month extensions following completion of a year's lease.

(1) *Booking transaction*. Any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.
(2) *Guest or transient*. A person who occupies a short-term rental unit.
(3) *Primary resident (or host)*. The owner of the short-term rental unit, or lessee of the short-term rental unit with a lease agreement that is one year or greater in length, who occupies the property as his or her principal place of residence and domicile. In determining compliance with Short-term rental regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.
(4) *Residential dwelling unit*. A residence where one or more persons maintain a household.

Sidewalk. A paved surface, the prime purpose of which is a pedestrian walkway.

Sign. Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area, or right-of-way open to use by the general public, or any navigable body of water that is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images.

Sign area. The entire area enclosing the extreme limits of writing, representation, pictorial elements, emblems, or a figure of similar character, together with all material, color, or lighting forming an integral part of the display or used to differentiate the Sign from the background against which it is placed.

Sign, abandoned. A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by state law.

Sign copy. Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

Sign face. The particular area of the sign structure upon which a message, copy, or advertisement is displayed for viewing.

Sign maintenance. To prevent through preservation, repair, or restoration, the development of any rust, corrosion, rot, chipping, peeling, or other deterioration in either the physical appearance or the safety of every sign.

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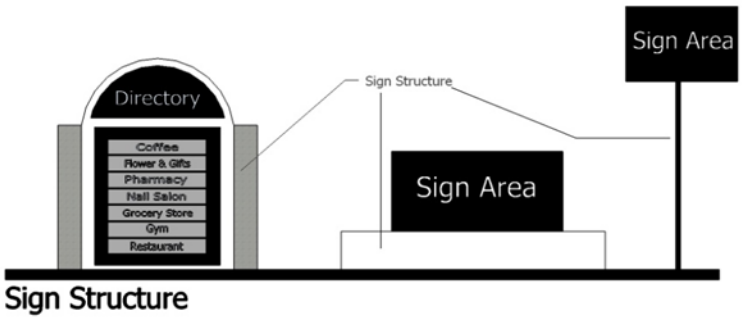
Sign plan. A written document or drawing depicting proposed sign(s) placement, design, and quantity for the purpose of determining consistency and compatibility with the Town.

Sign structure. Any structure supporting a sign.



Sign, animated. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this Ordinance, include the following types:

(1) *Electrically Activated.* Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
   a. *Flashing*. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this Ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four seconds.
   b. *Patterned Illusionary Movement.* Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

(2) *Environmentally Activated.* Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, and/or other devices or displays that respond to naturally occurring external motivation but excludes pennants and streamers.

(3) *Mechanically Activated.* Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

Sign, awning. See "Sign, canopy".

Sign, banner. A sign utilizing a banner or flexible substrate as its display surface for copy or graphics.

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Sign, billboard. An off-premises sign or sign structure with display space available for lease and designed so that the copy or poster on the sign can be changed frequently. Billboards include digital billboards defined as follows:

(1) *Digital Billboard*. An off-premises sign that displays digital images that are changed by a computer.

Sign, canopy. A sign displayed on or attached flat against the surface or surfaces of a canopy. Illuminated canopies, if translucent, are considered part of the total canopy sign area.

Sign, changeable. A sign that includes any changing of the message either electronically or manually in which the message is stationary and does not fluctuate in size or brightness.

Sign, combination. A sign that is supported by a pole and partly by a building structure.

Sign, neighborhood. A sign located at the entrance to a residential development.

Sign, double-faced. A sign with two faces, back-to-back.

Sign, exterior. Any sign placed outside a building.

Sign, fascia. See "Wall Sign."

Sign, flag. Non-governmental flags are deemed to be signs and shall be subject to the provisions of this Ordinance. The official flags of the federal, state, county or municipal governments are not deemed to be signs.

Sign, flashing. See "Sign, animated, electrically activated."

Sign, freestanding. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more (structures) columns, poles, or braces placed in or upon the ground.

Sign, height. The entire height of the structure from the ground to the top of the structure regardless of wording or decorative nature.

Sign, illuminated. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

Sign, interior. Any sign placed within a building, but not including "Signs, window" as defined by this Ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this Ordinance.

Sign, marquee. See "Sign, canopy".

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Sign, minor. A wall or freestanding sign not exceeding three (3) square foot in area, not exceeding four feet in height, and not illuminated. Examples include not trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.

Sign, monument. A "Sign, freestanding" having the appearance of a solid, rectangular, or cylindrical base.

Sign, multiple-faced. A sign containing three or more faces.

Sign, off-premise. A sign which directs attention to a business, commodity, service, activity, or entertainment conducted, sold, or offered on a parcel of land other than the one on which the sign is located.

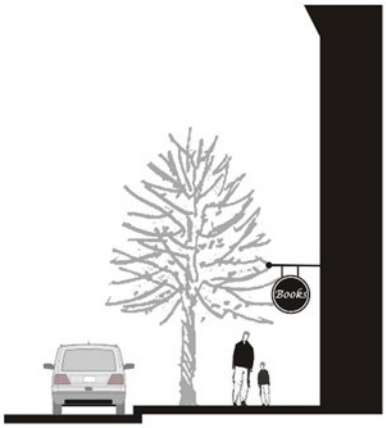
Sign, on-premise. A sign erected, maintained, or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of the property on which it is displayed.

Sign, pennant. A sign made with flexible material, with or without lettering for design, usually suspended from one or two corners, and manufactured and placed for the purpose of attracting attention. Also referred to as a streamer.

Sign, pole. See "Sign, freestanding."

Sign, portable. Any sign not permanently attached to the ground or to a building or building surface. For example, an A-frame sign.

Sign, projecting. A sign other than a wall sign that is attached to or projects more than 15 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.



Projecting/Hanging Sign

Sign, revolving. A sign that revolves 360 degrees about an axis. See also "Sign, animated, mechanically activated."

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Sign, roof. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.

Sign, temporary. A sign designed or intended, based on materials and structural components, to be displayed for a specified or limited period of time, regardless of type or style of sign. Examples include real estate signs, yard sale signs, contractor's signs, and special or one-time event signs per year.

Sign, wall. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 15 inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building or to the face or faces of the architectural projection to which it is affixed and exteriors of windows.

Sign, window. A sign affixed to the interior surface of a window with its message intended to be visible to and readable from the public way or from adjacent property. Signs affixed to the exterior of the surface of a window are considered wall signs.

Site plan. A plan prepared by a professional engineer or land surveyor licensed by the state showing all existing and proposed improvements to the site in accordance with this Ordinance.

Solar.

(1) *Solar energy system:* A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.
(2) *Solar photovoltaic system:* A solar energy system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring.
(3) Grid-connected solar energy system: A solar photovoltaic system that is connected to an electric circuit served by an electric utility company.
(4) *Roof-mounted solar energy system:* A solar photovoltaic system mounted on a rack that is ballasted on, or is attached to, the roof of a building or structure. Roof-mount systems are accessory to the primary use.
(5) *Ground-mounted solar energy system (Accessory Use):* A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and the system is accessory to the primary use.
(6) *Ground-mounted solar energy system (Primary Use):* A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and is the primary land use for the parcel(s) on which it is located. Primary use systems are permitted through a discretionary approval process.
(7) *Solar energy, medium-scale.* A facility that generates electricity from sunlight primarily to reduce onsite consumption of utility power for commercial and industrial applications. Sites are between one to three acres with maximum capacity of 999 kW.
(8) *Solar energy, small-scale.* A facility that either:
    a. Generates less than 20 kilowatts (kW) electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or
    b. Utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy; and
    c. Meets at least one of the following criteria: has a disturbance zone equal to or less than one acre; is mounted on or over a building, parking lot, or other previously disturbed area; or utilizes integrated PV only.

Special use permit. An approval for a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration and restrictions relating to its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

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Stable, commercial. The sheltered boarding of horses or ponies, or other livestock, for a revenue generating purpose. Included in this definition are horse riding academies and horse or livestock grooming operations.

Stable, private. The keeping, breeding, or raising of horses or ponies, or other livestock, exclusively for the personal use and enjoyment of the owner or occupant of the property or the riding of horses or ponies by the owner or occupant of the property and their guests.

Steep slope. The portion of a lot that has a grade in excess of 25 percent.

Store, general. An establishment for display and sale of merchandise at retail.

Story. 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; and, if there is no floor above it, the space between the floor and the ceiling next above it.

Story, half. A space under a 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. A public way which affords the principal means of access to abutting properties. The term "street" includes all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, drive, court, avenue, boulevard, lane, place, circle, or however otherwise designated.

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

Street width. The total width of the strip of land, dedicated or reserved, for public travel, including roadways, curbs, gutters, sidewalks, and planting strips.

Street, private. A right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal access to two or more sites.

Streets, arterial or thoroughfare. Streets designated as thoroughfares on the Town of Abingdon Transportation Plan as such plan may be amended and updated from time to time.

Streets, collector. Streets which carry traffic from local streets to the arterial or thoroughfare streets. They provide the principal means for the collection of traffic within or between major subdivisions or sections of Town. These streets are longer in length; have higher speed limits; are spaced at greater intervals; and have higher average traffic volumes.

Streets, local. Streets which are used primarily for access to the abutting properties, provide service to travel over relatively short distances, and may be designed to discourage their use by through traffic.

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Structure, main. A structure or building in which is conducted the principal use on a lot, or where a lot contains residential uses, the principal structure on the lot shall mean the largest building that contains any dwelling unit.

Subdivide. The process of splitting land so as to establish a subdivision as defined herein.

Subdivider. Any individual, firm, partnership, association, corporation owning any parcel of land to be subdivided.

Subdivision. The division of a parcel of land into two (2) or more lots or parcels of land, including the residual lot, for the purpose of transfer of ownership or building development, including any parcel previously separated by the owner or prior owner of such land for such purpose. The sale or exchange of parcels between lot owners, where such sale or exchange does not create a new plat shall be exempt from Subdivision Agent approval. Subdivisions are classified as:

(1) *Major Subdivision.* The division of any tract or parcel of land into three (3) or more lots.
(2) *Minor Subdivision.* The division of any tract or parcel of land into two (2) lots.

Support structure. A structure (other than an attachment structure) designed and constructed specifically to support a communications facility, and may include alternative towers, monopole towers, self-supporting or lattice towers, and other similar structures.

Surveyor. A person who, by reason of their knowledge of the several sciences and of the principles of land surveying, and of the planning and design of land developments acquired by practical experience and formal education, is qualified to engage in the practice of land surveying, and whose competence has been attested through licensure as a land surveyor to do business in the State of Virginia.

Temporary construction trailer. A mobile structure or building used to accommodate temporary offices, dining, and storage of building materials during construction projects.

Tower, monopole. A support structure consisting of a single pole, constructed without any guy wires and ground anchors.

Town. The Town of Abingdon, Virginia.

Town Council. The Town's legislative body. Council members are elected by popular vote and are responsible for enacting ordinances, imposing taxes, making appropriations, and establishing Town policy. The Town Council adopts the comprehensive plan, zoning, and subdivision regulations.

Tradesperson service. An establishment providing contractor or industrial services to individuals or businesses. This classification includes electrical; plumbing; painting; landscaping; metal, machine, and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication, installation, and repair.

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Transportation services. Individual modal or multimodal conveyances and terminals; facilities may be of local, regional, or statewide importance. Examples of facilities are highways, rail transit lines, transit stations, bicycle paths. Uses may also include vehicle services such as limousine, taxi service, or bus transportation.

Tree canopy or tree cover. All areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 10 or 20 years maturity, as applicable. Planted tree canopy at maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen and arborists, i.e., in The Manual of Woody Landscape Plants by Michael A. Dirr (4th edition, 1990).

Truck/freight terminal. An area of land used for the switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of freight.

Use. The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

Use, change of. The replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or function is substantially the same.

Use, principal. A use that fulfills a primary function of a household, establishment, institution, or other entity.

Use, temporary. A use established for a fixed period of time with the intent that such use will terminate automatically upon an expiration of a fixed time period unless permission to conduct the use is renewed.

Utilities. All lines and facilities that provide for the transmission, transfer, distribution, collection, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunications and telephone cable, and includes facilities for the generation of electric.

Utility service, major. Service of a regional nature which normally entails the construction of new buildings or structures such as electric generating plants and sources; electrical switching facilities and stations or substations; community wastewater treatment plants; water towers; sanitary landfills; and similar facilities. All overhead transmission lines are included in this definition.

Utility service, minor. Service which is necessary to support development primarily on the same property as the utility service and involves only minor structures. Included in this use type are small facilities such as transformers, relay and booster devices, small alternative energy systems such as electric facilities operated at 40 kilovolts or less, and well, water and sanitary sewer pump stations. This does not include communications towers and facilities.

Variance. A reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would result in unnecessary and undue hardship which is not created

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by the owner, relief or remedy is not available through this Ordinance, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this Ordinance.

VDOT. The Virginia Department of Transportation.

Vehicle repair service. Repair and/or maintenance of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services, and similar repair and service activities where minor repairs and routine maintenance are conducted. Automobile painting, upholstering, reconditioning, body and fender work shall also be included.

Vehicle sale, rental/leasing. A lot arranged, designed or used for the storage and display for sale, lease, or rent of any new or used motor vehicle capable of independent operation or any type of boat, travel trailer and recreation vehicle, provided the travel trailer and recreation vehicle is unoccupied. Warranty repair work and other major and minor repair service may be provided wholly within an enclosed building as an accessory use. This definition excludes farm equipment sales and supplies establishment as defined in this Ordinance

Vested rights. A right belonging completely and unconditionally to a person as a property interest which cannot be impaired or taken away (as through retroactive legislation) without the consent of the owner. A landowner's rights are vested when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

Veterinary clinic. A facility that deals with the causes, diagnosis, and treatment of diseases and injuries of animals, especially domestic animals, under the direction and control of a veterinarian licensed by the Commonwealth of Virginia. If overnight accommodations are provided for animals, see definition for Kennel.

Vicinity Map. The vicinity or location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. The map shall include subdivision name and location, main traffic arteries, schools, parks and playgrounds, scale, north arrow, and date.

Violation. The failure of a structure or other development to be fully compliant with the Town of Abingdon's Zoning and Subdivision Ordinance.

Warehousing and distribution. Uses including storage of wares, and merchandise, warehousing, and dispatching of goods within enclosed structures, but shall not include the storage of flammable and/or combustible materials. Typical uses include wholesale distributors, e-commerce fulfillment centers,

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storage warehouses, data centers, and moving/storage firm. Self-storage facilities are not considered storage warehouses.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Wayside stand. An establishment for the seasonal retail sale of agricultural or forestal goods and merchandise primarily produced by the operator on the site, or on nearby property. Agricultural goods produced on other properties owned or leased by the operator may also be allowed provided a majority of the produce comes from land surrounding the wayside stand. This use type shall include agricultural products picked by the consumer. Also referred to as a roadside or farm stand or wayside market.

Wireless facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

Wireless facility, administrative review eligible. Administrative review eligible project that provides for:

(1) The installation or construction of a new wireless structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is:
   a. Not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles;
   b. Not located within the boundaries of a local, state, or federal historic district;
   c. Not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and
   d. Designed to support small cell facilities; or
   e. The co-location on any existing structure of a wireless facility that is not a small cell facility.

Wireless facility, attached communications or attached facility. An antenna or other communications equipment that is attached to an existing building or structure ("attachment structure"). For the purposes of this definition, the term structure shall include, without limitation, utility poles, signs, and water towers; however, the term "structure" shall exclude communications towers. Where reference is made to an attached facility, unless otherwise specified the reference will be deemed to include any accompanying pole or device ("attachment device") which attaches the antenna array or communications equipment to the existing building or structure, as well as transmission cables and any equipment shelter which may be located either inside or outside the attachment structure.

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Wireless facility, attachment structure. The structure to which an attached communications facility is affixed.

Wireless facility, broadcasting or communication tower. Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio antennas, which are defined separately. Also excluded are wireless communication antennas which fit the definition of Small cell facility.

Wireless facility, co-location (collocation). Use of an attachment structure or support structure by (i) two or more wireless license holders, radio stations or television stations, or combination thereof, (ii) one wireless license holder, radio station or television station for more than one type of communications technology, or (iii) two or more communications facilities owned or operated by government or other public and quasi-public users.

Wireless facility, micro. A small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

Wireless facility, small cell. A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet, and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services (Code of Virginia § 15.2-2316.4).

Wireless services. Includes (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

Yard. The distance between the exterior facade of a building or any projection thereof (other than steps) and an adjacent property line. The term "required yard," where used within this Ordinance, refers to the minimum distance required by the regulations of a particular zoning district to be unobstructed by any building, structure, or projection thereof (other than steps), extending the full length of the adjacent property line. Also commonly referred to as "setback," "required setback," and "building setback line."

Yard, front. A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street right-of-way line and the main building or any projection thereof

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other than steps. On corner lots, the front yard shall be considered as being adjacent to the street on which the lot has its least dimension.

Yard, rear. A yard extending across the rear of a lot between side lot lines and being the minimum horizontal distance between the rear lot lines and the rear of the main building or any projection other than steps. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side. A yard between the building and the side line of the lot and extending from the front yard line to the rear yard line and being the minimum horizontal distance between a side line and the side of the main building or any projection thereof other than steps.

Zoning Administrator is the person serving as Director of Community Development or designee . See also Administrator.

Zoning district. A specifically delineated section of the Town in which the regulations are uniform and so designated on the zoning map.

Zoning map. A legally adopted map depicting the location of each zoning district of the Town and all amendments thereto.

Section 11-3. Flood Hazard Overlay Definitions.

For purposes of the Flood Hazard Overlay District, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

100-Year Flood. The flood having a 1% chance of being equaled or exceeded in any given year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

A Zone. Those areas for which no detailed flood profiles or elevations are provided, but the one-percent annual chance floodplain boundary has been approximated.

AE Zone. A flood hazard zone with two categories defined below as:

(1) Category 1 areas on the FIRM accompanying the FIS are delineated for purposes of this overlay using the criteria that certain areas within the floodplain must be capable of carrying the water of the base 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 3 of the above-referenced FIS and shown on the accompanying FIRM on file with the Abingdon Planning Department. Category 1 areas shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has been delineated.

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(2) Category 2 areas on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated.

AH Zone. Those areas on the FIRM accompanying the FIS with a 1% annual chance of shallow flooding, usually in the form of a pond, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage.

AO Zone. Those areas of shallow flooding identified as AO on the FIRM accompanying the FIS.

Base Flood. For the purposes of this overlay the 100-year flood. The flood having a 1% of being equaled or exceeded in any given year.

Base Flood Elevation. The Federal Emergency Management Agency designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's flood insurance rate map. For the purposes of this overlay, the 100-year flood or 1% annual chance flood.

Basement. Any area of the building having its floor surface sub-grade (below ground level) on any side.

Board of Zoning Appeals. A quasi-judicial board appointed to review appeals and requests for variances made by individuals with regard to decisions of the Administrator in the interpretation of this overlay.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations or storage of equipment or materials.

Elevated Building. 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 (post and piers).

Encroachment. For the purposes of this overlay 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 Construction. Structures for which the start of construction commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."

Existing Structure. See Existing Construction.

Federal Emergency Management Agency (FEMA). An independent agency of the United States government that provides a single point of accountability for all federal emergency preparedness and mitigation and response activities.

Fill. The placing of any material which results in increasing the natural ground surface elevation.

DRAFT

Flood Hazard District. The land located within the base flood area which includes the floodway and the approximated floodplain district.

Flood Insurance Rate Map (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudflow and/or flood-related erosion hazards.

Flood or Flooding.

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
   a. The overflow of inland or tidal waters.
   b. The unusual and rapid accumulation or runoff of surface waters from any source.
   c. Mudflows which are proximately caused by flooding as defined in paragraph a.2. of this definition 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.

(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) of this definition.

Floodplain or Flood-prone Area. Any land susceptible to being inundated by water from any source.

Floodproofing. A combination of design modifications that results in a building or structure that is subject to flooding, including the attendant utility and sanitary facilities, being watertight with walls substantially impermeable to the passage of water.

Floodway. 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 one foot at any point within the community.

Floodway Fringe. The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the base flood elevation by more than 1.0 foot at any point.

Freeboard. A factor of safety usually expressed in inches or feet above a flood level for purposes of floodplain management. "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

DRAFT

conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. 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 defined by the Secretary of the Interior; or,
    b. Directly by the Secretary of the Interior in states without approved programs.

Hydrological and Hydraulic Engineering Analysis. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation (DCR) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of Map Change (LOMC). An official FEMA determination, by letter, that amends or revises an effective FIRM or FIS. Letters of map change include:

(1) Letter of Map Amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective FIRM and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.
(2) Letter of Map Revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of map revision based on fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
(3) Conditional Letter of Map Revision (CLOMR). A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP

DRAFT

requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

Lowest Floor. The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage 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.

New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after September 29, 2010 and includes any subsequent improvements to such structures. For floodplain management or development purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the Town of Abingdon and includes any subsequent improvements to such structures.

Post-Firm Structures. A structure for which construction or substantial improvement occurred on or after September 29, 2010.

Pre-Firm Structures. A structure for which construction or substantial improvement occurred on or before September 29, 2010.

Recreational Vehicle. A vehicle which is:

(1) Built on a single chassis;
(2) Four hundred square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or towable; and,
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Repetitive Loss Structure. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

Shallow Flooding Area. 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 (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in Section 5-7-13 of the overlay.

DRAFT

Start of Construction. 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 of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. 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, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage. 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% of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

(1) 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 assure safe living conditions, or
(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Violation. The failure of a structure or other development to be fully compliant with the Town of Abingdon's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations § 60.3(d)(3), National Floodplain Insurance Program regulations, is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zone X. Those areas of 0.2% annual chance flood or areas of 1% annual chance flood with average depths of less than one foot or with drainage areas less than one square mile.

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