

Scottsville

ZONING ORDINANCE



Town of Scottsville, Virginia

Adopted May 20, 1996
Includes amendments through August 31, 2011

Scottsville

Zoning Ordinance

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ARTICLE I. GENERAL PROVISIONS

1.0 AUTHORITY, ESTABLISHMENT, PURPOSE AND OFFICIAL ZONING MAP

1.1 AUTHORITY AND ENACTMENT

This ordinance, to be cited as the Town of Scottsville Zoning Ordinance, is hereby ordained, enacted and published by the Town Council of Scottsville, Virginia pursuant to the provisions of Title 15.2, Chapter 22, Article 1, Code of Virginia, 1950, and amendments thereto. This article shall be liberally construed to the end that the health, safety, order, prosperity, conservation of natural resources and general welfare of the public shall be furthered.

By the act of the General Assembly of Virginia as recorded in Title 15.2, Chapter 22, Article 7, section 2280 through 2315, Code of Virginia, 1950 and amendments thereto, the governing body of any county or municipality may, by ordinance, classify the territory under its jurisdiction or any substantial portion thereof into districts of such number, shape, or area as it may deem best suited to carry out the purposes of this article and in each district it may regulate, restrict, permit, prohibit, and determine the following:

- a. The use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;
- b. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;
- c. The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; and
- d. The excavation or mining of soil or other natural resources.

1.2 ADOPTION

Be it ordained by the Town Council of the Town of Scottsville, Virginia: That the following ordinance, known as the Town of Scottsville Zoning Ordinance, together with the zoning map attached thereto be adopted effective immediately upon the date set forth below.

1.3 EFFECTIVE DATE, REPEAL OF CONFLICTING ORDINANCES

This Town of Scottsville Zoning Ordinance shall be effective at and after 12:00 pm, the 20th day of May, 1996 and at the same time the following ordinances are hereby repealed: Town of Scottsville Zoning Ordinance and the associated zoning map both adopted April 20, 1987; the Architectural Design Control Ordinance, adopted January 17, 1972; the Scottsville Sign Ordinance, adopted March 16, 1992; the ordinance adopting the Albemarle County Zoning Ordinance for the newly expanded area of Town, adopted January 31, 1994; and all other conflicting ordinances adopted prior to the date of this ordinance, the pertinent sections of these prior ordinances having been amended and incorporated herein.

1.4 PURPOSE AND INTENT

This ordinance, insofar as is practicable, is intended to be in accord with and to implement the Comprehensive Plan of the Town of Scottsville, Virginia, adopted on August 15, 1994, pursuant to the provisions of Title 15.2,

Chapter 22, Article 3, Code of Virginia, and has the purposes and intent set forth in Title 15.2, Chapter 22, Article 7.

The general purpose of this ordinance shall be to promote the health, safety or general welfare of the public and of further accomplishing the objectives of Title 15.2, section 2200 of the Code of Virginia. To these ends, this ordinance is designed to

- a. Provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
- b. Reduce or prevent congestion in the public streets;
- c. Facilitate the creation of a convenient, attractive and harmonious community;
- d. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements;
- e. Protect against destruction of or encroachment upon historic landmarks and areas;
- f. 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, panic or other dangers;
- g. Encourage economic development activities that provide desirable employment and enlarge the tax base;
- h. Provide for the preservation of agricultural and forestal lands and other land of significance for the protection of the natural environment.

The ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Title 62.1, section 44.85(8) of the Code of Virginia.

1.5 RELATION TO THE TOWN OF SCOTTSVILLE COMPREHENSIVE PLAN AND COMPATIBILITY WITH THE ZONING ORDINANCE OF ALBEMARLE COUNTY, VIRGINIA

This ordinance is intended to assist the citizens, Town Council, the Planning Commission, other boards and commissions and officials of the Town of Scottsville in guiding land development in the Town of Scottsville. The Town of Scottsville Zoning Ordinance is designed to be a tool for implementing the Scottsville Comprehensive Plan. The official zoning map of the Town of Scottsville is declared to be a part of this ordinance. The content and structure of this ordinance, where practicable, is intended to achieve administrative compatibility with the zoning ordinance of the County of Albemarle. The intent is to promote consistency of the review and enforcement provisions described herein between Albemarle County and the Town. This intent is not to infer that the Albemarle County zoning ordinance is to be used in interpreting, clarifying, or in any other respect in the applicability or use of this ordinance.

1.6 COMPATIBILITY WITH COMPREHENSIVE PLAN

This ordinance, insofar as is practicable, is intended to be in accord with and to implement the Town of Scottsville Comprehensive Plan, adopted August 15, 1994 or successors, pursuant to the provisions of Title 15.2, Chapter 22, Article 3, Code of Virginia, 1950, as amended. The Comprehensive Plan has established the following vision for Scottsville's future: **Scottsville should preserve its small town character, including the trusting and cordial manner of its citizens, protect its scenic and historical areas and guide and**

accomplish a coordinated, adjusted and harmonious development which will best promote the health, safety, morals, order, convenience and prosperity of its citizens and maintain the quality of life which they now enjoy and which is most important to them.

This ordinance shall be administered with the intent of maintaining compatibility with the comprehensive plan to fulfill this vision statement and the goals, objectives, implementation strategies and standards of the comprehensive plan.

1.7 OFFICIAL ZONING MAP

The areas of the Town of Scottsville are hereby divided into districts, as indicated on a set of map sheets titled *Zoning Map of the Town of Scottsville* which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The zoning map shall be identified by the signature of the Mayor of the Town of Scottsville, attested by the Clerk of the Town Council, together with the date of adoption of this ordinance.

The official zoning map shall be located in the Municipal Building and shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the Town.

1.7.1 AMENDMENT OF ZONING MAP

At such times as amendments are made to the zoning map by action of the Town Council such amendments shall be incorporated onto the official zoning map at such time and in such manner as the Town Council may prescribe. Such changes shall be validated with reference to correct notation by the Clerk of the Town Council, who shall affix his/her signature thereto, thereby certifying that approved amendments to the zoning map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law at 12:01 a.m. on the day following its legal adoption, or on its effective date, if officially established as other than on the day following its legal adoption, whether or not it has been shown on said zoning map.

1.7.2 UNAUTHORIZED CHANGES

No changes of any nature shall be made on said zoning map or any matter shown thereon except in conformity with the procedures and requirements of this ordinance. It shall be unlawful for any person to make unauthorized changes on the zoning map. Violations of this provision shall be punishable as provided in Article V, section 27, Penalties.

1.8 CERTIFIED COPY, FILING

A certified copy of the Town of Scottsville Zoning Ordinance and zoning map shall be filed in the office of the Zoning Administrator for the Town of Scottsville, in the office of the Zoning Administrator of Albemarle County, Virginia, in the office of the Clerk of the Town of Scottsville, and in the office of the Clerk of the Circuit Court of Albemarle County, Virginia.

1.9 SEVERABILITY OF PARTS OF THIS ORDINANCE

Sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance.

2.0 APPLICATION OF REGULATIONS

The regulations set forth by this ordinance within each district shall be minimum or maximum limitations as appropriate to the case and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

2.1 USE, OCCUPANCY AND CONSTRUCTION

No building, structure, or land shall hereafter be used or occupied, and no building or structure, or part thereof, shall be constructed, altered or removed except in conformity with all of the regulations herein specified for the district in which it is located.

2.2 HEIGHT, AREA WIDTH AND YARDS

No building or other structure shall hereafter be erected or altered:

- a. To exceed the height;
- b. To accommodate or house a greater number of families;
- c. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or
- d. In any other manner contrary to the provisions of this ordinance.

2.3 REQUIRED YARD, WIDTH, AREA, OR PARKING SPACE FOR ONE STRUCTURE, OR USE, NOT TO BE USED TO MEET REQUIREMENTS FOR ANOTHER

No part of a yard, or other open space, area, or off-street parking space required of or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, area, or off-street parking space similarly required for any other building.

2.4 REDUCTION OF LOTS OR AREAS BELOW MINIMUM PROHIBITED

No lot or area existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, except for the purpose of dedicating the reduction to public use. Lots or areas created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.

2.5 REDUCTION OF YARDS BELOW MINIMUM

No yard existing at the time of passage of this ordinance shall be reduced in dimension below the minimum requirements set forth herein, unless such yard restrictions reduce the buildable area to unreasonable dimensions. In such cases, the Board of Zoning Appeals shall determine the minimum requirements consistent with provision of adequate light and air, prevention of loss of life, health, or property from fire or other dangers, and prevention of danger in travel. Yards created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.

2.6 REDUCTION OF REQUIRED OFF STREET PARKING SPACE

No existing off-street parking space, and no off-street parking space hereafter provided, which meets all or part of the requirements for off-street parking space set forth in these regulations, shall be reduced or eliminated so

that its reduction results in an area not meeting requirement or standards contained herein. Reductions may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

2.7 CONFLICTING ORDINANCES

If any part of this ordinance is found to be in conflict with any other ordinance or any other part of this ordinance, the most stringent or highest standard as determined by the Zoning Administrator shall prevail.

Whenever provisions within this ordinance conflict with any state or federal statute or regulation with respect to requirements or standards, the most severe or stringent requirements or standards shall prevail. If any part of this ordinance is explicitly prohibited by federal or state statute, it shall not be enforced.

3.0 INTERPRETATION OF DISTRICT BOUNDARIES AND DEFINITIONS

In interpreting and construing the official zoning map, the following rules shall apply.

3.1 FLOOD HAZARD DISTRICT BOUNDARIES

The Boundaries of the Flood Hazard District shall be as shown on the Flood Insurance Rate Map. District boundaries shall be determined by features shown on the map and at such scaled distance therefrom as indicated.

3.2 CENTER LINES AS BOUNDARIES

Where district boundaries appear to follow mapped center lines of streets, alleys, easements, waterways and the like, they shall be construed as following such center lines as exist on the ground except where this variation of actual location would change the zoning status of a lot or parcel or portion thereof, in which case the boundary shall be interpreted in such a manner as to avoid changing the zoning of any lot or parcel or portion thereof. In case of closure of a street or alley, or vacation of an easement, the boundary shall be construed as remaining at its location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary shall be construed as moving to correspond with the ownership, but not beyond any previous right-of-way or easement line. In the case of movement of any waterway, the boundary shall be construed as remaining at its current location.

3.2.1 PROPERTY OR OTHER EDGES AS BOUNDARIES

Where district boundaries appear to follow street, lot, property or other edge lines, they shall be construed as following such lines.

3.2.2 RAILROADS AS BOUNDARIES

Where the boundary of a district line follows a railroad line such boundary shall be deemed to be located on the easement line to which it is closest, which shall completely include or exclude the railroad easement unless otherwise designated.

3.2.3 BOUNDARIES OTHER THAN AS ABOVE

District boundaries which appear parallel or perpendicular to, or as extensions of or connecting, center lines, edge lines, or other features shown on the map, shall be so construed and at such scaled distance therefrom as indicated on the zoning map.

3.2.4 BOUNDARIES EXTENDING INTO WATER

Where the full course of boundaries extending into bodies of water is not shown, such boundaries shall be construed as continuing in a straight line to intersect with other zoning boundaries or to jurisdictional limits if no such intersection with a zoning boundary occurs first.

3.3 DIMENSIONS

Where dimensions are not otherwise indicated on the zoning map, the scale of the map shall govern.

3.4 UNCLASSIFIED AREAS

Where areas appear to be unclassified on the zoning map, and classification cannot be established by rules set forth herein, such areas shall be considered to be classified RA and may also be a flood hazard district as determined in Article III, section 17, *Flood Hazard Overlay District – FH*.

3.5 INTERPRETATION IN CASES OF UNCERTAINTY

Where application of the rules set forth above fails to establish the location of boundaries with sufficient accuracy for the purposes of these regulations, the Planning Commission shall determine the location, provided that no such interpretation shall be such as to divide a lot which was previously apparently undivided by a district boundary.

3.6 GENERAL USAGE DEFINITIONS AND INTERPRETATIONS

For the purpose of this ordinance, certain words and terms are herein defined as follows:

Words used in the present tense include the future tense; words in the singular number include the plural number and words in the plural number include the singular number; unless the obvious construction of the wording indicates otherwise.

The word *shall* means mandatory.

Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.

The word *building* includes the word *structure*; the word *lot* includes the words *plot* and *parcel*.

The word *used* shall be deemed also to include *erected, reconstructed, altered, placed, or moved*.

The terms *land use* and *use of land* shall be deemed also to include *building use* and *use of a building*.

The word *person* includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The words *street, road, highway, roadway, byway* and *travelway* all include the others jointly.

The word *state* means the Commonwealth of Virginia.

The word *county* means Albemarle County, Virginia, except for specific references to that portion of the Town located in Fluvanna County, in which case it refers to Fluvanna County, Virginia.

The word *Town* means the Town of Scottsville, Virginia, and the term *Town boundary* means any part of the exterior boundary of the Town.

The term *the Code* means the Code of Virginia as the same may be amended from time to time.

The terms *amend* or *amendment* mean any repeal, modification, or addition to a regulation; any change in the number, shape, boundary, or area of a district, or any repeal or adoption of any map, part thereof, or addition thereto.

3.7 INTERPRETATION BY TOWN ATTORNEY

In case of any dispute over the meaning of a word, phrase, or sentence, whether defined herein or not, the Town Attorney is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in this Article, provided, however, that an appeal to the Board of Zoning Appeals may be taken from any such determination as provided in this ordinance and the Code of Virginia.

3.8 TERMS APPLICABLE TO THE TOWN GOVERNMENT

Administrator or Zoning Administrator. The official appointed by the Town Council and authorized to issue permits pursuant to the provisions of this ordinance. (Reference section 20.4 of this ordinance.)

Architectural Review Board (ARB). An appointed board whose primary function is to review and provide recommendations to the Town Council on permit applications within historic and entrance corridor overlay districts as to their conformance with prescribed aesthetic standards. (Reference section 23 of this ordinance.)

Board of Zoning Appeals (BZA). A court appointed board, specified in the Code of Virginia, whose purpose is to review and render decisions on public appeals to zoning decisions by the Zoning Administrator and Town officials. (Reference section 22.)

Clerk or Town Clerk. The appointed official who serves as the clerk to the Town of Scottsville.

Clerk of the Town Council. The appointed official who serves as the clerk to the Town Council.

Council or Town Council. The Town Council of Scottsville, Virginia; the governing body, comprised of the Mayor and six (6) elected council members.

Commission or Planning Commission. The Planning Commission of the Town of Scottsville, Virginia as established pursuant to Title 15.2, Chapter 22, Article 2 of the Code of Virginia, as amended.

Comprehensive Plan. A set of recordable materials and documents, in narrative, map, or other form, which includes any and all studies, findings, determinations, policies, statements, and amendments thereto, which are identified as elements of the Comprehensive Plan of the Town of Scottsville and adopted as such by the Scottsville Town Council pursuant to the provisions of Title 15.2, Chapter 22, Article 3, Code of Virginia.

Governing body. The Town Council of Scottsville, Virginia.

Mayor. The Mayor of the Town of Scottsville, Virginia, an elected official.

Town Engineer. The designated agent functioning as engineer for the Town of Scottsville.

Town official. Any of the elected or appointed officials of the Town of Scottsville, Virginia.

3.9 DEFINITIONS

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Where definitions are not set forth herein, it is intended that the definitions contained in the Statewide Uniform Building Code pertain.

Accessory building or structure. A building customarily incidental and subordinate to the main building or use and located on the same lot with the main building.

Accessory use. A use customarily incidental and subordinate to the principal use of land or buildings located upon the same lot.

Agriculture. The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses, including a wayside stand, shall be secondary to that of the normal agricultural activities. The operation of commercial feed pens, sales yards and auction yards for cattle or hogs shall be deemed an industrial and not an agricultural use.

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

Apartment house. A multiple-family dwelling.

Arts and crafts. The creation or production of individual handmade objects, not mass produced. (Added 3-20-2000)

Arts and education center. Any building or group of buildings utilized solely for the purpose of arts, music, and nature education and may include facilities for galleries, performing space, artists in residence, and outdoor activities. (Added 5-21-2007)

Automobile graveyard. Any lot or place which is exposed to the weather upon which are located more than two (2) inoperable vehicles of any kind.

Basement. A story having more than one-half ($\frac{1}{2}$) of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

Bed and breakfast. A building in which sleeping accommodations and one or more meals are provided for transient guests for compensation.

Boarding house. A building where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for not less than three (3) nor more than twelve (12) persons.

Body shop. A facility, other than a private garage, designed or used for the repair, replacement and/or restoration of the body and/or chassis parts of motor vehicles, including collision repairs, in which mechanical repairs are performed only as is incidental and necessary to such body work.

Borrow area or borrow pit. A location at which soil or other related material is removed from the site for transportation to another site. Removal of soil and other related material as necessary to establish another permitted use upon the same site shall not be considered as the establishment of a borrow area or borrow pit.

Building. Any structure intended for shelter, housing or enclosure of persons, animals or chattel. When separated by a fire wall extending through the roof each portion of such structure so separated shall be deemed a separate building.

Building height. The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the decline of a mansard roof, or to the highest gable of a pitch or hip roof.

Building, main. A building in which is conducted the principal use of the lot on which it is situated.

Building site. A single parcel occupied or intended to be occupied by a building or structure.

Carport. Any space outside a main building and contiguous thereto, wholly or partly covered by a roof, and used for the shelter of motor or towed vehicles. An unenclosed carport is a carport with no side enclosure that is more than eighteen (18) inches in height, exclusive of screens (other than the side of the building to which the carport is contiguous).

Cemetery. A place for burial of the dead.

Central sewerage system. A sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewerage treatment plants, including, but not limited to, septic tanks and/or drain fields, designed to serve three (3) or more connections, used for conducting or treating sewage, which is required to be approved by the Council pursuant to Title 15.2, Chapter 21, Article 3 of the Code.

Central water supply. A water supply consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, to serve or to be capable of serving three (3) or more connections, which is required to be approved by the Council pursuant to Title 15.2, Chapter 21, Article 2 of the Virginia Code.

Church. A building wherein persons regularly assemble for religious worship, which is used for such purpose and those accessory activities as are customarily associated therewith.

Cluster development. An arrangement of structures on adjoining lots in groupings allowing closer spacing than would be generally permitted under ordinance requirements for lot widths or area with the decrease in lot width or area compensated by maintenance of equivalent common open space.

Condominium. Real Property, and any incidents or interests, defined by the recordation of condominium instruments pursuant to the provisions of Title 55, *Property and Conveyances*, Chapter 4.2, *Condominium Act*, of the Code of Virginia. No project shall be deemed a condominium unless the undivided interests in the common elements are vested in the unit owners, where unit owners are one or more persons who own a condominium unit, or, in the case of a leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire balance of the unexpired term or terms.

Connection, water or sewer. The provision of water and/or sewerage services to any dwelling unit or commercial or industrial establishment.

Cul-de-sac. A vehicular turnaround area at the end of a dead-end street provided for the purpose of safe and convenient reverse of traffic in one continuous forward movement.

Day or child care center. Any facility operated for the purpose of providing care, protection and guidance to a group of six (6) or more children separated from their parents or guardian during a part of the day only, except:

- a. A facility required to be licensed as a summer camp under sections 35-43 through 35-53 of the Code;

- b. A public school or a private school unless it is determined that such private school is operating a child care center outside of regular classes;
- c. A school operated primarily for the educational instruction of children from two (2) to five (5) years of age at which children two (2) through four (4) years of age do not attend in excess of six and one-half (6½) hours per day;
- d. A facility which provides child care on an hourly basis which is contracted for by a parent only occasionally; or
- e. A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

Development. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

District, zoning. Any section or sections of the Town for which regulations govern the use and characteristics of buildings and premises.

Drive-in-window. A facility designed to provide access to commercial products and/or services for customers remaining in their automobiles.

Duplex. A two-family dwelling or a series of two (2) attached single-family dwelling units.

Dwelling, multiple family. A structure arranged or designed to be occupied by more than two (2) families, the structure having more than two (2) dwelling units.

Dwelling, single family. A building containing one (1) dwelling unit.

Dwelling, two family. A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.

Dwelling unit. A single unit providing complete, independent living facilities for one (1) or more persons, normally including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement. A right possessed by the owner of one parcel of land by reason of ownership of such parcel to use the land of another for a special purpose not inconsistent with the general property rights of that owner.

Eating establishment. Any restaurant, coffee shop, cafeteria, short-order cafe, lunchroom, luncheonette, hotel dining room, dinner theater, tavern, soda fountain, eating place or any other establishment maintained and operated where there is furnished for compensation, food or drink of any kind for consumption primarily therein; provided, however, that a snack bar or refreshment stand at a public or nonprofit recreation facility, operated solely by the agency or group operating the recreational facility, and for the convenience of patrons of the facility, shall not be deemed to be an eating establishment. Entertainment which is provided for the enjoyment of the patrons shall be considered accessory to an eating establishment. (Amended 7-18-2011)

Erected. Shall be taken to mean constructed, reconstructed, moved or structurally altered.

Family.

- a. An individual; or
- b. Two (2) or more persons related by blood, marriage, adoption, or guardianship plus not more than two (2) unrelated persons living together as a single household unit in a dwelling or dwelling unit; or
- c. A group of not more than four (4) persons not related by blood marriage, adoption, or guardianship living together as a single household unit in a dwelling or dwelling unit; or
- d. A group of not more than six (6) persons not related by blood marriage, adoption, or guardianship living together as a single household unit in a dwelling or dwelling unit in a zoning district other than Residential – R-3.

Fill or waste area. A location at which soil, rock, stumpage, or similar natural materials are deposited.

Flood. A general and temporary inundation of normally dry land area.

Floodplain. A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; and, an area subject to the unusual and rapid accumulation or run-off of surface waters from any source.

Floor area, gross. The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term *gross floor area* shall include basements; elevator shafts and stairwells at each story; floor space used for mechanical equipment with structural head room of six (6) feet, six (6) inches or more; penthouses, attic space, whether or not a floor has actually been laid, providing structural head room of six (6) feet, six (6) inches or more; interior balconies; and mezzanines.

The gross floor area of structures devoted to bulk storage of materials, including, but not limited to grain elevators and petroleum storage tanks, shall be computed by counting each ten (10) feet of height or fraction thereof, as being equal to one (1) floor.

The term *gross floor area* shall not include cellars or outside balconies which do not exceed a projection of six (6) feet beyond the exterior walls of the building. Parking structures below or above grade and roof top mechanical structures are excluded from gross floor area.

Floor area, net. The sum of the total horizontal areas of the several floors of all buildings on a lot measured from the interior faces of exterior walls and from the centerline of walls separating two (2) or more buildings. The term *net floor area* shall include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products, but shall exclude areas designed for permanent uses such as toilets, utility closets, malls enclosed or not, truck tunnels, enclosed parking areas, meters, roof-top mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators and areas under a sloping ceiling where the head room in fifty (50) percent of such area is less than six (6) feet, six (6) inches.

Front lot line. A line dividing a lot from any public and private streets, or easement of access.

Frontage. The continuous uninterrupted distance along which a parcel abuts a single adjacent road or street.

Garage, private. Accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

Garage, public. A building or portion thereof, other than a private garage, designed or used for servicing or repairing motor driven vehicles.

Guest room. A room which is intended, arranged or designed to be occupied, or which is occupied by one (1) or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking.

Home occupation, Class A. An occupation conducted in a dwelling unit for profit in connection with which no person other than members of the family residing on the premises is engaged in such occupation.

Home occupation, Class B. An occupation conducted in a dwelling unit, with or without the use of one or more accessory structures, for profit in connection with which there are employed not more than two (2) persons other than members of the family residing on the premises, which persons may be in addition to such family members.

Hospital. A building or group of buildings designed, used or intended to be used, for the care of the sick, aged or infirmed, including the care of mental, drug-addiction or alcoholic cases. This terminology shall include, but not be limited to, sanitariums, nursing homes and convalescent homes.

Hotel. A building or group of buildings under one ownership containing six (6) or more sleeping rooms occupied, intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation.

Inoperative motor vehicle. Any motor vehicle, trailer or semitrailer, as such are defined in Virginia Code section 46.1-1, which is not in operating condition; or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal.

Junk yard. Any land or building used for the abandonment, storage, keeping, collecting or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage or salvaging of inoperable vehicles, machinery or parts thereof.

Light assembly. The low-volume fabrication, predominantly from previously prepared materials, of finished products or parts. (Added 3-20-2000)

Lot. The contiguous land either shown on a plat of record or described by meets and bounds or other legal description which is not divided by any public road, street or alley, including any part thereof subject to any easement for any purpose other than a public road, street or alley.

Lot area. The area of land within the boundary of a lot, excluding any part under water, and any part within any right-of-way, whether public or private.

Lot, corner. A lot of which at least two adjacent sides abut for their full lengths on a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

Lot depth. The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

Lot, double frontage. A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot, interior. A lot other than a corner lot.

Lot, width of. The average horizontal distance between side lot lines.

Lot lines. The lines bounding a lot as defined herein.

Lot of record. A lot, a plat or other legal description which is of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, or Fluvanna County, Virginia.

Manufacture or manufacturing. The processing and/or converting of raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for a different purpose.

Medical center. Establishment wherein medical care is provided on an outpatient basis as distinguished from a hospital or a professional office.

Microbrewery means a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than fifteen thousand (15,000) barrels per year. The facility may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district. (Added 5-16-2011)

Mobile home. A structure subject to Federal Regulations, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred and twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

Mobile home park. Lots and parcels of land designed for temporary or permanent parking or occupancy of two (2) or more mobile homes used for human habitation.

Motel. Any building or buildings, combined or separated, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom, and off-street parking facility.

Nonconforming structure. An otherwise legal building or structure that does not conform to the lot area, yard, height, lot coverage or other area 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.

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.

Nursery. An agency, organization or individual providing daytime care of six (6) or more children, ages two (2) and below, not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult.

Nursery school. A school designed to provide daytime instruction for six (6) or more children from two (2) to five (5) years of age inclusive and operated on a regular basis.

Office. A room or building in which a person transacts his/her business or carries on his/her stated occupation.

One hundred year flood. A flood that, on the average, is likely to occur once every one hundred (100) years; i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year.

Open space. Land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets, or parking lots.

Parking, off-street. Any space, not within a public right-of-way, specifically allotted to the parking of motor vehicles.

Parking space. A permanently paved area, with an all weather surface, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.

Parking space, off-street. A space suitable for parking one automobile and including adequate driveways, if necessary, to connect such space with a public right-of-way. Space within a building, or upon a roof, allocated for parking, shall be included and considered a part of the required spaces.

Private school. Shall include private schools, colleges or universities, private instructional/training institutions.

Professional office. The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical or agricultural, in which a knowledge or skill in some department of science or learning is used in its practical application to the affairs of others, either advising or guiding them in serving their interests or welfare through the practice of an act founded thereon.

Public sewerage system. Any sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewerage treatment plants, or any of them, operated by, for, or under the authority of the Albemarle County Service Authority and/or the Rivanna Water and Sewer Authority.

Public facility. Shall be considered for the purposes of this ordinance to be any public works supplied generally by a governmental organization. Such public works shall include but not be limited to public roads, schools, water supply and sewer facilities, and police and fire protection facilities.

Public utility. Any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery or furnishing of heat, chilled air, chilled water, light, power or water, or sewerage facilities, either directly or indirectly, to or for the public.

Public water supply. A water supply consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, operated by, for, or under the authority of the Albemarle County Service Authority and/or the Rivanna Water and Sewer Authority.

Recreational vehicle. A vehicle which is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Residential area, gross. The total area of land and water within a residential development.

Residential area, net. That area of land and water within a development designed for residential purposes and unoccupied by streets, open space or parking areas, provided that individual private driveways accessory to residential uses shall not be considered streets or parking areas.

Residential density, gross. The total number of dwelling units within a development divided by the gross residential area and expressed in dwelling units per acre.

Residential density, net. The total number of dwelling units within a development divided by the net residential area and expressed in dwelling units per acre.

Rear lot line. That lot line parallel to and opposite the front lot line. In the case of an irregular shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from the lot line and wholly within the lot.

Restaurant. Any building in which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as bars, grills, cafes, taverns, night clubs, drive-in and any fast food establishment permitting consumption on the premises.

Retail store and shop. Building or land used for display and sale of merchandise at retail or for the rendering of personal services, but specifically excluding coal, wood and lumber yards.

Rooming house. A building where lodging only is provided for compensation to not less than three (3) nor more than twelve (12) persons. (Amended 1-20-2005)

School of special instruction. A school giving musical, dramatic, artistic and cultural instruction.

Setback. The distance by which any building or structure is separated from any street, road or access.

Side lot line. Any lot line other than the front lot line or the rear lot line.

Sign. See section 4.14.2, *Signs, Scope* of this ordinance. (Amended 1-20-2005)

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. If there be 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 (3) feet above the top floor level, and in which space not more than two-thirds ($\frac{2}{3}$) of the floor area is finished off for use.

Street, road, highway, roadway, byway or travelway. A public or private thoroughfare which affords access to abutting property.

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

Street, center line of. A line established as a center line of a street by any State, County, or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or, if there be no official center line of a street the center line shall be a line lying

midway between the street or right-of-way lines thereof. Where street lines are indeterminate and a pavement or a traveled way exists, the center line shall be established by the Planning Commission, or in the absence of a determination by the Planning Commission, shall be assumed to be a line midway between the edges of such pavement or traveled way.

Structure. Anything constructed or erected the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, etc. For the purpose of the determination of setback, signs shall be excluded as a structure.

Structural alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Tourist lodging. One or more rooms located within a single family dwelling which is actually used as such, which rooms are used secondarily to such single-family use for the temporary accommodation of transients in return for compensation, whether or not such rooms are used in conjunction with other portions of such dwelling.

Townhouse. One of a series of attached single-family dwelling units, under single or multiple ownership, separated from one another by continuous vertical walls without openings from basement floor to roof.

Trash and garbage. All discarded rubbish, cans, bottles, containers, refuse, paper, cardboard, offal and refuse animal and vegetable matter or any other like waste or discarded materials.

Travel trailer. A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; and when factory equipped for the road, being of any length provided its gross weight does not exceed four thousand five hundred (4,500) pounds, or being of any weight provided its overall length does not exceed twenty-nine (29) feet. For the purpose of this ordinance, a travel trailer shall not be deemed a mobile home.

Wayside stand, roadside stand, or wayside market. Any structure or land used for the sale or offering for sale by the owner, or his/her family or tenant, on any farm, of agricultural or horticultural produce, livestock or merchandise coming from a home occupation and produced solely on said farm, and which is clearly a secondary use of the premises and does not change the character thereof.

Yard. An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

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

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

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

ARTICLE II. BASIC REGULATIONS

4.0 GENERAL REGULATIONS

Except as otherwise specifically provided, the following general regulations shall apply to all districts. The general regulations are not subject to waiver, variation or modification except by the Board of Zoning Appeals or by the Town Council.

4.1 AREA AND HEALTH REGULATIONS RELATED TO UTILITIES

The following regulations shall apply to all districts:

4.1.1 For a parcel served by both a central water supply and a central sewer system, the minimum area requirements of the district in which such parcel is located shall apply.

4.1.2 For a parcel served by either a central water supply or a central sewer system but not both, there shall be provided a minimum area of forty thousand (40,000) square feet per commercial or industrial establishment or per dwelling unit as the case may be, except as permitted by section 4.2.2.

4.1.3 For a parcel served by neither a central water supply nor a central sewer system, there shall be provided a minimum of sixty thousand (60,000) square feet per commercial or industrial establishment or per dwelling unit as the case may be.

4.1.4 The provisions of sections 4.1.2 and 4.1.3 notwithstanding, in such cases where a greater minimum area is required by the regulations of the district in which the parcel is located, said district regulations shall apply.

4.1.5 In the case of unusual soil conditions or other physical factors which may impair the health and safety of the neighborhood, upon the recommendation of the Virginia Department of Health, the Planning Commission may increase the area requirements for uses utilizing other than a public sewer system.

4.1.6 For lots not served by a central sewer system, no building permit shall be issued for any building or structure, the use of which involves sewage disposal, without written approval from the local office of the Virginia Department of Health of the location and area for both original and future replacement septic disposal fields adequate to serve such use. For residential usage, at a minimum, each septic disposal field shall consist of suitable soils of adequate area to accommodate sewage disposal from a three (3) bedroom dwelling as determined by current regulations of the Virginia Department of Health.

4.1.7 In a cluster development, open space may be used for septic field location only after the septic field locations on such lot are determined to be inadequate by the local office of the Virginia Department of Health.

4.2 CRITICAL SLOPES

These provisions are created to implement the comprehensive plan by protecting and conserving steep hillsides together with public drinking water supplies and flood plain areas and in recognition of increased potential for soil erosion, sedimentation, water pollution and septic disposal problems associated with the development of those areas described in the comprehensive plan as critical slopes. It is hereby recognized that such development of critical slopes may result in: rapid and/or large-scale movement of soil and rock; excessive stormwater run-off; siltation of natural and man-made bodies of water; loss of aesthetic resource; and in the event of septic system failure, a greater travel distance of septic effluent, all of which constitute potential dangers to the public health, safety and/or welfare. These provisions are intended to direct building

and septic system locations to terrain more suitable to development and to discourage development on critical slopes, and to supplement other regulations regarding protection of public water supplies and encroachment of development into flood plains.

Where modification of regulations is sought pursuant to section 4.2.5, such request shall address each concern specified in section 4.2.

4.2.1 BUILDING SITE REQUIRED

No lot or parcel shall have less than one (1) building site. For purposes of this section, the term *building site* shall mean a contiguous area of land in slopes of less than twenty-five (25) percent as determined by reference to either topographic quadrangle maps of the Geological Survey – U. S. Department of Interior, with a contour interval of twenty (20) feet or less, or a source determined by the Town to be of superior accuracy, exclusive of:

- a. Such area as may be located in the flood hazard overlay district or which is located under water;
- b. Such area as may be located within two hundred (200) horizontal feet of the one hundred year flood plain of any public drinking water or flood control impoundment, to include the Mink Creek Flood Impoundment Area, or within one hundred (100) horizontal feet of the edge of any tributary stream to such impoundment.

4.2.2 AREA REGULATIONS

Area regulations for building sites shall conform to the following:

4.2.2.1 For uses not served by a central sewerage system the following shall apply:

- a. For each dwelling unit served by other than a central sewerage system, the building site shall have an area of thirty thousand (30,000) square feet or greater and shall be of such dimension that no one dimension shall exceed any other by a ratio of more than five (5) to one (1) as described by a rectangle inscribed within the building site. Such building site shall have adequate area for location of two (2) septic drain fields as approved by the Virginia Department of Health in accordance with section 4.1 of this ordinance for each dwelling unit.
- b. For development subject to review under 24, *Site Development Plan*, of this ordinance, the building site shall have an area of thirty thousand (30,000) square feet or greater and shall be of such dimension that no dimension shall exceed any other by a ratio of more than five (5) to one (1) as described by a rectangle inscribed within the building site. Such building site shall have adequate area to accommodate all buildings and structures, septic drainfields as approved by the Virginia Department of Health in accordance with section 4.1 of this ordinance, parking and loading areas, storage yards and other improvements together with any earth disturbing activity necessary to accommodate such improvements.

These provisions shall not apply to accessways, public utility lines and appurtenances, stormwater management facilities and the like necessary to provide reasonable usage of the property where no reasonable alternative location or alignment exists. The Town shall require such protective and restorative measures as he deems necessary to ensure that such development will be consistent with the intent of section 4.2.

4.2.2.2 For a use served by a central sewerage system, the applicant shall demonstrate that the building site is of adequate area for the proposed development:

- a. For residential development, the building site shall be of adequate area to accommodate the proposed residential unit(s) together with an area equivalent to the sum of the applicable required yard areas of the zoning district in which such property is situated. Where parking is provided in bays, such parking area shall also be included in the building site;
- b. For development subject to review under section 24, *Site Development Plan*, of this ordinance, the building site shall be of adequate area to accommodate all buildings and structures, parking and loading areas, storage yards and other improvements together with any earth disturbing activity necessary to accommodate such improvements.

These provisions shall not apply to accessways, public utility lines and appurtenances, stormwater management facilities and the like necessary to provide reasonable usage of the property where no reasonable alternative location or alignment exists. The Town shall require such protective and restorative measures as deemed necessary to ensure that such development will be consistent with the intent of section 4.2.

4.2.3 LOCATION OF STRUCTURES AND IMPROVEMENTS

Except as otherwise permitted pursuant to section 4.2.2 and section 4.2.6, the provisions of this section shall apply to the location of any structure for which a permit is required under the Uniform Statewide Building Code and to any improvement shown on a site development plan pursuant to 24, *Site Development Plan*, of this ordinance.

4.2.3.1 No structure or improvement shall be located on any lot or parcel in any area other than a building site.

4.2.3.2 No structure or improvement nor earth disturbing activity to establish such structure or improvement shall be located on slopes of twenty-five (25) percent or greater except as otherwise permitted under section 5.1.15, *Borrow, Fill or Waste Areas*.

4.2.4 LOCATION OF SEPTIC SYSTEMS

In the review for and issuance of a permit for the installation of a septic system, the Virginia Department of Health shall be mindful of the intent of this section, and particularly mindful of the intent to discourage location of septic tanks and/or drain fields on slopes of twenty (20) percent or greater. Septic system location shall be restricted to the approved building site.

4.2.5 MODIFICATION OF REGULATIONS

As part of the review of any plat of subdivision or site development plan, the Planning Commission may modify any regulations and requirements of this section in a particular case, subject to the following limitations, procedures and findings:

4.2.5.1 A developer requesting such modification shall file a written request in accordance with section 24, *Site Development Plan*, of this ordinance and shall in such request address each concern set forth in section 4.2. No such modification shall be granted until considered by the Planning Commission. The Commission in formulating such recommendation may consult with the Thomas Jefferson Soil and Water Conservation District, Town engineer, Virginia Department of Health, water resources manager and other appropriate officials. The Town shall evaluate the potential for soil erosion, sedimentation and water pollution in accord with current provisions of the Virginia Department of Transportation Drainage Manual, the Commonwealth of Virginia Erosion and Sediment Control Handbook and Virginia State Water Control Board best management practices, and where applicable, codes addressing the protection of public drinking water.

4.2.5.2 The Planning Commission may modify, waive or vary any requirement of section 4.2 in a particular case upon finding that:

- a. Strict application of the requirements of section 4.2 would not forward the purposes of this ordinance or otherwise serve the public interest or that alternatives proposed by the developer would satisfy the purposes of section 4.2 to at least an equivalent degree; or
- b. Due to its unusual size, topography, shape of the property, location of the property or other unusual conditions excluding the proprietary interest of the developer, the requirements of section 4.2 would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the site or adjacent properties. Such modification, waiver or variance shall not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties, or to sound engineering practice; or
- c. Granting such modification, waiver or variance would serve a public purpose of greater import than would be served by strict application of section 4.2.

4.2.5.3 In granting such modification, the Planning Commission may impose such conditions as it deems necessary to protect the public interest and to ensure that such development will be consistent with the intent of section 4.2.

4.2.6 EXEMPTIONS

4.2.6.1 Any structure which was lawfully in existence prior to the effective date of this ordinance and which is nonconforming solely on the basis of the requirements of section 4.2, may be expanded, enlarged, extended, modified and/or reconstructed as though such structure were a conforming structure. For the purposes of this section, the term *lawfully in existence* shall also apply to any structure for which a site development plan was approved or a building permit was issued prior to the effective date of this ordinance, provided such plan or permit has not expired.

4.2.6.2 Any lot or parcel of record which was lawfully a lot of record on the effective date of this ordinance shall be exempt from the requirements of section 4.2 for the establishment of the first single-family detached dwelling unit on such lot or parcel; provided that section 4.2.3.2 shall apply to such lot or parcel if the same shall contain adequate land area in slopes of less than twenty-five (25) percent for the location of such structure. For the purposes of this section a mobile home shall be deemed a single-family detached dwelling unit.

4.3 VISIBILITY CLEARANCE AT INTERSECTIONS

For protection against traffic hazards, no material impediment to visibility shall be placed, allowed to grow, erected or maintained on any parcel so as to restrict sight distance at any intersection of any street, road or driveway below the minimum required by the Virginia Department of Highways and Transportation for such intersection.

4.4 REQUIREMENTS FOR CONDOMINIUMS

4.4.1 DEFINITIONS

For purposes of this section the meaning of all terms shall be controlled by section 55-79.41 of the Code of Virginia.

4.4.2 WHERE PERMITTED

Condominiums shall be permitted in all zones in which is permitted any physically identical development; provided that site development plan approval shall be required for any condominium development.

4.4.3 COMPLIANCE WITH ORDINANCE

All condominiums and the use thereof shall in all respects comply with the provisions of this ordinance, and no vested rights shall be created upon the conversion to condominiums of the use thereof if either the condominium or the use thereof does not conform to the provisions of this ordinance. Except as otherwise specified, provisions of this ordinance applicable to condominiums shall be those provisions applicable to physically identical developments.

4.5 LOT REGULATIONS

4.5.1 FRONTAGE AND LOT WIDTH MEASUREMENTS

4.5.1.1 Except as otherwise provided in sections 4.5.1 and 4.5.6, every lot shall front on an existing public street, or a street dedicated by subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation, except that private roads shall be permitted in accordance with the subdivision ordinance.

4.5.1.2 Except as specifically permitted in this section, frontage shall not be less than required by the regulations of the district in which the lot or parcel is located.

- a. Frontage on a public street cul-de-sac or on a private road cul-de-sac may be reduced provided that driveway separation shall be in accordance with Virginia Department of Transportation standards.
- b. For a lot located at the end of an access easement, frontage shall not be less than the full width of such easement.
- c. Minimum lot width shall be at least the same distance as the frontage required for the district in which such lot is located. The depth of front and rear yards shall be established where minimum lot width is achievable but shall not be less in depth than required for the district in which such lot is located. Minimum lot width shall be maintained between the front and rear yard. Lot width shall not be reduced under section 4.5.1.2.

4.5.2 LOTS, DETERMINATION OF LOT FRONT

4.5.2.1 On interior lots, the front shall be construed to be the portion nearest the street.

4.5.2.2 On corner lots, the front shall be construed to be the shortest boundary fronting on a street. If the lot has equal frontage on two or more streets, the front shall be construed in accordance with the prevailing building pattern, or the prevailing lotting pattern if a building pattern has not been established.

4.5.2.3 On double frontage lots, the front shall be construed in accordance with the prevailing building pattern or the prevailing lotting pattern if a building pattern has not been established. If neither a building nor lotting pattern exists, the front shall be construed to be the shortest boundary fronting on a street.

4.5.3 LOTS, YARDS ADJACENT TO STREET

4.5.3.1 Front yards of the depth required in the district shall be provided across the full width of the lot adjacent to the street. Depth of a required front yard shall be measured from the right-of-way line of the street in such a fashion that the building line of such yard shall be equidistant from the street right-of-way at all points. Areas in parking bays shall not be considered as part of the street or access easement for purposes of determining front yard depth.

4.5.3.2 Other yards adjacent to streets shall have a minimum depth, equal to the minimum front yard depth required in the district in which the lot is located. This provision shall apply to lots in the RA or residential districts only. The foregoing notwithstanding, section 24, *Site Development Plan*, shall apply as written and depth of individual yards to streets shall be determined by the nature of the individual street.

4.5.3.3 Street line for measurement of required yards adjacent to streets. Required yards and setbacks shall be measured from a line equidistant from the street lot line(s) at all points.

4.5.3.4 As to any yard adjacent to a street, road or access easement, the yard requirements of this ordinance shall be deemed to have been complied with if the setback shall be not less than the minimum yard dimensions required thereby.

4.5.4 REAR YARDS ON INTERIOR LOTS

Rear yards on interior lots shall be provided at the depth required for the district, and shall run across the full width of the lot at the rear. Depth of a required rear yard shall be measured in such a manner that the yard is a strip of minimum depth required by district regulations with its inner edge parallel to its outer edge.

4.5.5 SIDE YARDS ON LOTS

Side yards on lots are defined as running from the required front yard line to the required rear yard line. On corner lots, the required side yards shall run from the point where side yard lines intersect to required front yard lines.

4.5.6 LOT ACCESS REQUIREMENTS

No structure requiring a building permit shall be erected upon any lot which does not have frontage on a public or private road as specified in the subdivision regulations, except for lots lacking such frontage on the date of the adoption of this ordinance.

4.5.7 LOT COVERAGE BY BUILDINGS

Except as otherwise specifically provided, in computations to determine lot coverage by buildings, building coverage shall be construed as including all areas under roofs or projections from buildings on the lot.

4.6 REGULATIONS GOVERNING OPEN SPACE

4.6.1 OPEN SPACE, INTENT

Open space provisions are intended to encourage development approaches reflective of the guidelines of the comprehensive plan by preserving and protecting the Town's small town character and its scenic and historical areas. More specifically, open space is intended to serve such varied comprehensive plan objectives as:

- Maintaining the rural character;
- Protection of areas of scenic beauty;
- Preserving traditional and historic land uses; and
- Meeting recreational needs and expanding opportunities.

To this end, in any rezoning, subdivision plat, or site development plan proposing inclusion of open space areas, the Planning Commission shall consider the appropriateness of such areas for the intended usage in terms of such factors as location, size, shape and topographic characteristics.

4.6.2 USES PERMITTED IN OPEN SPACE

Unless otherwise permitted by the Planning Commission in a particular case, open space shall be maintained in a natural state and shall not be developed with any man-made feature. Where deemed appropriate by the Commission, open space may be used for one or more of the following uses subject to the regulations of the zoning district in which the development is located:

- a. Agriculture, forestry and fisheries including appropriate structures;
- b. Game preserves, wildlife sanctuaries and the like;
- c. Noncommercial recreational structures and uses;
- d. Public utilities;
- e. Wells and septic systems for emergency use only (reference 4.1.7); and
- f. Stormwater detention and flood control devices.

4.6.3 OPEN SPACE, DESIGN REQUIREMENTS

4.6.3.1 In addition to provision of section 4.6.1 and section 4.6.2, in review of development proposing incorporation of open space, the Planning Commission may require inclusion in such open space of:

- a. Areas deemed inappropriate for or prohibited to development such as but not limited to:
 1. Land in the one hundred year flood plain and significant drainage swales;
 2. Land in slopes of twenty-five (25) percent or greater;
 3. Major public utility easements;
 4. Stormwater detention and flood control devices; and
 5. Lands having permanent or seasonally high water tables.
- b. Areas to provide reasonable buffering between dissimilar uses within such development and between such development and adjoining properties.

4.6.3.2 The Planning Commission may require redesign of such proposed development to accommodate open space areas as may be required under this provision, provided that, in no case, shall such redesign result in reduction of the total number of proposed dwelling units otherwise realizable under this ordinance for conventional development.

4.6.3.3 In such case where open space is required by provisions of this ordinance, not more than eighty (80) percent of such minimum required open space shall consist of the following:

- a. Land located within the one hundred year flood plain;
- b. Land subject to occasional, common or frequent flooding as defined in Table 16, *Soil and Water Features of the United States*, Department of Agriculture Soil Conservation Service, Soil Survey of Albemarle County, Virginia, August, 1985;
- c. Land in slopes of twenty-five (25) percent or greater; and
- d. Land devoted to stormwater or flood control devices except where such feature is incorporated into a permanent pond, lake or other water feature deemed by the Planning Commission to constitute a desirable open space amenity.

4.6.4 OWNERSHIP OF OPEN SPACE

Open space in private ownership shall be protected by legal arrangements sufficient to ensure its maintenance and preservation for purposes for which it is intended. Such arrangements shall be subject to Planning Commission approval as a part of the site development plan and/or subdivision plat approval process.

Open space may be dedicated to public use subject to approval and acceptance by separate resolution of the Town Council. Open space so dedicated shall be counted as a part of the minimum required open space.

4.7 USES, GENERALLY

4.7.1 DETERMINATIONS CONCERNING UNSPECIFIED USES

Uses other than those specified in district regulations as permitted by right or accessory uses may be added to a district on application by a landowner if the Planning Commission and Town Council find:

- a. That there is no clear intent to exclude such uses; and
- b. That the proposed use is appropriate within the district and would have no more adverse effects on other uses within the district, or on uses in adjoining districts, than would uses of the same general character permitted in the district.

In such cases, the Town Council shall proceed to amend the ordinance in accord with the provisions of section 21, *Amendments*.

4.7.2 HOUSES DISPLAYED FOR ADVERTISING PURPOSES

Construction of a house displayed for advertising purposes, not intended to be sold or occupied as a dwelling, whether in connection with a residential development or otherwise shall not commence until a performance bond adequate to ensure the removal of the structure has been posted.

4.8 BUILDINGS AND STRUCTURES: HANDICAPPED ACCESS

The regulations of individual zoning districts notwithstanding but subject to location of fences, mailboxes and similar structures, construction of a ramp or other modifications to serve the handicapped at any building or structure within any zoning district shall be deemed to be in compliance with the provisions of this ordinance and the building inspector shall authorize issuance of a building permit for such improvements. Ramps or other structures shall not extend beyond the property line.

4.9 HEIGHT OF BUILDING AND OTHER STRUCTURES

4.9.1 INTENT

It is the intent of these height regulations to secure safety, to provide adequate light and air, and to protect the character of districts and the interests of the general public. To accomplish these purposes, the following requirements and limitations are established.

4.9.2 FIRE AND SAFETY REQUIREMENTS

4.9.2.1 FIRE PROTECTION

No building exceeding thirty-five (35) feet in height above grade shall be erected without certification from the Town fire official that such building, as proposed to be located, constructed and equipped, and particularly occupants of upper stories, can be properly protected in case of fire. In the case of structures other than buildings exceeding thirty-five (35) feet in height, the Planning Commission may require such certification where a determination is made that there is substantial fire danger to such structure or to surrounding properties.

4.9.2.2 AERIAL NAVIGATION

No building or other structure shall be located in a manner or built to a height which constitutes a danger to aerial navigation. In such case where the Planning Commission believes a danger to navigation may result, such structure shall not be located or erected without certification from the Federal Aviation Administration and the Virginia Department of Aviation that such structure will not reasonably constitute a danger to air traffic.

4.10 USES AND STRUCTURES PERMITTED IN REQUIRED YARDS

The following uses and structures shall be permitted in required yards, subject to the limitations established.

4.10.1 COVERED PORCHES, BALCONIES, CHIMNEYS AND LIKE FEATURES

Covered porches, balconies, chimneys, eaves and like architectural features may project not more than four (4) feet into any required yard; provided that no such feature shall be located closer than six (6) feet to any lot line.

4.10.2 STRUCTURES IN REQUIRED YARDS

No portion of any accessory structure shall be permitted in any required yard; except as herein expressly provided.

4.10.2.1 ACCESSORY STRUCTURES

If no utility or drainage easements or other easements are adversely affected, accessory structures or portions thereof may be erected, but shall be located no closer than six (6) feet to adjacent lot lines in the case of detached structures, or to a common wall in the case of attached structures; provided further that any such structure located within any yard shall conform with section 4.5.3.

4.10.2.2 PUBLIC TELEPHONE BOOTHS

Public telephone booths may be located within required yards, but no closer to any street than the existing right-of-way line or right-of-way reservation line, provided that:

- a. Such booths shall be equipped for emergency service to the public without prior payment;
- b. The location of every booth shall be determined by the Zoning Administrator to ensure that the same will not adversely affect the safety of the adjacent highway;
- c. Every such booth shall be subject to relocation at the expense of the owner, whenever such relocation shall be determined by the Zoning Administrator to be reasonably necessary to protect the public health, safety and welfare or whenever the same shall be necessary to accommodate the widening of the adjacent highway.

4.10.2.3 FENCES, MAILBOXES, AND SIMILAR STRUCTURES

Fences, free-standing mail and/or newspaper boxes, signs advertising sale or rent of the property, and shelters for school children traveling to and from school shall be permitted in all districts and shall be exempt from all setback and yard requirements except as otherwise provided in section 4.3 or, if located in an historic or entrance corridor district, as provided in sections 18, *Historic Overlay District – H*, and/or 19, *Entrance Corridor Overlay District – EC*. For the purposes of this section, the term *fence* shall be deemed to include free-standing walls enclosing yards and other uncovered areas.

4.11 OFF-STREET PARKING AND LOADING REQUIREMENTS (Amended 11-21-2005)

4.11.1 PURPOSE

The purpose of these regulations is to set forth off-street parking and loading requirements for permitted uses:

- a. In accordance with the intensity of such use;
- b. To provide adequate parking for the traveling public; and
- c. To reduce traffic hazards and conflicts.

To these ends, parking and loading area designs shall comply with minimum standards as set forth in sections 4.11 and 24.11, *Site Development Plan, Minimum Standards for Improvements* of this ordinance. It is intended that the purposes of this ordinance be served through physical design measures as opposed to directional or policing measures such as signage, one-way circulation, and other such devices which rely on vehicle operator compliance for effectiveness. Development proposals that seek to maximize building area or otherwise intensify development to the extent that these minimum regulations are not satisfied shall be deemed to be contrary to the purpose of this ordinance.

4.11.2 APPLICATION

Off-street parking and loading requirements shall apply to all uses and structures with the following exceptions:

- a. No off-street parking spaces shall be required for commercially zoned parcels along Valley Street between Warren Street and Main Street.
- b. No off-street loading spaces shall be required for commercially zoned parcels along Valley Street between Warren Street and Main Street.

Off-street parking and loading spaces shall be provided in accordance with the provisions of this section at the time of erection, alteration, enlargement or change in use of any structure.

Any use for which parking and/or loading space was approved and provided prior to the effective date of this ordinance shall be considered in conformance to this ordinance provided the intensity of such use remains unchanged. Where, in the opinion of the Planning Commission, a change in such use and/or structure occasions the need for additional parking and/or loading space, or such change would physically alter parking and/or loading space available, such use shall comply with these provisions.

Where practical difficulties prevent application of the off-street parking and loading requirements, and hardship can be proven, the Board of Zoning Appeals may grant a variance of these requirements.

4.11.3 LOCATION OF PARKING

Where off-street parking is required:

4.11.3.1 For the purpose of determining minimum yard requirements of the various zoning districts, the term *off-street parking space* shall be deemed to include parking space or stall together with adjacent aisle and turnaround.

4.11.3.2 Off-street parking spaces shall be provided on the same lot with the use to which it is appurtenant except as herein after provided.

4.11.3.3 Where practical difficulties prevent location as required in section 4.11.3.2 or where the public safety or the public convenience would be better served by the location thereof other than on the same lot, the Planning Commission may authorize such alternative location of required parking space as will adequately serve the public interest.

4.11.3.4 Whether off-street parking is provided on the same lot or not, the following shall apply:

- a. For residential uses, where parking is provided in bays, no parking space shall be located further than one hundred (100) feet from the entrance of the dwelling such space serves.
- b. For nonresidential uses, no parking space shall be located further than five hundred (500) feet from the entrance of the use such space serves.
- c. Distances in section 4.11.3.4.a and b, above, may be increased in such cases where the Planning Commission shall determine that the public interest or convenience would be equally or better served by such increased distance; that the allowance of a greater distance would not be a departure from sound engineering and design practice; and that the allowance of a greater distance would not otherwise be contrary to the purpose and intent of this ordinance.

4.11.4 COOPERATIVE PARKING

Parking space required under the provisions of this ordinance may be provided cooperatively for two or more uses in a development or for two or more individual uses, subject to arrangements that will assure the permanent availability of such space as such arrangements are approved by the Planning Commission.

The amount of such combined space shall be equal to the sum of the amounts required for the separate uses. The Planning Commission may reduce the amount of space required for a church or for a meeting place of a civic, fraternal or similar organization or other uses under the provisions of a combined parking area by reason of different hours of normal activity than those of other uses participating in the combination.

4.11.5 AVAILABILITY

4.11.5.1 No required off-street parking or loading area shall be used for the sale, repair, dismantling or servicing of any vehicle, equipment, materials or supplies, or obstructed in any other fashion unless specifically approved by the Planning Commission. This provision shall not be applicable to single-family dwelling units.

4.11.5.2 Where off-street parking and loading spaces are required by these regulations, no owner or occupant of any land or building shall discontinue, change or dispense with such facilities without establishing alternative facilities as approved by the Planning Commission.

4.11.6 PARKING AREA DESIGN

Parking areas shall be designed to minimize on-site and off-site traffic hazards and conflicts in order to provide safe and convenient access to the traveling public; to reduce or prevent congestion in the public streets; and to facilitate provision of emergency services.

4.11.6.1 SAFE AND CONVENIENT ACCESS

All off-street parking spaces and off-street loading spaces shall be provided with safe and convenient access to a public street. Vehicular access points shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Distance between street access and on-site points of conflict such as parking spaces and turning and other maneuvers shall be adequate to accommodate unimpeded traffic flow from and to such street. In addition to access points for general traffic, unobstructed and direct accessways for emergency vehicles shall be provided as specified by the Town fire official. All permitted uses shall have entrances constructed in accord with the specifications of the Virginia Department of Transportation.

One-way ingress and egress shall not be permitted, except that the Planning Commission may approve one-way ingress and egress in such case where it necessitated by the peculiar character of the proposed use or site. In such case, the Commission shall require installation and maintenance of control devices such as signage, pavement markings and physical barriers as deemed reasonable to provide direction to and policing of vehicular movement.

In the event the Planning Commission, after consultation with the Virginia Department of Transportation and Town engineer, determines such ingress and/or egress to public roads to be in a state of disrepair which may reasonably result in a hazard to public safety, it shall require repair and/or correction of such ingress or egress facility. For purposes of this section, signage and other control devices shall be deemed to be a part of such ingress and egress facility.

4.11.6.2 INTERNAL CIRCULATION

Parking areas shall be designed to facilitate unimpeded flow of on-site traffic in circulation patterns readily recognizable and predictable to motorists and pedestrians. Parking areas shall be arranged in a fashion to encourage pedestrian access to buildings and to minimize internal automotive movement. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas. Direct, unobstructed accessways for emergency vehicles to and around buildings and uses shall be provided as specified by the Town fire official. Speed bumps, gates and other impediments to emergency access shall be prohibited unless otherwise recommended by the fire official in a particular case.

Except as otherwise permitted in a particular case, interior circulation aisles adjacent to parking spaces shall have a minimum travel width of twenty (20) feet with appropriate turning radii; provided that the Planning Commission may increase such width and turning radii upon finding that such increase is necessary to accommodate emergency vehicles together with the largest delivery or service vehicles which may reasonably be anticipated to occasion the site, whether under proposed or potential usage. One-way circulation aisles shall not be permitted, except that the Commission may approve one-way circulation in such case where the same is necessitated by the peculiar character of the site or of the proposed use such as but not limited to uses involving drive-in windows and automobile laundries. In such case, the Commission shall require installation and maintenance of control devices such as bypass lanes, signage, pavement markings and physical barriers as deemed reasonable. All other design requirements shall comply with the standards of 4.11.6.5. One-way circulation aisles shall have a minimum travel width of twelve (12) feet exclusive of curb and gutter.

4.11.6.3 MINIMUM IMPROVEMENTS

The following minimum improvements shall be required for parking areas consisting of four (4) or more parking spaces.

a. In any case where grade exceeds seven (7) percent or where anticipated traffic exceeds three hundred fifty (350) vehicle trips per week based on the current edition of the Institute of Transportation Engineer's Trip Generation Handbook, the following requirements shall apply:

1. Paving specifications for access aisles, parking areas and loading areas shall be subject to Virginia Department of Transportation approval in accordance with intensity of usage;
2. Such improvement shall not be less than six (6) inches of Virginia Department of Transportation #21 or #21A aggregate base together with prime and double seal or equivalent.

The foregoing notwithstanding, the Planning Commission may reduce required improvement in the following cases: (1) for overflow parking, provided in excess of the requirements of section 4.11.6.6 for churches and other assembly uses where usage of such parking area is anticipated to be so infrequent as to not require greater improvement; or (2) for areas of display or storage of vehicles, mobile homes, machinery or other inventory requiring motor vehicle access for placement; provided, in no case, shall grassed or unimproved areas be devoted to overflow parking or inventory storage.

b. Intersections of vehicular access aisles and public streets shall have an approach grade not exceeding four (4) percent for a distance of not less than forty (40) feet measured from the edge of the travelway of the public road being intersected.

Maximum grade of access aisles not abutting parking spaces shall not exceed ten (10) percent; provided, however, that the maximum grade of such access aisles may be increased by the Planning Commission in accordance with section 24, *Site Development Plan*, and upon finding that no reasonable design alternative

would reduce or alleviate need for such increase in grade.

Maximum grade for parking spaces, loading spaces, and access aisles abutting parking or loading spaces shall not exceed five (5) percent and cross slope grade shall not exceed two (2) percent. Handicapped parking spaces shall be situated so as to provide direct unobstructed access to buildings by the shortest practical routing. Crossing of vehicular access aisles shall be discouraged. (See also 4.11.6.5).

c. Minimum sight distance, determined in accordance with Virginia Department of Transportation methodology for stopping sight distance, at internal intersections of access aisles, intersections of access aisles, and pedestrian ways, and for access aisles around buildings shall not be less than one hundred (100) feet; provided, that the Planning Commission may increase such requirement where travel speed is anticipated to exceed ten (10) miles per hour to a requirement commensurate with such anticipated travel speed.

d. The Planning Commission may require raised traffic islands at ends of parking rows to protect parked vehicles and prohibit parking in unauthorized areas. Traffic islands and other such control devices may be required where deemed reasonable by the Commission to satisfy the requirements of sections 4.11 and 24, *Site Development Plan*.

e. Except for parking spaces provided for and on the same lot with single family detached or attached dwellings, all paved or dustless surfaced parking areas shall be marked accordingly:

1. All parking lot delineation's shall be in white or, at the discretion of the Zoning Administrator, an alternative color may be permitted, provided the color is in contrast with the parking lot surface and does not conflict with other restricted parking areas.
2. Parking spaces shall be marked with a single line having a minimum width of 4".
3. Parallel curb or head-in parking spaces shall be striped for the full width or length of the parking stall.
4. The Planning Commission may approve an alternative marking of parking spaces upon determining the proposed markings clearly define the parking spaces.
5. The width and/or length of all parking stalls shall be measured from the centerline of the stripe or alternative marking to the centerline of the adjacent stripe or marking used to delineate the parking stall or face of a physical barrier, such as a wall or curbing.
6. Parking space delineation shall be maintained for visual effectiveness.
7. Parking spaces in unpaved lots shall be delineated by providing individual wheel stops for each unpaved parking space, unless an alternative is approved by the Planning Commission.

4.11.6.4 LIGHTING

Lights used to illuminate parking areas shall be arranged or shielded to protect the dark skies and to reflect light away from adjoining residential districts and away from adjacent streets. Lighting spillover onto public roads and properties zoned residentially or rural areas shall not exceed one-half (1/2) foot candle.

4.11.6.5 PARKING SPACE SIZE

Each off-street parking space shall meet the minimum requirements as specified below:

a. Perpendicular Parking

<u>Parking Space</u>	<u>Minimum Width</u>	<u>Minimum Length</u>	<u>Aisle Minimum Width</u>
(option A)	10	18	20
(option B)	9	18	24

In conjunction with section 4.11.6.5, perpendicular parking shall be favored. Where practical considerations warrant, the Planning Commission may authorize other angled, curvilinear and/or parallel parking. Once approved by the Planning Commission, parking space and aisle dimensions for angled, curvilinear and parallel parking shall be as specified below.

b. Parallel Parking

<u>Direction of Parking</u>	<u>Stall Width</u>	<u>Depth of Stalls</u>	<u>Aisle Width</u>
One-way Aisle (one-side parking)	9	20	12
One-way Aisle (two-side parking)	9	20	12
Two-way Aisle (two-side parking)	9	20	14

c. Angled Parking

<u>Parking Angle</u>	<u>Stall Width</u>	<u>Depth of Stalls</u>		
		<u>Perpendicular to Aisles</u>	<u>One-way Aisle</u>	<u>Two-way Aisle</u>
45°	10	19	15.5	18
60°	10	20	17	19

d. Curvilinear Parking

For curvilinear parking, the minimum space and aisle widths shall be the same as for perpendicular parking, except that the width of the parking space shall be measured at the narrowest point along the length of the space.

e. Handicapped Parking

The minimum width for handicapped parking spaces shall be eight (8) feet with an adjacent five (5) foot wide access aisle to be provided on each side of such handicapped parking space. Access aisles may be shared between adjacent handicapped parking spaces. The number, location, signage and other specifications of handicapped parking shall be subject to County Building Official approval in accordance with ADA requirements and the Statewide Uniform Building Code.

f. Exceptions

Where adequate planting islands or other such features other than sidewalks are employed to separate rows of parking spaces, not more than two (2) feet may be deducted from the minimum length requirements stated above in order to compensate for overhang. All parking spaces shall be designed so that no part of any vehicle shall extend over any property line, right-of-way line, sidewalk, walkway, driveway or aisle space.

g. Bumper Blocks

Bumper blocks shall be provided in parking spaces in the following circumstances, unless waived by the Planning Commission.

1. The parking area has no curb or curb and gutter,
2. The parking area has curb or curb and gutter and there is a sidewalk located closer than two (2) feet from the edge of the parking area, except that bumper blocks shall not be required where a sidewalk has a minimum width of six (6) feet.

Bumper blocks shall be constructed of a durable material such as concrete or treated timbers. Each bumper block shall be a minimum of six (6) feet, a maximum height of five (5) inches, and shall be securely anchored into the pavement in at least two (2) places.

4.11.6.6 REQUIRED NUMBER OF OFF-STREET PARKING SPACES

Except as otherwise permitted by the Planning Commission pursuant to section 4.11.4, provisions of section 4.11.6.6.1 and section 4.11.6.6.2 shall apply to any determination as to the required number of off-street parking spaces to be provided in a particular case. Where the term *retail sales area* or *net office area* is employed, the applicant shall submit floor plans which delineate the retail sales area, in which case, such floor plans shall be binding as to ultimate usage.

4.11.6.6.1 DETERMINATION OF NUMBER OF PARKING SPACES REQUIRED FOR UNSPECIFIED USES

Where minimum parking or loading space is not specified herein for particular uses/structures or mixes of uses, or where conflicts exist between schedule and general requirements, the Zoning Administrator, in consultation with the Planning Commission, shall determine requirements appropriate to the use/structure guided by characteristics of the proposed use including anticipated employment, number of residents and/or visitors, by requirements for similar uses or mixes and other relevant considerations. More specifically, the Zoning Administrator shall be guided by the following for uses not specified in section 4.11.6.6.2.

- a. For each commercial use of a retail character: One (1) space per employee plus one (1) space per each three hundred (300) square feet of floor area open to the public, but in all cases a minimum of three (3) customer spaces.
- b. For commercial uses of a wholesaling and/or warehousing character: One (1) space per employee plus a minimum of three (3) customer spaces.
- c. For uses of an industrial character: One (1) space per employee plus a minimum of three (3) customer spaces.
- d. For recreational uses not specified: To be determined by the Planning Commission.

4.11.6.6.2 SCHEDULE OF SPECIFIC REQUIREMENTS FOR NUMBER OF OFF-STREET PARKING SPACES

Auditorium or Theater, Indoors or Outdoors: One (1) space per each four (4) seats.

Automobile Service Station: One (1) space per each employee plus two (2) spaces per each service stall. In addition, when accessory activities such as the rental of automobiles, trucks and trailers of all types are involved on site, there shall be provided suitable area to accommodate the highest number of rental units expected at any one time.

Barber Shop, Beauty Shop: One (1) space per employee plus two (2) spaces per station.

Bed & Breakfast [one (1) to five (5) guest rooms]: One (1) space per room.

Bookseller/Bookstore: One (1) space per employee plus one (1) space per each four hundred (400) square feet of retail sales area, but in all cases a minimum of three (3) customer spaces.

Building Material Sales: One (1) space per employee plus one (1) space per five hundred (500) square feet of retail sales area, but in all cases a minimum of three (3) customer spaces.

Church: One (1) space per four (4) fixed seats or per seventy-five (75) square feet of area of assembly, whichever shall be greater.

Club, Lodge: One (1) space per four (4) fixed seats or per seventy-five (75) square feet, whichever shall be greater.

Contractors (Construction Office, Shop, Equipment Storage and Materials Yard): One (1) space per employee on the major shift.

Day Care Center, Nursery School: One (1) space per employee plus one (1) space per five (5) children enrolled.

Drive-in Restaurant: One (1) space per employee plus a minimum of ten (10) customer spaces.

Dwelling, Assisted Living: One (1) space per employee on the major shift, plus one and one-half (1½) spaces per unit.

Dwelling, Attached [Multi-family (Apartment Complex); Townhouse; Patio House; Duplex; Quadraplex]: Two (2) spaces per dwelling unit plus ten percent (10%) of the total required per dwelling unit.

Dwelling, Detached [Single Family; Mobile Home]:

One (1) to three (3) bedrooms = two (2) spaces

Four (4) or more bedrooms = two (2) spaces plus one (1) additional space per bedroom over three (3) bedrooms.

Eating Establishment: One (1) space per employee on the major shift plus one (1) space per three (3) seats. (Amended 7-18-2011)

Feed and Seed Store: One (1) space per employee, plus a minimum of five (5) customer spaces up to fifteen hundred (1,500) square feet of retail sales area; one (1) additional customer space per each five hundred (500) square feet of retail sales area over fifteen hundred (1,500) square feet of retail sales area.

Financial Institution: Two and one-half (2½) spaces per employee.

Food Store: One (1) space per employee plus one (1) space per two hundred (200) square feet of gross floor area, but in all cases a minimum of three (3) customer spaces.

Funeral Home: One (1) space per four (4) fixed seats or per seventy-five (75) square feet area of assembly, whichever shall be greater.

Furniture Store: One (1) space per employee plus one (1) space per five hundred (500) square feet of retail sales area, but in all cases a minimum of three (3) customer spaces.

Gift, Craft, Antique Shop: One (1) space per employee plus one space per five hundred (500) square feet of gross floor area, but in all cases a minimum of three (3) customer spaces.

Greenhouse and Nursery:

Combined Enclosed Retail Area and Greenhouse Sales Area: One (1) space per employee plus one (1) space per each four hundred (400) square feet of gross floor area but in all cases a minimum of three (3) customer spaces.

Exterior Nursery Sales Area – One (1) space per employee plus a minimum of three (3) customer spaces.

Hardware/Paint Store: One (1) space per employee plus one (1) space per each three hundred (300) square feet of retail sales area but in all cases a minimum of three (3) customer spaces.

Hotel, Inn, Motel [6 or more rooms or units]: One (1) space per employee on the major shift, plus one (1) space per room or unit. Additional spaces shall be required for restaurant, assembly room, etc., as provided for in this ordinance.

Kennel, Commercial: One (1) space per employee on the major shift, plus a minimum of three (3) customer spaces.

Laundromat: One (1) space per employee on the major shift, plus one (1) space per three (3) washing machines, but in all cases a minimum of three (3) customer spaces.

Laundry, Dry Cleaning: One (1) space per employee, plus a minimum of three (3) customer spaces.

Machinery, Equipment Sales and Service: One (1) space per employee plus one (1) space per each five hundred (500) square feet of sales and display area, but in all cases a minimum of three (3) customer spaces..

Medical and Dental Clinic: One (1) space per employee on the major shift, plus three (3) spaces per exam room.

Motor Vehicle Sales Including Automobiles, Farm Equipment, and Trucks: One (1) space per employee, plus one (1) space per each one thousand five hundred (1,500) square feet of interior and exterior display area, but in all cases a minimum of three (3) customer spaces. Additional spaces shall be required for auto repair and service area as provided for in this ordinance under Automobile Service Station

Offices: Business, Administrative, Professional: One (1) space per employee plus one (1) space per five hundred (500) square feet of net office area, but in all cases a minimum of three (3) customer spaces.

Over-the-Counter Sales: One (1) space per employee, plus one (1) space per each fifty (50) square feet open to the public, but in all cases a minimum of three (3) customer spaces.

Printing and Publishing Facilities, including Newspaper Publishing: One (1) space per employee on the major shift, plus a minimum of three (3) customer spaces.

Production or Processing of Materials, Goods or Products: One (1) space per employee on the major shift, plus a minimum of three (3) customer spaces.

Recreation, Commercial and Residential:

<u>Activity</u>	<u>Parking Spaces Required</u>
Baseball Field	20 per field
Basketball Court	2 per basket
Golf Course	4 per hole, plus 1 per employee
Horseshoe Pits	2 per pit
Soccer Field	24 per field
Swimming Pool	1 per 125 square feet of water surface
Tennis Court	2 per court

The minimum number of parking spaces required for a residential recreational facility within a subdivision shall be reduced by the percentage of dwelling units within the subdivision within one-quarter mile of the facility.

Rest Home, Nursing Home, Convalescent Home: One (1) space per employee plus one (1) space per three (3) beds.

School: For elementary schools (kindergarten through grade five) and for middle schools (grades six through nine), one (1) space per employee plus one (1) space per five (5) children enrolled. For adult education or for schools in which pupils drive to school, one (1) space per employee on the major shift plus one space per three (3) pupils. Where possible, overflow parking shall be provided in a well-drained, suitably graded area adjacent to required parking area.

Self-Storage Center: One (1) space per employee on the major shift, plus a minimum of three (3) customer spaces.

Shopping Center [defined as a grouping of commercial outlets consisting of more than five (5) units and totaling at least twenty-five thousand (25,000) gross square feet]: Four (4) spaces per each one thousand (1,000) square feet of gross leasable floor area.

Stable, Commercial: One (1) space per three (3) animals.

Testing, Repairing, Cleaning, Servicing of Material Goods or Products: One (1) space per employee on the main shift, plus a minimum of three (3) customer spaces.

Veterinary Clinic: One (1) space per employee on the main shift, plus two (2) spaces per exam room.

Wayside Stand: One (1) space per employee, plus a minimum of three (3) customer spaces.

4.11.7 REQUIRED OFF-STREET LOADING SPACE

Where off-street loading spaces are required:

4.11.7.1 All off-street loading space shall be provided on the same lot with the use to which it is appurtenant.

4.11.7.2 Off-street loading space shall be provided in addition to and exclusive of the parking requirement on the basis of:

a. Commercial/Retail, one thousand (1,000) gross square feet or more: a minimum of one (1) loading space.

a. Industrial: One (1) loading space per each ten thousand (10,000) gross square feet.

4.11.7.3 Additional loading spaces may be required based upon Planning Commission review of the site development plan.

4.11.7.4 Such off-street loading space shall be a minimum of twelve (12) feet in width, fourteen and one-half (14½) feet in clearance height and a depth sufficient to accommodate the largest delivery trucks serving the establishment, but in no case shall such length be less than twenty-five (25) feet.

4.11.7.5 All loading and unloading berths shall be surfaced with a bituminous or other dust free surface, and shall be designed so that no part of any vehicle shall extend over any property line, right-of-way line, sidewalk, driveway or aisle space.

4.11.7.6 The requirements of section 4.11.7 may be modified and/or waived in such cases where the Planning Commission shall determine the public interest and safety would be equally or better served by such modification and/or waiver; that such modification and/or waiver would not be a departure from sound engineering and design practice; and that such modification and/or waiver would not otherwise be contrary to the purpose and intent of this ordinance.

4.12 PARKING AND STORAGE OF CERTAIN VEHICLES

4.12.1 PARKING, STORAGE, OR USE OF MAJOR RECREATIONAL EQUIPMENT IN RESIDENTIAL DISTRICTS

The following regulations shall apply to parking or storage of major recreational equipment in residential districts:

4.12.1.1 Major recreational equipment as defined for purposes of these regulations includes recreational vehicles, travel trailers, pickup campers, motorized dwellings, tent trailers, boats and boat trailers, house-boats and the like, and cases or boxes used for transporting such recreational equipment, whether occupied by such equipment or not.

4.12.1.2 No major recreational equipment shall be used for living, sleeping or other occupancy when parked or stored on a residential lot or in any other location not approved for such use.

4.12.2 LIMITATION ON PARKING/STORAGE OF INOPERATIVE MOTOR VEHICLES

No inoperative motor vehicle shall be located in any district, including the RA Rural Areas district, except within a fully enclosed building or structure or otherwise shielded or screened from view from a public road or adjoining property.

4.12.2.1 The owner of any parcel in any such district shall remove from such property any such inoperative motor vehicle promptly upon the order of the Zoning Administrator to do so, subject to approval of the Mayor. Removal shall be accomplished within such reasonable time as may be prescribed in such order.

4.12.2.2 Any person who shall fail to comply with such order shall be deemed to be in violation of this section.

4.12.2.3 Whenever such owner has failed to remove any such inoperative motor vehicle, after reasonable notice, the Zoning Administrator, after notifying and obtaining approval of the Mayor, shall have the authority to do so. In the event that the Zoning Administrator removes any such motor vehicle, after having given such reasonable notice, he/she shall dispose of the same after giving additional reasonable notice to the owner of the vehicle. Such additional notice shall be given to the last owner listed upon the records of the Virginia Department of Motor Vehicles. The cost of any such removal and disposal shall be charged to the owner of the premises and may be collected as taxes and levies are collected. Every such cost with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the Town.

4.12.3 LIMITATIONS ON PARKING OF TRUCKS AND CERTAIN RECREATIONAL VEHICLES IN RESIDENTIAL DISTRICTS

No truck with a gross vehicle weight of twelve thousand (12,000) pounds or more or dual wheeled recreational vehicles shall be parked in any residential district other than RA (except for purposes of making pickups or deliveries) in any location except one in which the vehicle is parked:

- a. Out of the public's view from any public street, highway, sidewalk, path, park or other public property; or from a historic landmark (reference 18, *Historic Overlay District – H*); or from any private property without the resident's and owner's written permission; or
- b. On a temporary basis for a period not to exceed seven (7) days during any six (6) month period and in an approved off-street parking area.

4.13 PERFORMANCE STANDARDS

No use shall hereafter be established or conducted in any district in any manner in violation of the following standards of performance:

4.13.1 NOISE

All sources of noise (except those not under direct control of occupant of use, such as vehicles), must not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, before 7:00 a.m. and after 7:00 p.m., the permissible sound levels at an agricultural or residential district boundary where adjoining industrial districts shall be reduced by five (5) decibels in each octave band and in the overall band for impact noises.

4.13.1.1 METHOD OF MEASUREMENT

Noise shall be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar) and shall be measured at the nearest lot line from which the noise level radiates.

4.13.1.2 MEANING OF TERMS

Decibel means a prescribed interval of sound frequencies which classifies sound according to its pitch.

Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values fluctuate more than six (6) decibels from the steady values indicated on the sound level meter set at fast response.

Octave band means a prescribed interval of sound frequencies which classifies sound according to its pitch.

Preferred frequency octave bands means a standardized series of octave bands prescribed by the American Standards Association in S1.6-1960 Preferred Frequencies for Acoustical Measurements.

Sound level meter means an electronic instrument which includes a microphone, an amplifier and an output meter which measures a noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

Maximum Permitted Sound Levels (decibels)

Preferred Frequency Octave Bands
Location of Measurement

<u>Octave band, cycles/second</u>	<u>At residential district boundaries</u>	<u>At other lot lines within district</u>
31.5	64	72
63	64	72
125	60	70
250	54	65
500	48	59
1000	42	55
2000	38	51
4000	34	47
8000	30	44
Overall for impact noise	80	90

4.13.2 VIBRATION

The produce of displacement in inches times the frequency in cycles per second of earthborne vibrations from any activity shall not exceed the values specified below when measured at the points indicated.

4.13.2.1 METHOD OF MEASUREMENT

Earthborne vibrations shall be measured by means of a three component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement shall be the maximum instantaneous vector sum of the amplitude in the three directions.

4.13.2.2 MEANING OF TERMS

Vibrations means the periodic displacement of oscillation of the earth.

Area of Measurement

<u>Type of vibration</u>	<u>At residential district boundaries</u>	<u>At other lot lines within district</u>
Continuous	.003	.015
Impulsive (100 per minute or less)	.006	.030
Less than 8 pulses per 24 hours	.015	.075

4.13.3 GLARE

No direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion, welding or otherwise, so as to be visible beyond the lot line, shall be permitted except for signs, parking lot lighting and other lighting permitted by this ordinance or required by any other applicable regulation, ordinance or law. However, in the case of any operation which would affect adversely the navigation or control of aircraft, the current regulations of the Federal Aviation Administration shall apply.

4.13.4 AIR POLLUTION

Rules of the State Air Pollution Control Board shall apply within the Town. Such rules and regulations include coverage of:

- a. Emission of smoke and other emissions from stationary sources;
- b. Particulate matter;
- c. Odor;
- d. Particulate emission from indirect heating furnaces;
- e. Open burning;
- f. Incinerators; and
- g. Gaseous pollutants.

4.13.5 WATER POLLUTION

Rules of the State Water Control Board shall apply within the Town.

4.13.6 RADIOACTIVITY

There shall be no radioactivity emission which would be dangerous to the health and safety of persons on or beyond the premises where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams and other water, and the disposal of radioactive wastes shall be by reference to and in accordance with applicable current regulations of the Department of Energy, and in the case of items which would affect aircraft navigation or the control thereof, by applicable current regulations of the Federal Aviation Administration, and any applicable laws enacted by the General Assembly of the Commonwealth of Virginia or the requirements of the Virginia Air Pollution Act, whichever is greater.

4.13.7 ELECTRICAL INTERFERENCE

There shall be no electrical disturbance emanating from any lot which would adversely affect the operation of any equipment on any other lot or premises and in the case of any operation which would affect adversely the navigation or control of aircraft, the current regulations of the Federal Aviation Administration shall apply.

4.13.8 CERTIFIED ENGINEER REPORT SUBMITTAL

Each future occupant of an industrial character shall submit to the Office of the Town Clerk for the Zoning Administrator as precedent to issuance of a zoning compliance clearance a certified engineer's report describing the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission or discharge to land, air and/or water or liquid, solid or gaseous effluent and electrical impulses and noise under normal operations, and the specifications of treatment methods and mechanisms to be used to control such emission or discharge. The Zoning Administrator shall engage an engineer to review the applicant's submittal and make comment and recommendation prior to final Planning Commission action on the site development plan.

4.14 SIGNS (Amended 5-21-2001)

4.14.1 PURPOSE AND INTENT

The purpose of this section is to regulate the size, location, height and construction of all signs; to protect the public health, safety, convenience and general welfare; to facilitate the creation of a convenient, attractive, and harmonious community, and to further the goals, objectives and policies of the Scottsville Comprehensive Plan.

- a. To enable businesses to promote and identify their establishments;
- b. To promote the general health, safety and welfare by prohibiting excessively distracting signs;
- c. To improve pedestrian and vehicular safety by avoiding signs that contribute to saturation and confusion in the field of vision;
- d. To protect the public investment in the creation and maintenance of attractive sidewalks, streets, highways, parks and other public lands;
- e. To protect and enhance the Town's attractiveness to tourists and other visitors as sources of economic development.

4.14.2 SCOPE (Amended 7-18-2011)

This section of the zoning ordinance, to be known as the *sign ordinance*, is adopted under the zoning authority of the Town.

The word *sign* shall refer to any device that is visible to persons not located on the lot where such device is located and that is designed to attract the attention of such persons or communicate information to them.

These regulations shall apply to all existing signs and their modifications and to all new signs. All signs shall comply with these regulations and it shall be unlawful for any person to erect or maintain a sign that is not expressly permitted by this ordinance.

4.14.3 PERMIT REQUIRED

No person shall erect or cause to be erected nor shall significantly alter, replace or relocate any sign, except those exempt from a permit pursuant to section 4.14.4, unless and until a permit has been issued for this purpose by the Zoning Administrator in accordance with these regulations.

4.14.4 SIGNS EXEMPTED FROM PERMIT REQUIREMENT

The following non-illuminated signs are exempted from regulation under this section unless prohibited by section 4.14.5.

- a. Name and/or address of resident, estate or farm sign that does not include commercial identification and does not exceed two (2) square feet in area. Multiple residences having a common private driveway may consolidate name/address signs such that the resulting sign does not exceed two (2) square feet in area per residence.
- b. Temporary off-site directional signs advertising an event or activity that are not located in a residential district, provided that the activity that the sign promotes is one permitted in the location to which the sign applies. Such signs shall display the name and telephone number of the responsible person and date and address of the event, shall be erected not more than seven (7) days before the event or activity, and shall be removed within two (2) days of its conclusion. (Amended 12-20-2004, 7-18-2011)
- c. Incidental signs, which are signs that have a purpose secondary to the use of the lot on which it is located, such as handicap parking, no parking, entrance, loading only, telephone, and other similar directives. No sign with a commercial message visible from a position off the lot on which the sign is located shall be considered incidental. Such signs shall not exceed two (2) square feet in area. (Amended 7-18-2011)
- d. Public signs, which are any temporary or permanent signs erected and maintained by a town, county, state or federal government or an authority thereof; and temporary legal notice and emergency signs necessary to protect the public.
- e. Official signs of a noncommercial nature erected by public utilities.
- f. Security and warning signs, such as no hunting, no trespassing and warning signs used by a private landowner, which do not to exceed two (2) square feet.
- g. Signs within an establishment and not attached to or immediately adjoining a window visible to the public.
- h. Commemorative plaques, monumental inscriptions, memorial signs or tablets containing names of persons or buildings or dates of erection, and similar information, which do not to exceed four (4) square feet.
- i. Special decorative displays and lighting used for holidays, public events or promotion for nonpartisan civic purposes, which are removed within two (2) days of said event.
- j. Political signs presenting a candidate or issue subject to a federal, state or local government election, not illuminated, that do not exceed four (4) square feet, erected not more than thirty (30) days prior and removed within two (2) days after the election.
- k. Real estate signs advertising property for sale, lease or rent and erected on-site by a licensed real estate agent or by the property owner. The area of the sign, not including riders, shall not exceed 800 square inches. Free standing real estate signs shall have a minimum setback from adjoining streets or roads of five (5) feet and shall have a height not exceeding forty-two (42) inches above the point the supporting post is inserted into the ground; exceptions to the height restriction may be approved by the Zoning Administrator. There shall not be more than two (2) riders, each not exceeding six (6) inches in height, suspended as paddles from or otherwise attached to the primary sign. Real estate signs also may be placed

on a window of the structure for sale, lease or rent. Not more than one (1) real estate sign shall be permitted on a property for sale, lease, or rent within the historic district. Not more than one (1) real estate sign per road frontage, for a total number of signs not to exceed two (2), shall be permitted on a property for sale, lease, or rent outside the historic district. The content of real estate signs shall display a standard “for sale” (or lease or rent) message and include the agent’s or property owner’s name and telephone number. Real estate signs shall be removed from the site within seven (7) days of sale, lease or rental or of the attachment of a rider indicating that the property has been sold, leased or rented, whichever occurs first. A real estate sign erected for more than 180 days may, after investigation by the Zoning Administrator, be deemed abandoned and subject to the provisions of section 4.14.13. (Amended 12-20-2004)

- l. Temporary off-site open house signs indicating the direction to a house or other structure open to the public. There shall be not more than two (2) such signs per open house, each shall not exceed two (2) square feet in area, and each shall be permitted only on the day of the open house. Such signs shall be marked with the name and telephone number of the responsible person and date and address of the open house. (Added 12-20-2004)
- m. Auction signs that do not exceed four (4) square feet, to advertise an on- site auction to be conducted. These shall be removed within two (2) days after the date of auction. (Off-site auction directional signs are permitted subject to paragraph b, above.)
- n. Construction signs that do not exceed one (1) sign per lot, do not exceed a maximum of eight (8) square feet in area, and are removed within two (2) days of issuance of a certificate of occupancy.
- o. Private drive signs, which are on-premise signs limited to one (1) per entrance, which do not exceed one (1) square foot in area and limited to the words *private drive*.
- p. Farm products signs located on-site on property properly zoned for such use that do not exceed eight (8) square feet in area.
- q. Off-site directional signs to residential garage, yard and similar occasional homeowner sales when the signs are no more than one (1) square foot in area and two (2) in number, display the name and telephone number of the responsible person and date and address of the event, and are erected for a period of no more than seven (7) days and removed within two (2) days following the event.
- r. Professional and home occupation wall-mounted nameplates not exceeding one (1) square foot in area.
- s. Promotional posters, notices and flyers that are attached to an exterior bulletin board or to the interior of a window or door glass of a building located in a commercial district. Such posters shall not take up more than thirty (30) percent of the window, shall not remain up for longer than thirty (30) days, and shall be removed within two (2) days after completion of the advertised event or activity.
- t. House and building numbers that exhibit an assigned street address and comply with Scottsville Code sections 66-110 to 114.
- u. Menu signs adjoining the entrance of a restaurant located within a commercial district when the sign is no more than four (4) square feet in area.
- v. Signs painted on or attached to the outfield fence of any baseball park.
- w. On-site church identification signs and bulletin boards that do not exceed, in the aggregate, one per abutting street and sixteen (16) square feet in area per sign.

- x. Portable blackboards or sandwich boards located in a commercial district, provided that there are no more than one (1) with an aggregate sign area of not more than sixteen (16) square feet, and are no more than five (5) feet in height, and further provided that they do not remain outside the main building after business hours. (Amended 7-18-2011)
- y. Flags or pennants bearing the insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- z. Decorative flags which do not contain a commercial promotion or advertise a specific business or use. Each business shall be limited to one such decorative flag not exceeding a total of fifteen (15) square feet in area.
 - aa. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts or lights.
 - bb. "Open" signs that are internally lighted or non-illuminated and limited to the word *open*. Such signs shall have a maximum area of one and one-half (1½) square feet and are permitted only within commercial establishments located within a commercial district.

4.14.5 PROHIBITED SIGNS

Signs with any of the following characteristics are prohibited within the Town. This includes any sign that:

- a. Violates any provisions of the law of Virginia relating to outdoor advertising, including sections 33.1-351 to 381, inclusive, and section 46.1-174 of the Virginia Code and any other form of advertising prohibited by the Virginia Code.
- b. Violates federal law including U.S.C. section 131, control of outdoor advertising and provisions concerning Virginia byways and scenic highways.
- c. Obstructs free or clear vision, or otherwise interferes with or causes hazards for vehicular, bicycle, or pedestrian traffic because of location, shape, illumination or color.
- d. Imitates an official traffic sign or signal, or conflicts with traffic safety needs due to location, color, movement, shape or illumination.
- e. Is an illuminated sign that casts a distracting glare, directly or indirectly, on any public roadway, or on any adjacent property within a residential district; is a sign or part thereof outlined with light; or is a sign that contains or consists of a searchlight, beacon or strobe light, or the like.
- f. Is an animated sign or any other sign that moves, flashes, blinks or changes color; or a sign that contains or consists of pennants, ribbons, spinners, streamers or other similar moving devices; or a banner, except as a permitted temporary event sign as provided for in section 4.14.6.b.
- g. Is a moored balloon or other tethered sign floating at a height above the eve of the adjoining building or twenty (20) feet, whichever is lower.
- h. Is a sign attached to a tree, natural feature, or structure of any description located on public land or to a utility pole, except those so placed by a public agency as provided for in sections 4.14.4.d and e.

- i. Is any sound-producing sign intended to attract attention regardless of whether or not the sign has a written message content.
- j. Is a sign constructed on or over the roof of a building.
- k. Is an off-site sign, including billboards, that advertises or directs traffic to any activity, business, product or service that is not conducted, produced or sold on the premises on which the sign is located, except as allowed in sections 4.14.4.b and q and 4.14.6.b.
- l. Is not adequately maintained; is abandoned or otherwise advertises a discontinued use; or is unsafe as provided for in section 4.14.11.
- m. Is a portable sign, except when used as a temporary sign in conformance with section 4.14.6 or for portable blackboard signs conforming to section 4.14.4.x.
- n. Is a sign, other than a temporary sign, that displays a commercial logo, identifier, or company emblem other than that of the establishment being advertised.
- o. Is a sign that fails to meet minimum conditions required for a permitted sign elsewhere in this ordinance.

4.14.6 TEMPORARY SIGNS

A temporary sign is a non-illuminated sign that is used in conjunction with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign. If a sign is permanent but the message displayed is subject to periodic changes, such a sign shall not be regarded as temporary.

The following temporary signs are permitted upon issuance of a temporary sign permit:

- a. Temporary signs advertising a business, office or other permitted use while the permanent sign application is under review. Such signs shall comply with the following:
 - 1. No such temporary permit shall be issued for a sign exceeding maximum size or height or minimum setback restrictions in section 4.14.8.
 - 2. Such sign shall not be displayed for longer than forty-five (45) days. Once a permit has been issued for a permanent sign, such signs may continue to be displayed until the permanent sign is installed or thirty (30) days, whichever is soonest.
- b. Signs not exceeding thirty-two (32) square feet, advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting sponsored by a governmental, charitable or nonprofit organization. In addition, overhead banner signs suspended from stanchions provided by the town for this purpose, of an area not exceeding one hundred (100) square feet. Each shall be valid for a period not to exceed fifteen (15) days following issuance and shall be removed within two (2) days of the termination of the stated use or when damaged by the weather.
- c. Special signs used for purposes of advertising the opening of a new store, business or profession not exceeding thirty-two (32) square feet, for a period not to exceed thirty (30) days. Such displays must be removed within two (2) days of the termination of the stated use.
- d. Sales event signs not exceeding thirty-two (32) square feet. No more than four (4) such permits shall

be issued in one (1) year. Each shall be valid for a period not to exceed fifteen (15) days following issuance. Such signs must be removed within two (2) days of the termination of the stated use.

e. Portable sandwich board signs located within a commercial district, but not within the Historic Overlay (H) District, with an aggregate sign area of not more than sixteen (16) square feet, a height of not more than five (5) feet, located a minimum setback of ten (10) feet from the property line, and no more than two (2) per highway frontage. Such signs shall be permitted for a period of one (1) year and shall be renewable.

4.14.7 ILLUMINATED SIGNS

Illuminated signs are signs that are lighted from a source within, lighted from an external source, and/or composed of light producing components. "Open" signs are exempt from this requirement (see section 4.14.4.bb) and certain types of sign illumination are prohibited by section 4.14.5.e. and 4.14.5.f. (Amended 7-18-2011)

4.14.8 COMMERCIAL SIGNS

The following signs, unless of a type that is prohibited or otherwise regulated elsewhere in this ordinance, shall be permitted if located on-site.

4.14.8.1 COMMERCIAL DISTRICTS WITHIN THE HISTORIC OVERLAY DISTRICT

Signs advertising a business, office or other permitted commercial use and located within the Historic Overlay District (H) shall comply with the following:

- a. Signs shall meet the following standards of appearance: Signs should relate to, rather than obscure and disrupt, the design elements of the building with which they are associated or to which they are attached. Signs should also be compatible with other signs and buildings along the street. Considerations for compatibility include dimensions, subject matter, materials, color, letter styles, legibility, lighting, overall effect and placement on the lot or on the building. All requirements concerning signs in the Historic Overlay District, Section 18 of the Zoning Ordinance, shall continue. (Amended 7-18-2011)
- b. Sign types, size, and setback regulations are set forth in Table 1:

Table 1. Commercial Signs within the Historic Overlay District					
SIGN TYPE	AREA (Maximum)	HEIGHT (Maximum)	SETBACK (Minimum)	# ALLOWED (Maximum)	OTHER
Freestanding	16 sq ft proportionately reduced for lots having less than 100 ft frontage	9 ft for sign, 9 ft for support	5 ft from property line or easement.	1 per highway right-of-way frontage	No part of a freestanding sign shall encroach on any public right of way. See * below
Projecting	9 sq ft	Bottom of sign must be at least 7 ft, but not more than 12 ft from ground.		1 per highway right-of-way frontage	Shall not project more than 4 ft from building. See * below
Wall (includes window)	32 sq ft				See * below
* The total area of all signs displayed by any first floor occupancy shall not exceed one (1) square foot for each one (1) linear foot of building frontage (reference section 4.14.9.2). The area of wall signs, projecting signs, and freestanding signs shall be included in the computation of aggregate signage.					

(Amended 7-18-2011)

c. Signs for occupancies on the second floor of a commercial building are permitted, provided total area does not exceed twenty-five (25) percent of the square footage that would be allotted to identical sign occupancies on the first floor.

d. Canopy signs shall not exceed one (1) per canopy, shall not exceed one (1) per side surface area, and shall not exceed thirty-three (33) percent of the total side surface area. No sign shall be erected on the roof of a canopy. (Amended 7-18-2011)

e. Signs affixed to an awning are classified as a projecting sign, and the area of the sign is calculated to be the area of the print, and any other background color that differentiates the sign from the rest of the awning. Awning signs shall not be internally illuminated.

4.14.8.2 COMMERCIAL DISTRICTS NOT IN HISTORIC OVERLAY DISTRICT

Signs advertising a business, office or other permitted commercial use and not located within the historic overlay district shall comply with the following:

a. Sign types, size, and setback regulations are set forth in Table 2:

Table 2. Commercial and Industrial Signs not within the Historic Overlay District					
SIGN TYPE (Includes all kinds)	AREA (Maximum)	HEIGHT (Maximum)	SETBACK (Minimum)	# ALLOWED (Maximum)	OTHER
Freestanding	32 sq ft proportionately reduced for lots having less than 100 ft of frontage	12 ft at top of sign	10 ft from property line or easement.	1 per highway right-of-way frontage	Business must have minimum 25 ft road frontage.
Projecting	12 sq ft	Bottom of sign must be at least 7 ft, but not more than 12 ft from ground.		1 per highway right-of-way frontage	Shall not project more than 4 ft from building. See * below
Wall (includes window)	100 sq ft				See * below
* The total area of all signs displayed by any first floor occupancy shall not exceed one (1) square foot for each one (1) linear foot of building frontage (reference section 4.14.9.2). The area of wall signs and projecting signs shall be included in the computation of aggregate signage.					

(Amended 7-18-2011)

b. Shopping centers may erect a collective freestanding sign that lists the names of the shopping center and businesses within. Such signage shall conform to Table 2.

c. (Removed 7-18-2011)

4.14.8.3 RESIDENTIAL DISTRICTS

Signs advertising certain businesses located in a residential district shall comply with the following:

a. Home occupation signs that display the name and/or address of the occupant of the premises and the nature of the home occupation. One sign shall be allowed for each parcel of property. The sign shall not exceed four (4) square feet in area and shall be set back a minimum of five (5) feet from the property line or public easement.

b. Bed and breakfast signs stating accommodations are available on the premises. One sign shall be allowed for each Bed and Breakfast. The sign shall not exceed six (6) square feet in area and shall be set back a minimum of five (5) feet from the property line or public easement.

4.14.9 COMPUTATION

4.14.9.1 SIGN AREA

The surface area of any sign permitted under this ordinance is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding supports unless such supports are used to attract attention, except as noted below:

- a. The surface area of any open sign made up of individual letters or figures shall include the space between such letters or figures.
- b. Whenever one sign contains lettering or other advertising information on both sides, one side only shall be used in computing the surface area of the sign.
- c. Paddle signs suspended from a freestanding or projecting sign are permitted. The surface area of such signs is computed to be the total square footage of all the signs, including the area of open space between each sign.
- d. In the case of a corner lot, the total frontage on both streets may be used in calculating the allowable size.

4.14.9.2 BUILDING FRONTAGE

The building frontage used for calculating the allowable sign area for commercial and industrial structures is the straight-line horizontal distance between the ends of the outside building wall on which the sign is to be placed.

4.14.10 ADMINISTRATION

4.14.10.1 POWERS AND DUTIES OF THE ZONING ADMINISTRATOR

The Zoning Administrator shall have primary responsibility for the administration and enforcement of this sign ordinance and have the authority to enforce provisions of this ordinance. In addition to the duties specified in other portions of this ordinance, the Zoning Administrator shall have the power to:

- a. Receive sign applications and ensure administrative procedures described in this section are properly adhered to;
- b. Issue new sign permits upon confirmation that the proposed sign conforms with this ordinance;
- c. Approve or deny for conformity and refer to the Architectural Review Board (if located in the Historic Overlay District) within five (5) working days all sign permit applications; (Amended 7-18-2011)
- d. Make inspections of all signs and premises upon which signs are situated or proposed to be situated to confirm information contained in an application or any other information relating to a permit application;
- e. Maintain records, inventories, and maps concerning signs;
- f. Register nonconforming signs;
- g. Interpret the general intent or meaning of any provision of this ordinance;
- h. Refer sign applications to the Architectural Review Board pursuant to section 4.14.8.1.a addressing standards of appearance. (Amended 7-18-2011)

4.14.10.2 APPLICATION REQUIREMENTS

An application provided by the Town must be filed with the Zoning Administrator in the Town Office. This application shall include the following information together with the applicable fee:

- a. The sign owner's name, address and daytime telephone number; and, if different, the name and signature of the owner of the premises where the sign is located or is to be located;
- b. The name and daytime telephone number of the person who will be performing the work requested;
- c. Location, tax map and parcel number, and zoning designation of the parcel on which the sign is or will be located (available from the Zoning Administrator);
- d. A legible sketch showing the location, content, and advertising message, as well as the sign dimensions, construction materials to be used, manner of illumination;
- e. A signed statement by the applicant that the proposed sign will be installed according to the specifications provided in the sign permit application.

4.14.11 UNSAFE SIGNS

- a. Whenever, in the opinion of the Zoning Administrator, a sign becomes structurally unsafe or endangers the safety of a structure or the public, the Zoning Administrator shall order such sign to be made safe or comply with the ordinance, as the case may be, or be removed. The order must be sent by certified mail, return receipt requested, and must be complied with within five (5) business days from the date of receipt of the registered mail. Failure to comply with the order shall constitute grounds for the Town Administrator to have the sign removed, and the cost of removal shall be added to any fine imposed for violation under this ordinance.
- b. Whenever, upon the determination of the Zoning Administrator, an unsafe sign poses an imminent threat of serious injury to person or property, and it is impracticable to give notice as required by the above paragraph, the Zoning Administrator may cause the sign immediately to be made safe or removed, and the cost thereof shall be charged to the owner.

4.14.12 NONCONFORMING SIGNS

Any sign lawfully in existence on the effective date of this sign ordinance that does not conform to the provisions of the ordinance may be continued in accordance with the provisions of section 6: *Nonconformities* and of this section.

An owner of a lawfully continued nonconforming sign (hereafter referred to as a "nonconforming sign") who fails to comply with the following shall be subject to having the nonconforming sign removed, as provided for in section 4.14.13.

- a. The owner of any property on which there is located a nonconforming sign must, upon notice from the Zoning Administrator, submit verification within sixty (60) days that the sign was lawfully in existence at the time of adoption of these sign regulations.
- b. Nonconforming signs shall be kept in good repair and condition. However, any non-conforming sign that is allowed to deteriorate to the point that it becomes a public nuisance, the Scottsville Town Council may require it to be removed.
- c. Nonconforming signs shall not be displayed on any other portion of the property or building other than its original location, and may not be displayed on another property, unless the relocation results in the sign conforming to this ordinance.
- d. Nonconforming signs and their supporting structure shall not be structurally altered, or remodeled

except in conformance with this ordinance unless required for safety or maintenance.

e. Nonconforming signs may be repainted and repaired, however, if the wording, composition, color, and material of the sign is changed, the sign must be brought in to full compliance with this ordinance.

f. A nonconforming sign in good repair that is destroyed or damaged through no fault of the owner shall be restored to its original or a more conforming condition within two (2) months of the damage.

g. If the structure or use that a nonconforming sign advertises is abandoned, the sign shall lose its protected status and be required to conform to all provisions of this sign ordinance.

4.14.13 ENFORCEMENT AND PENALTIES

a. The violation of any of the provisions of this sign ordinance is hereby declared a misdemeanor. (See section 20, *Administration, Enforcement and Interpretation.*)

b. In the event that a sign is installed in violation of the provisions of this ordinance, in non-compliance with the specifications stated in the sign permit application, or in non-compliance with the conditions attached to a special use permit, the Zoning Administrator shall cause a written notice of violation to be issued to the owner of the sign.

c. The written notice may either request that the sign be brought into compliance or removed, or that the sign owner otherwise comply with the provisions of this ordinance within fifteen (15) days of receipt of the notice of violation.

d. If the sign owner fails to bring the sign into compliance with this ordinance, as stated by the terms of the notice of violation, the Zoning Administrator, after consultation with the Mayor, may cause the sign to be removed at the expense of the sign owner.

e. If the owner or erector of a sign that is in violation of this ordinance has a documented record of prior violations of the provisions of this ordinance, the zoning administrator may have the offending sign removed immediately and without prior notice. (Added 12-20-2004)

f. Cardboard, paper and other disposable signs that have been removed by the Town shall be destroyed upon removal.

g. All other signs that have been removed by the Town shall be held for a period of thirty (30) days and may be reclaimed within that time by payment of the costs of removal. Thereafter, such signs shall be deemed to have been forfeited by the owner and shall be disposed of in accordance with applicable statute.

4.14.14 (Removed 7-18-2011)

4.14.15 (Removed 7-18-2011)

5.0 SUPPLEMENTARY REGULATIONS

5.1 The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right or by special use permit. Supplementary regulations are in addition to all other requirements of this ordinance, the Code of Scottsville, and all other applicable law. The Planning Commission may waive, vary or modify any requirement of section 5 in a particular case upon a finding that such requirement would not forward the purposes of this ordinance or otherwise serve the public interest; or that varied or modified regulation would satisfy the purpose of this ordinance to at least an equivalent degree as the specified requirement; except that, in no case, shall such action constitute a waiver, variation or modification of any applicable general or district regulation. Procedures for appeals shall be as set forth in section 22.3, *Appeal to the Board of Zoning Appeals*, of this ordinance. Nothing herein shall be construed to limit the authority of the governing body in the review of any special use permit, including, but not limited to, the regulation of hours of operation, location of door and/or windows and the like.

5.1.1 DAY CARE, NURSERY FACILITY

- a. No such use shall operate without licensure by the Virginia Department of Welfare as a child care center. It shall be the responsibility of the owner/operator to transmit to the Town a copy of the original license and all renewals thereafter and to notify the Town of any license expiration, suspension, or revocation within three (3) days of such event. Failure to do so shall be deemed wilful noncompliance with the provisions of this ordinance.
- b. Periodic inspection of the premises shall be made by the Town fire official at his/her discretion. Failure to promptly admit the fire official for such inspection shall be deemed wilful noncompliance with the provisions of this ordinance.
- c. These provisions are supplementary and nothing stated herein shall be deemed to preclude application of the requirements of the Virginia Department of Welfare, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

5.1.2 HOME FOR DEVELOPMENTALLY DISABLED PERSONS

Conditions imposed on such homes shall be the same as those imposed on other dwellings in the same district.

5.1.3 FIRE, AMBULANCE, RESCUE SQUAD STATION (VOLUNTEER)

- a. Any such use seeking public funding shall be reviewed by the Planning Commission in accordance with section 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*. Specifically, the Planning Commission shall find that the proposed service area is not already adequately served by another such facility. In addition, the Commission shall consider:
 1. Growth potential for the area;
 2. Relationship to centers of population and to high-value property concentrations; and
 3. Access to and adequacy of public roads in the area for such use.

The Planning Commission may request recommendation from fire and rescue officials and other appropriate agencies in its review;

b. Such subordinate uses and fund-raising activities as bingo and auctions shall be conducted in an enclosed building only. Noise generated from such activity shall not exceed forty (40) decibels at the nearest agricultural or residential property line. No such activity shall be conducted between 11:00 p.m. and 8:00 a.m.

5.1.4 STORAGE AREAS, OPERATIONAL AREAS, JUNK YARDS

a. All storage and operational areas shall be enclosed by a solid, light-tight, sightly fence not less than eight (8) feet in height or alternative screening and/or fencing satisfactory to the Planning Commission.

b. All storage and operational areas shall be out of the public's view from any public street, highway, sidewalk, path, park or other public property; or from a historic landmark (reference 18, *Historic Overlay District – H*); or from any private property unless affected residents and owners have provided current written permission.

c. Storage yards and access to public roads shall be maintained in a dust-free surface.

d. Junk yards are prohibited in all districts of the Town.

5.1.5 COMMERCIAL KENNEL, VETERINARY, ANIMAL HOSPITAL

a. Animals shall be confined in soundproofed, air-conditioned buildings. No such structure shall be located closer than two hundred (200) feet to any agricultural or residential lot line. For soundproofed confinements, noise measured at the nearest agricultural or residential property line shall not exceed forty (40) decibels.

b. In areas where such uses may be in proximity to other uses involving intensive activity such as shopping centers or other urban density locations, special attention is required to protect the public health and welfare. To these ends the Planning Commission and Town Council may require among other things:

1. Separate building entrance and exit to avoid animal conflicts; and

2. Area for outside exercise to be exclusive from access by the public by fencing or other means.

5.1.6 PUBLIC UTILITY STRUCTURES, USES

a. The proposed use at the location selected will not endanger the health and safety of workers and/or residents in the community and will not impair or prove detrimental to neighboring properties or the development of same.

b. Public utility buildings and structures in any residential zone shall, wherever practical, have the exterior appearance of residential buildings and shall have landscaping, screen planting and/or fencing, whenever these are deemed necessary by the Planning Commission.

In addition, trespass fencing and other safety measures may be required as deemed necessary to reasonably protect the public welfare.

In cases of earth-disturbing activity, immediate erosion control and reseeding shall be required to the satisfaction of the Thomas Jefferson Soil and Water Conservation District.

c. Such structures as towers, transmission lines, transformers, etc., which are abandoned, damaged or otherwise in a state of disrepair, which in the opinion of the Zoning Administrator, in consultation with

and approval of the Mayor, pose a hazard to the public safety, shall be repaired/removed to the satisfaction of the Zoning Administrator within a reasonable time prescribed by the Zoning Administrator, in consultation with the Mayor.

d. In approval of a public utility use, the Planning Commission shall be mindful of the desirability of use by more than one utility company of such features as utility easements and river crossings, particularly in areas of historic, visual or scenic value, and it shall, insofar as practical, condition such approvals so as to minimize the proliferation of such easements or crossings, as described by the comprehensive plan.

5.1.7 REST HOME, NURSING HOME, CONVALESCENT HOME, ORPHANAGE

a. Such uses shall be provided in locations where the physical surroundings are compatible to the particular area.

b. No such use shall be established in any area either by right or by special use permit until the Town fire official has determined that adequate fire protection is available to such use.

c. Generally such uses should be located in proximity to or in short response time to emergency medical and fire protection facilities. Uses for the elderly and handicapped should be convenient to shopping, social, education and cultural uses.

d. No such use shall be operated without approval and, where appropriate, licensing by such agencies as the Virginia Department of Welfare, the Virginia Department of Health, and other such appropriate local, state and federal agencies as may have authority in a particular case.

5.1.8 SWIMMING, GOLF, TENNIS CLUBS

a. The swimming pool, including the apron, filtering and pumping equipment, and any buildings, shall be at least seventy-five (75) feet from the nearest property line and at least one hundred twenty-five (125) feet from any existing dwelling on an adjoining property, except that, where the lot upon which it is located abuts land in a commercial or industrial district, the pool may be constructed no less than twenty-five (25) feet from the nearest property line of such land in a commercial or industrial district.

b. When the lot on which any such pool is located abuts the rear or side line of, or is across the street from, any residential district, a substantial, sightly wall, fence, or shrubbery shall be erected or planted, so as to screen effectively said pool from view from the nearest property in such residential district.

c. The sound from any radio, recording device, public address system or other speaker shall be limited to forty (40) decibels at the nearest residential property line.

d. The Town Council may, for the protection of the health, safety, morals and general welfare of the community, require such additional conditions as it deems necessary, including but not limited to provisions for additional fencing and/or planting or other landscaping, additional setback from property lines, additional parking space, location and arrangement of lighting, and other reasonable requirements.

e. Provision for concessions for the serving of food, refreshments or entertainment for club members and guests may be permitted under special use permit procedures.

5.1.9 TOURIST LODGING

The Zoning Administrator may issue a permit for such use for a period not exceeding five (5) years and renewable for periods not exceeding five (5) years thereafter, provided that:

- a. Approval for such use has been obtained from the Town fire official. The fire official shall thereafter inspect the premises at his/her discretion; and
- b. Approval of permit has been obtained from the Bureau of Tourist Establishment Sanitation of the Virginia Department of Health.

5.1.10 TEMPORARY CONSTRUCTION HEADQUARTERS, YARDS

5.1.10.1 TEMPORARY CONSTRUCTION HEADQUARTERS

- a. A temporary permit may be issued by the Zoning Administrator, with approval of the Mayor, for a period beginning no earlier than thirty (30) days prior to the commencement of actual construction and terminating no later than twenty (20) days after completion of the last building to be constructed in the project.
- b. Such uses shall be located within the recorded subdivision or on the same lot where the construction project is located.
- c. The area in the vicinity of such uses and access roads thereto shall be treated or maintained in such a manner as to prevent dust or debris from blowing or spreading onto adjacent properties or public streets.

5.1.10.2 TEMPORARY CONSTRUCTION YARDS

- a. A temporary permit may be issued by the Zoning Administrator, with approval of the Mayor, for a period not to exceed eighteen (18) months.
- b. Such a yard shall be located within the recorded subdivision which it serves or on the same lot where the construction project is located.
- c. No portion of such a yard shall be located closer than fifty (50) feet to any right-of-way line of any public street existing prior to the recording of the subdivision served by such yard or existing prior to the commencement of the construction project.
- d. No portion of such a yard shall be located closer than one hundred fifty (150) feet to any preexisting dwelling not owned or leased by the owner of the subdivision or construction project served by such yard.
- e. All areas of such a yard and access roads thereto shall be treated or maintained in such manner as to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. Such yards shall be maintained in a clean and orderly manner, and building material and construction residue and debris shall not be permitted to accumulate.
- f. All buildings, materials, supplies and debris shall be completely removed from such yard within sixty (60) days from the date of completion of the last building to be constructed or within sixty (60) days from the date active construction is discontinued, whichever occurs first, but in no event shall the time exceed the limit set forth above.
- g. Where deemed necessary and desirable by the Town, when such yards are to be located in or adjacent to a residential district, appropriate screening or fencing measures shall be provided.

5.1.11 WAYSIDE STAND

- a. Structures for wayside stands, including vehicles, shall not exceed six hundred (600) square feet in aggregate floor area nor be located closer than thirty-five (35) feet to any public road right-of-way.
- b. No such use may be established without approval of a preliminary site development plan by the Planning Commission. In review of such plan, the Commission shall give particular attention to provisions for safe and convenient access from and to the public road and adequacy of delineation of parking. No such plan shall be approved until the Virginia Department of Highways and Transportation has approved commercial access to the site.

5.1.12 SALE AND/OR STORAGE OF PETROLEUM PRODUCTS INCLUDING KEROSENE, GASOLINE, AND HEATING OIL

- a. No storage in excess of six hundred (600) gallons or sale of petroleum products shall be established without Town fire official approval.
- b. In such review and approval the fire official may, in addition to other safety requirements, require separation between such use and adjoining uses as deemed necessary to protect the public health and safety.

5.1.13 FEED AND SEED STORE

- a. All loose bulk storage of seed, grains and feed shall be in enclosed buildings.
- b. Provision shall be made for the control of dust during handling of loose bulk storage materials.
- c. No such use shall be established without Town fire official approval.

5.1.14 TEMPORARY EVENTS SPONSORED BY LOCAL NONPROFIT ORGANIZATIONS

- a. This provision is intended to regulate for purposes of public health, safety and welfare, major events such as agricultural expositions, concerts, craft fairs, and similar activities which generally: attract large numbers of patrons; may be disruptive of the area; and occasion the need for planning in regard to traffic control, emergency vehicular access, health concerns and the like. The provision is not intended to regulate such minor events as church bazaars, yard sales, bake sales, car washes, picnics and the like which generally are not disruptive of the area and require only minimal logistical planning; nor is it intended to permit permanent amusement facilities. Each such event shall be sponsored by one or more not-for-profit organizations operating primarily in the Town, Albemarle, Buckingham and Fluvanna counties and/or the City of Charlottesville.
- b. No event shall extend for a period longer than that provided by the Town Council in the conditions of the special use permit. A separate special use permit shall be required for each event.

5.1.14.1 SPECIAL USE PERMITS

Special use permits may be issued by the Town Council pursuant to this section, upon finding:

- a. That the public roads serving the site are adequate to accommodate the traffic which would be expected to be generated by such event; and

b. That the character of such use will be in harmony with the public health, safety and welfare, and uses permitted by right in the district and will not be of substantial detriment to adjacent property in terms of smoke, dust, noise, hours of operation, artificial lighting or other specific identifiable conditions which may be deleterious to the existing uses of such property.

5.1.14.2 SPECIFICATION OF CONDITIONAL USE

Except as the Town Council may expressly add or delete conditions in a particular case, each such permit shall be subject to the following conditions:

- a. A preliminary plan showing access, parking, vehicular and pedestrian circulation, and method of separation of the same shall be approved by the Zoning Administrator;
- b. Such organization shall have made adequate arrangements with the county police, sheriff, fire and rescue squads, and the local office of the Virginia Department of Health for the conduct of such event; and
- c. Adequate arrangements have been made for the removal of trash and debris, reseeding and general restoration of the site following the event. The Town Council may establish and require the posting of a bond in an amount deemed by the Council to be sufficient for such purpose.

5.1.15 BORROW, FILL OR WASTE AREAS

a. No grading permit shall be issued for any borrow, fill, or waste area activity exceeding an aggregate volume of ten thousand (10,000) cubic yards on any one parcel of record on the adoption date of this provision until, in addition to approval of a grading plan, the Thomas Jefferson Soil and Water Conservation District has approved a plan and/or narrative for such activity in accordance with the following requirements:

1. The site, both during and after such activity, shall be shaped and sloped for proper drainage;
2. No such activity shall occur in any flood plain area except in accordance with the flood hazard overlay section of this ordinance nor within three hundred (300) horizontal feet of the edge of any water supply impoundment or tributary thereof without approval of the Thomas Jefferson Soil and Water Conservation District. Provision shall be made for the minimization of ground and surface water contamination;
3. All vehicles used to transport excavated or waste materials shall be loaded in such manner that the material cannot be unintentionally discharged from the vehicle. All such vehicles shall be cleaned of all material not in the load-bed prior to entering onto any public road;
4. The area of such activity and access roads thereto shall be treated or maintained in such a manner as to prevent dust or debris from blowing or spreading onto adjacent properties or public streets. Dependent on the anticipated intensity and duration of the activity and the character of development of adjoining properties, the Thomas Jefferson Soil and Water Conservation District may require, for the protection of adjoining properties, public roads, and public safety, such setback, fencing and/or landscaping requirements as deemed appropriate;
5. Operations involving power equipment of an industrial type shall be limited to the hours of 7:00 a.m. to 9:00 p.m. except in cases of a public emergency as determined by the Mayor. Blasting operations shall be restricted to Monday through Friday between 8:00 a.m. and 5:00 p.m.;

6. Regarding lateral support, all operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical damage to adjacent land and improvements, and damage to any public street by reason of slides, sinking, or collapse;

7. Fill and waste areas shall only be for the disposal of natural materials such as soil, rock, stumpage and the like. Disposal of trash and garbage is prohibited within the Town boundary;

8. Provision shall be made for site reclamation including but not limited to restoration approximating natural contours and establishment of permanent vegetative ground cover. Such reclamation shall commence within fifteen (15) days of completion of borrow, fill or waste activity, provided reclamation activities of a seasonal nature shall be completed by a date to be established by the Town engineer.

b. In the case of fill or waste activity, the Thomas Jefferson Soil and Water Conservation District may refer such plan to the Division of Solid and Hazardous Waste Management of the Virginia Department of Health for comment and recommendation. The Thomas Jefferson Soil and Water Conservation District may require additional information and plans from the applicant to facilitate such review.

c. In lieu of a plan and narrative as required by this section, the Town Council may accept a contractual agreement between the Virginia Department of Highways and Transportation and its contractor for a public road project; provided that such agreement satisfies at least to an equivalent extent the requirements and intent of this section.

d. The Town Council may require posting of a bond in an amount adequate to ensure compliance with the requirements of this section prior to commencement of such activity.

5.1.16 BODY SHOP

a. There shall be no storage of parts, materials or equipment except within an enclosed building.

b. No vehicle awaiting repair shall be located on any portion of such property so as to be visible from any public road or any residential property, and shall be limited to locations designed on the approved site plan.

5.1.17 TOWING AND TEMPORARY STORAGE OF MOTOR VEHICLES

a. This provision is intended to provide locations for the towing and/or temporary storage of collision/disabled vehicles. No body or mechanical work, painting, maintenance, servicing, disassembling, salvage or crushing of vehicles shall be permitted; except that the Planning Commission may authorize maintenance and servicing of rental vehicles in a particular case.

b. No vehicle shall be located on any portion of such property so as to be visible from any public road or any residential property and shall be limited to locations designated on the approved site plan.

5.1.18 MOTOR VEHICLE SALES AND TIRE SALES

a. There shall be no more than two buildings (repair shop and office) per parcel or parcels designated to sell motor vehicles or tires. These buildings must be on permanent foundations approved pursuant to the Virginia Uniform Statewide Building Code. No storage trailers or temporary buildings for storage are permitted.

b. There shall be no storage of parts, tires, materials or equipment except within an enclosed building.

- c. All vehicles must be organized and displayed on an asphalt or primed and double sealed surface.
- d. No displayed vehicles shall be inoperative motor vehicles, excepting those without license plates or inspection stickers and otherwise are operable.
- e. Nothing herein shall be construed to limit the authority of the governing body in the review of any special use permit, including, but not limited to, the regulations of hours of operation, location of doors and windows and the like.

5.1.19 VEHICLE SERVICE STATIONS AND VEHICLE REPAIR SHOPS

- a. There shall be no more than one building per parcel or parcels for businesses that sell gasoline or motor vehicle parts. This building must be on permanent foundations approved pursuant to the Virginia Uniform Statewide Building Code. No storage trailers or temporary buildings for storage are permitted.
- b. There shall be no storage of parts, tires, materials or equipment except within an enclosed building.
- c. No vehicles awaiting repair shall be stored so as to be visible from a public street or road or from an adjoining property for longer than thirty (30) days.
- d. Asphalt or primed and double sealed surfaces shall be provided for all vehicular traffic.
- e. Nothing herein shall be construed to limit the authority of the governing body in the review of any special use permit, including, but not limited to, the regulations of hours of operation, location of doors and windows and the like.

5.2 HOME OCCUPATIONS

5.2.1 CLEARANCE OF ZONING ADMINISTRATOR REQUIRED

Except as herein provided, no home occupation shall be established without approval of the Zoning Administrator, having consulted with and obtaining approval of the Mayor. Upon receipt of a request to establish a home occupation, Class B, the Zoning Administrator shall refer the same to the Virginia Department of Highways and Transportation for approval of entrance facilities and the Zoning Administrator shall determine the adequacy of existing parking for such use. No such clearance shall be issued for any home occupation, Class B, except after compliance with section 5.2.3 hereof.

5.2.2 REGULATIONS GOVERNING HOME OCCUPATIONS

5.2.2.1 The following regulations shall apply to any home occupation:

- a. Such occupation may be conducted either within the dwelling or an accessory structure, or both, provided that not more than twenty-five (25) percent of the floor area of the dwelling shall be used in the conduct of the home occupation and in no event shall the total floor area of the dwelling, accessory structure, or both, devoted to such occupation, exceed one thousand five hundred (1,500) square feet; provided that the use of accessory structures shall be permitted only in connection with home occupation, Class B.
- b. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign. Accessory structures shall be similar in facade to a single-family dwelling, private garage, shed, barn or other structure normally

expected in a rural or residential area and shall be specifically compatible in design and scale with other development in the area in which located. Any accessory structure which does not conform to the setback and yard regulations for main structures in the district in which it is located shall not be used for any home occupation.

- c. There shall be no sales on the premises, other than items handcrafted on the premises, in connection with such home occupation; this does not exclude beauty shops or one-chair barber shops.
- d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.
- e. All home occupations shall comply with performance standards set forth in section 4.13, *Performance Standards*.
- f. All Home occupations within a historic overlay district shall also comply with the more restrictive provisions of section 18, *Historic Overlay District – H*.
- g. Tourist lodging, nursing homes, nursery schools, day care centers and private schools shall not be deemed home occupations.

5.2.2.2 Prior to issuance of clearance for any home occupation, the Zoning Administrator shall require the applicant to sign an affidavit stating his/her clear understanding of and intent to abide by the foregoing regulations.

5.2.3 CERTAIN PERMITS REQUIRED

No home occupation, Class B, shall be established until a permit shall have been issued therefor.

5.2.4 REVOCATION

The Zoning Administrator, with approval of the Mayor, may revoke any clearance or permit issued pursuant to this section, after hearing, for noncompliance with this ordinance or any condition imposed under the authority of this section, with notice and hearings provided in accordance with section 15.1-431 of the Code of Virginia..

5.3 MOBILE HOMES ON INDIVIDUAL LOTS

While the Code of Virginia specifically provides for the restriction of mobile homes solely to mobile home parks among other regulatory provisions applicable to mobile home, the Town, in an effort to provide for affordable housing for all residents, permits mobile homes to be situated on individual lots in certain zoning districts. Single-wide and double-wide mobile homes shall be allowed by right in the RA district and double-wide mobile homes shall be allowed by right in all residential districts, except as provided within the historic overlay district. To ensure usage of such mobile homes for residential purposes, the following regulations shall apply:

- a. Such mobile home shall be located on a permanent foundation approved pursuant to the Virginia Uniform Statewide Building Code;
- b. Such mobile home shall not be used for any purpose other than a primary place of residence.

6.0 NONCONFORMITIES

6.1 CONTINUATION

6.1.1 Any use, activity, lot or structure in existence on the effective date of this ordinance which does not conform to the provisions of this ordinance relating to the district in which the same is situated, may be continued in accordance with the provisions of this section.

6.1.2 Any change in title to any property subject to the provisions of this section, including but not limited to the demise, renewal, expiration, termination or modification of any leasehold interest, may impair the nonconforming status of such property. Application for a special use permit (reference section 20.3.4, *Special Use Permits*) to continue a nonconforming status shall be made within ninety (90) days of a change in title, as described above, otherwise the original nonconforming use, activity, lot or structure shall be deemed abandoned.

6.1.3 Any such use, activity or structure which is discontinued for more than two (2) years shall be deemed abandoned and shall thereafter conform to the provisions of this ordinance relating to the district in which the same is situated.

6.1.4 Whenever any such use, activity or structure is changed to a conforming or a more restricted nonconforming use, activity or structure, the original use shall be deemed abandoned.

6.2 REPAIRS AND MAINTENANCE

6.2.1 On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to such extent that the structure is kept in a usable condition. 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 promoting public safety upon order of such official, including, whether by order or voluntary, improvements to promote fire safety and handicapped access (reference section 4.8, *Buildings and Structures: Handicapped Access*).

6.2.2 Nothing in this ordinance shall be deemed to preclude the Zoning Administrator from authorizing issuance of permits for the installation of potable water supply, toilets and other sanitary facilities including such building or structural expansion as may be necessary to house such facilities, provided that:

- a. Such facilities are not duplicative of facilities available within such building or structure;
- b. Any such building or structural expansion shall be limited in area to that necessary to house such facilities; and
- c. That usage of such building or structural expansion shall be devoted wholly and only to such sanitary facilities.

6.3 CHANGES IN DISTRICT BOUNDARIES

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this section.

6.4 EXPANSION OR ENLARGEMENT

6.4.1 The use of any building or structure shall conform to the provisions of this ordinance relating to the district in which the same is situated whenever such building or structure is enlarged, extended, reconstructed or structurally altered.

Nothing in this section shall prohibit the replacement of a nonconforming mobile home with a larger mobile home, provided the mobile home is labelled to indicate compliance with either the Virginia Industrialized Building and Mobile Home Safety Regulations or with the Federal Manufactured Home Construction and Safety Standards adopted by HUD, 1974, as amended; and, further provided that the conditions of section 5.3, *Mobile Homes on Individual Lots*, are met, if applicable.

6.4.2 The expansion, enlargement or extension of any building or structure located or constructed prior to or after the adoption of this ordinance shall be in accordance with the rear, side and front yard and setback regulations of this zoning ordinance.

6.4.3 A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

6.5 NONCONFORMING LOTS

6.5.1 Any lot of record at the time of the adoption of this ordinance which is less in area and/or width than the minimum required by this ordinance may be used in a manner consistent with the uses permitted for a lot having the minimum area and/or width so required; provided that the rear, side and front yard and setback requirements of this ordinance shall be maintained; and provided further that no such use shall be permitted which is determined by the Zoning Administrator to constitute a danger to the public health, safety and general welfare.

6.5.2 In the case of any subdivision approved and defined as such pursuant to the subdivision ordinance, and prior to the adoption of this ordinance and which was of record at the time of the adoption hereof, the rear, side and front yard and setback regulations of the zoning ordinance in effect at the time of such approval shall apply to all lots within such subdivision. In all other cases, the rear, side and front yard and setback regulations of this ordinance shall apply.

6.5.3 For purposes of this section, any lot shown on a preliminary or final subdivision plat which was approved by the proper authority of the applicable jurisdiction in accordance with law prior to the adoption of this ordinance, and which plat was subsequently recorded in due course, shall be deemed to be a lot of record at the time of the adoption of this ordinance.

6.5.4 Lots recorded prior to the adoption of and not in conformity with this ordinance may be resubdivided and redeveloped, in whole or part, at the option of the owner(s) of any group of contiguous lots therein; but every such resubdivision shall conform to this ordinance and all other Town ordinances currently applicable; provided, however, that no such resubdivision, which in the opinion of the Zoning Administrator shall be substantially more conforming to the requirements of section 4, *General Regulations*, and the area and bulk regulations of the district in which such subdivision is situated, shall be denied for failure to comply with the provisions of this ordinance.

6.6 RESTORATION OR REPLACEMENT

6.6.1 Whenever any nonconforming structure, except signs, or structure the use of which is nonconforming is damaged as a result of factors beyond the control of the owner and/or occupant thereof, such structure may be

repaired and/or reconstructed and the nonconforming use thereof continued as provided in this section provided that such repair and/or reconstruction shall be commenced within twelve (12) months and completed within twenty-four (24) months from the date of such damage; and provided further that no such structure shall be enlarged or expanded as a part of such repair and/or reconstruction.

6.6.2 Any such structure which is substantially destroyed as a result of any act or omission within the control of the owner thereof shall be deemed to have been abandoned in accordance with section 6.1.3 of this section.

ARTICLE III. DISTRICT REGULATIONS

7.0 ESTABLISHMENT OF DISTRICTS

For the purposes of this ordinance, the Town of Scottsville hereby divided into the following zoning districts:

	<u>Further described in section</u>
Rural Areas – RA	8
Village Residential – VR	9
Residential – R-3	10
Commercial – C	11
Industrial Districts, Generally:	12
Light Industry – LI	13
Heavy Industry – HI	14
Public – P	15
Overlay Districts, Generally:	16
Flood Hazard – FH	17
Historic – H	18
Entrance Corridor – EC	19

8.0 RURAL AREAS DISTRICT – RA

8.1 INTENT, WHERE PERMITTED

This district (hereafter referred to as RA) is hereby created for the following purposes:

- Preservation of agricultural and forestal lands and activities;
- Water supply and flood impoundment areas protection;
- Limited service delivery to the rural areas; and
- Conservation of natural, scenic, and historic resources.

Residential development not related to preservation of agricultural and forestal lands shall be encouraged to locate in the village residential and mixed use areas as designated in the comprehensive plan where services and utilities are available.

In regard to agricultural and forestal lands preservation, this district is intended to preserve scenic agricultural and forestal lands and lifestyle opportunities by providing lot areas consistent with this preservation.

Roadside strip development is to be discouraged through the various design requirements contained herein.

8.2 PERMITTED USES

8.2.1 BY RIGHT

The following uses shall be permitted in any RA district subject to the requirements and limitations of these regulations:

- a. Detached single-family dwellings, including guest cottages and rental of the same; provided that yard, area and other requirements of section 8.4, conventional development by right, shall be met for each such use whether or not such use is on an individual lot subject to section 8.3.
- b. Side-by-side duplexes subject to the provisions of section 8.4; provided that density is maintained and provided that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
- c. Agriculture, forestry, and fishery uses except as otherwise expressly provided.
- d. Game preserves, wildlife sanctuaries and fishery uses.
- e. Wayside stands for display and sale of agricultural products produced on the premises (reference 5.1.11, *Wayside Stand*).
- f. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with health and sanitation regulations and all other applicable law (reference 5.1.6, *Public Utility Structures, Uses*).

- g. Accessory uses and buildings including home occupation, Class A (reference 5.2, *Regulations Governing Home Occupations*) and storage buildings.
- h. Temporary construction uses (reference 5.1.10, *Temporary Construction Headquarters, Yards*).
- i. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 5.1.6, *Public Utility Structures, Uses*). [NOTE: These uses are common to the *Public District – P* (section 14), but also are permitted in other districts.]
- j. Veterinary services – off-site treatment only.
- k. Divisions of land in accordance with section 8.3.
- l. Tourist lodging (reference 5.1.9, *Tourist Lodging*).
- m. Farm winery.
- n. Mobile homes on individual lots (reference 5.3, *Mobile Homes on Individual Lots*).
- o. Bed and breakfast inns.

8.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*:

- a. Community center.
- b. Clubs, lodges, civic, patriotic, fraternal organizations.
- c. Fire and rescue squad stations (reference 5.1.3, *Fire, Ambulance, Rescue Squad Station (Volunteer)*).
- d. Swim, golf, tennis or similar athletic facilities (reference 5.1.8, *Swimming, Golf, Tennis Clubs*).
- e. Private schools.
- f. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances, unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances.
- g. Day care, child care or nursery facility (reference 5.1.1, *Day Care, Nursery Facility*).
- h. Horse show grounds, permanent.
- i. Commercial stable.
- j. Commercial kennel (reference 5.1.5, *Commercial Kennel, Veterinary, Animal Hospital*).

- k. Veterinary services, animal hospital (reference 5.1.5, *Commercial Kennel, Veterinary, Animal Hospital*).
- l. Day camp, boarding camp.
- m. Country store.
- n. Commercial fruit or agricultural produce packing plants.
- o. Flood control dams and impoundments.
- p. Restaurants and inns located within an historic landmark or designated as an historic landmark pursuant to section 18, provided such structure has been used as a restaurant, tavern or inn; in such case the structure shall be restored as faithfully as possible to the architectural character of the period and shall be maintained consistent therewith. Provisions of section 18, *Historic Overlay District – H*, applies to all such structures and uses.
- q. Divisions of land as provided in section 8.5.
- r. Permitted residential uses as provided in section 8.5.
- s. Home occupations, Class B (reference 5.2, *Regulations Governing Home Occupations*).
- t. Cemetery.
- u. Crematorium.
- v. Multi-crypt mausoleum.
- w. Church building and adjunct cemetery.
- x. Gift, craft and antique shops.
- y. Public garage.
- z. Borrow area, borrow pit.
- aa. Convent, Monastery.
- bb. Temporary events sponsored by local nonprofit organizations which are related to, and supportive of the RA, rural areas, district (reference 5.1.14, *Temporary Events Sponsored by Local Nonprofit Organizations*).
- cc. Agricultural Museum.
- dd. Theater, outdoor drama.
- ee. Agricultural service occupation (subject to standards in 4.13, *Performance Standards*).
- ff. Mobile homes, individual, qualifying under the following requirements (reference 5.3, *Mobile Homes on Individual Lots*):

1. A property owner residing on the premises in a permanent home wishes to place a mobile home on such property in order to maintain a full-time agricultural employee.
2. Due to the destruction of a permanent home an emergency exists. A permit can be issued in this event not to exceed twelve (12) months.

The Zoning Administrator, in coordination with the Town Council, shall be authorized to issue permits in accordance with the intent of this ordinance and shall be authorized to require or seek any information which may be necessary in making a determination of section 8.2.2.ff.1 and 2 of the aforementioned uses.

gg. Borrow area, borrow pit, not exceeding an aggregate volume of fifty thousand (50,000) cubic yards including all borrow pits and borrow areas on any one parcel of record on the adoption date of this provision (reference 5.1.15, *Borrow, Fill or Waste Areas*).

8.3 APPLICATION OF REGULATIONS FOR DEVELOPMENT BY RIGHT

The following provisions shall apply to any parcel of record as of the date of adoption of this ordinance.

8.3.1 CONVENTIONAL DEVELOPMENT

Development by right, regulated by section 8.5, shall apply to the division of a parcel which:

- a. Has an area not exceeding thirty-one (31) acres, except in such case where this limitation is precluded by other provisions of this ordinance;
- b. Is subdivided into five (5) or fewer lots, each of less than twenty-one (21) acres in area; and
- c. Has five (5) or fewer dwelling units located thereon at the time of adoption of this ordinance.

8.3.2 ALTERNATE DEVELOPMENT

In addition to the foregoing, there shall be permitted by right any division of land into parcels each of which shall be twenty-one (21) acres or more in area. No such parcel shall be included in determining the number of parcels which may be created by right pursuant to section 8.3.1; provided that

- a. No such division shall affect the number of parcels which may be divided pursuant to section 8.3.1;
- b. There may be located not more than one (1) dwelling unit on any parcel created pursuant to this section;
- c. At the time of any such division, the owner of the parcel so divided shall designate the number of parcels into which each parcel so divided may be further divided pursuant to section 8.3.1 together with aggregate acreage limitations in accordance with section 8.3.1; and
- d. No such division shall increase the number of parcels which may be created pursuant to section 8.3.1.

8.3.3 RURAL PRESERVATION DEVELOPMENT

8.3.3.1 DEFINITIONS

The following definitions shall apply to any rural preservation development created under the provision of section 8, *Rural Areas District – RA*:

Development Lot. A lot within a rural preservation development, other than a rural preservation tract, created for the purpose of residential or other permitted usage.

Rural Preservation Development. A subdivision of land consisting of development lots together with a rural preservation tract.

Rural Preservation Tract. A lot, the usage and diminishment of which is restricted and protected by legal arrangements to ensure its maintenance and preservation for the purpose of: preservation of agricultural and forestal land and activity; water supply and flood impoundment area protection; and/or conservation of natural, scenic or historic resources.

8.3.3.2 INTENT; DESIGN STANDARDS

The rural preservation development option is intended to encourage more effective land usage in terms of the goals and objectives for the rural areas as set forth in the comprehensive plan than can be achieved under conventional development. To this end, application for rural preservation development shall be reviewed for:

- a. Preservation of agricultural and forestal lands and activities;
- b. Water supply and flood impoundment area protection; and/or
- c. Conservation of natural, scenic or historic resources.

More specifically, in accordance with design standards of the comprehensive plan and where deemed reasonably practical by the Planning Commission:

- d. Development lots shall not encroach into prime, important or unique agricultural or forestal soils as the same shall be shown on the most recent published maps of the United States Natural Resource Conservation Service or other source deemed of equivalent reliability by the Conservation Service;
- e. Development lots shall not encroach into areas of critical slope or flood plain and shall be situated as far as possible from public drinking water supply tributaries and public drinking water supply impoundments;
- f. Development lots shall be so situated and arranged as to preserve historic and scenic settings deemed to be of importance to the general public and natural resource areas whether such features are on the parcel to be developed or adjacent to such parcel;
- g. Development lots shall be confined to one area of the parcel and shall be situated so that no portion of the rural preservation tract shall intrude between any development lots;
- h. All development lots shall have access restricted to an internal street in accordance with the Town subdivision ordinance;

i. Nothing stated herein shall be deemed to obligate the Planning Commission to approve a rural preservation development upon finding in a particular case that such proposal does not forward the purposes of rural preservation development as set forth hereinabove and that the public purpose to be served would be equally or better served by conventional development.

8.3.3.3 SPECIAL PROVISIONS

In addition to design standards as set forth in section 8.3.3.2 and other regulation, the following special provisions shall apply to any rural preservation development:

- a. The maximum number of lots within a rural preservation development shall be the same as may be achievable pursuant to section 8.3.1 and section 8.3.2 and other applicable law. Each rural preservation tract shall count as one (1) lot. In the case of any parcel of land which, prior to application for rural preservation development, has been made subject to a conservation, open space or other similar easement which restricts development on the parcel, the total number of lots available for rural preservation development shall not exceed the number available for conventional development as limited by any such previously imposed easement or easements;
- b. Section 8.3.3.3.a notwithstanding, no rural preservation development shall contain more than twenty (20) development lots; except that the Town Council may authorize more than twenty (20) development lots by issuance of a special use permit pursuant to section 8.5.2;
- c. Provisions of section 8.3.3, rural preservation development, shall be applied to the entire parcel. Combination of conventional and rural preservation development within the parcel shall not be permitted, provided that the total number of lots achievable under section 8.3.1 and section 8.3.2 shall be permitted by authorization of more than one (1) rural preservation tract. Nothing contained herein shall be deemed to preclude the Planning Commission from approving a rural preservation development for multiple tracts of adjoining land, or on land divided or otherwise altered prior to the effective date of this provision; provided that, in either case, the provisions of section 8.3.3 shall be applicable;
- d. The area devoted to development lots together with the area of roadway necessary to provide access to such lots shall not exceed the number of development lots multiplied by a factor of six (6) expressed in acres;
- e. No rural preservation development shall contain less than one (1) rural preservation tract. The Planning Commission may authorize more than one (1) rural preservation tract in a particular case pursuant to the various purposes of rural preservation development as set forth in section 8.3.3.2 or in accord with section 8.3.3.3.c, as the case may be;
- f. No rural preservation tract shall consist of less than forty (40) acres. Except as specifically permitted by the Planning Commission at time of establishment, not more than one (1) dwelling unit shall be located on any rural preservation tract or development lot. No rural preservation tract shall be diminished in area. These restrictions shall be guaranteed by perpetual easement accruable to the Town. The Town Attorney shall serve as agent for the Town Council to accept such easement. Thereafter, such easement may be modified or abandoned only by mutual agreement of the grantees to the original agreement.

8.4 AREA AND BULK REGULATIONS

REQUIREMENTS	DIVISIONS BY RIGHT AND SPECIAL USE PERMITS
Gross density	0.5 du/ac
Minimum lot size	2.0 acres
Minimum frontage existing public roads	250 feet
Minimum frontage internal public or private roads	150 feet
Yards, minimum:	
Front (existing public roads)	75 feet
Front (internal public or private road)	25 feet
Side	25 feet
Rear	35 feet
Maximum structure height	35 feet

8.5 SPECIAL PROVISIONS FOR MULTIPLE SINGLE-FAMILY DWELLING UNITS

8.5.1 LIMITATIONS ON DIVISIONS PERMITTED BY RIGHT

Divisions of land shall be permitted as provided hereinabove; except that no parcel of land of record on the date of the adoption of this ordinance may be divided into an aggregate of more than five (5) parcels except as provided in section 8.3.2 and section 8.5.2 hereof nor shall there be constructed on any such parcel an aggregate of more than five (5) units.

8.5.2 WHERE PERMITTED BY SPECIAL USE PERMIT

8.5.2.1 The Town Council may authorize the issuance of a special use permit for:

- a. More lots than the total number permitted under section 8.3.1 and section 8.3.2; provided that no such permit shall be issued for property within the boundaries for the watershed of any public drinking water supply impoundment; and/or
- b. More development lots than permitted under section 8.3.3.3.b.

8.5.2.2 The Town Council shall determine that such division is compatible with the neighborhood, with reference to the goals and objectives of the comprehensive plan relating to rural areas including the type of division proposed and specifically, as to this section only, with reference to the following:

- a. The size, shape, topography and existing vegetation of the property in relation to its suitability for agricultural or forestal production as evaluated by the United States Natural Resource Conservation Service or the Virginia Department of Forestry.

- b. The historic commercial agricultural or forestal uses of the property since 1950, to the extent that is reasonably available.
- c. If located in an agricultural or forestal area, the probable effect of the proposed development on the character of the area. For the purposes of this section, a property shall be deemed to be in an agricultural or forestal area if fifty (50) percent or more of the land within one (1) mile of the border of such property has been in commercial agricultural or forestal use within five (5) years of the date of the application for special use permit. In making this determination, mountain ridges, major streams and other physical barriers which detract from the cohesiveness of an area shall be considered.
- d. The relationship of the property in regard to developed rural areas. For the purposes of this section, a property shall be deemed to be located in a developed rural area if fifty (50) percent or more of the land within one (1) mile of the boundary of such property was in parcels of record of five (5) acres or less on the adoption date of this ordinance. In making this determination, mountain ridges, major streams and other physical barriers which detract from the cohesiveness of an area shall be considered.
- e. The relationship of the proposed development to existing and proposed population centers, services and employment centers. A property within areas described below shall be deemed in proximity to the area or use described if within one-half (½) mile roadway distance of a historic overlay district.
- f. The probable effect of the proposed development on capital improvements programming in regard to increased provision of services.
- g. The traffic generated from the proposed development would not, in the opinion of the Virginia Department of Transportation:
1. Occasion the need for road improvement;
 2. Cause a tolerable road to become a nontolerable road;
 3. Increase traffic on an existing nontolerable road.
- h. With respect to applications for special use permits for land lying wholly or partially within the boundaries for the watershed of any public drinking water impoundment or the Mink Creek flood impoundment area, the following additional factors shall be considered:
1. The amount and quality of existing vegetative cover as related to filtration of sediment, phosphorous, heavy metals, nitrogen and other substances determined harmful to water quality for human consumption;
 2. The extent to which existing vegetative cover would be removed or disturbed during the construction phase of any development;
 3. The amount of impervious cover which will exist after development;
 4. The proximity of any paved (pervious or impervious) area, structure, or drain field to any perennial or intermittent stream or impoundment; or during the construction phase, the proximity of any disturbed area to any such stream or impoundment;
 5. The type and characteristics of soils including suitability for septic fields and erodibility;

6. The percentage and length of all slopes subject to disturbance during construction or upon which any structure, paved area (pervious or impervious) or active recreational area shall exist after development;
7. The estimated duration and timing of the construction phase of any proposed development and extent to which such duration and timing are unpredictable;
8. The degree to which original topography or vegetative cover have been altered in anticipation of filing for any permit hereunder;
9. The extent to which the standards of the water and sewers ordinance can only be met through the creation of artificial devices, which devices will:
 - (a) Require periodic inspection and/or maintenance;
 - (b) Are susceptible to failure or overflow for run-off associated with any one hundred year or more intense storm.

8.5.2.3 MATERIALS TO BE SUBMITTED BY THE APPLICANT

The Planning Commission and the Town Council may require the applicant to submit such information as deemed necessary for the adequate review of such application provided that such information shall be directly related to sections 8.5.2.2.a,b,c and h.

9.0 VILLAGE RESIDENTIAL – VR

9.1 INTENT, WHERE PERMITTED

This district (hereafter referred to as VR) is created to establish a plan implementation zone that:

- Encourages residential development in areas of the Town designated as village areas or town area in the comprehensive plan;
- Permits a variety of housing types;
- Provides incentives for residential development by allowing variations in lot size, density and frontage requirements;
- Encourages compact development; and
- Encourages creative design which allows for filling in of vacant areas and which is compatible with the character of existing lots and buildings.

It is intended that VR districts will be located in such areas where no public water or sewerage service currently is available or in such areas partially or fully served by approved central water systems or central sewerage systems.

9.2 PERMITTED USES

9.2.1 BY RIGHT

The following uses shall be permitted subject to requirements and limitations of this ordinance:

- a. Detached single-family dwellings.
- b. Side-by-side duplexes provided that density is maintained and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
- c. Semi-detached and attached single-family dwellings such as triplexes, quadraplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
- d. Rental of permitted residential uses and guest cottages, provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
- e. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with health and sanitation regulations and all other applicable law.

- f. Accessory uses and buildings including home occupation, Class A (reference 5.2, *Regulations Governing Home Occupations*) and storage buildings.
- g. Temporary construction uses (reference 5.1.10, *Temporary Construction Headquarters, Yards*).
- h. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 5.1.6, *Public Utility Structures, Uses*). [NOTE: These uses are common to the *Public District – P* (section 14), but also are permitted in other districts.]
- i. Wayside stands for the display and sale of seasonal agricultural products (reference 5.1.11).
- j. Homes for developmentally disabled persons (reference 5.1.2, *Home for Developmentally Disabled Persons*).
- k. Agriculture.
- l. Double-wide mobile homes on individual lots (reference 5.3, *Mobile Homes on Individual Lots*).

9.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*:

- a. Community center.
- b. Clubs, lodges, civic, fraternal, patriotic.
- c. Fire and rescue squad stations (reference 5.1.3, *Fire, Ambulance, Rescue Squad Station (Volunteer)*).
- d. Swim, golf, tennis or similar athletic facilities (reference 5.1.8, *Swimming, Golf, Tennis Clubs*).
- e. Private schools.
- f. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances (reference 5.1.6, *Public Utility Structures, Uses*).
- g. Day care, child care or nursery facility (reference 5.1.1, *Day Care, Nursery Facility*).
- h. Agricultural service occupation.
- i. Home occupation, Class B (reference 5.2, *Regulations Governing Home Occupations*).
- j. Cemeteries.
- k. Churches.
- l. Bed and Breakfast Inns.

- m. Cluster development of permitted residential uses.
- n. Tourist lodgings (reference 5.1.9, *Tourist Lodging*).
- o. Arts and education center. (Added 5-21-07)

9.3 AREA AND BULK REGULATIONS (Amended 8-17-2009)

REQUIREMENTS	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT	CLUSTER DEVELOPMENT, PUBLIC WATER AND SEWER
Gross density	0.7 du/acre	0.7 du/acre	0.7 du/acre
Minimum lot size	60,000 sq ft	40,000 sq ft	7,500 sq ft
Minimum frontage: public, private	130 feet	110 feet	40 feet
Yards, minimum: Front Side Rear	25 feet 15 feet 20 feet	25 feet 15 feet 20 feet	20 feet 10 feet 20 feet
Maximum structure height	35 feet	35 feet	35 feet
Other requirements			Minimum 25% to be open space

9.4 CLUSTER DEVELOPMENT OPTION REGULATIONS

At the option of the owner, regulations under cluster development provisions may be used for cluster development of the land to be subdivided and developed. Use of cluster provisions shall be subject to other requirements of this ordinance, applicable health requirements and the provisions of the Town subdivision ordinance.

10.0 RESIDENTIAL – R-3

10.1 INTENT, WHERE PERMITTED

This district (hereafter referred to as R-3) is created to establish a plan implementation zone that:

- Provides for compact, medium-density, single-family development;
- Permits a variety of housing types; and
- Provides incentives for clustering of development.

R-3 districts may be permitted within residential and mixed land use areas as designated in the comprehensive plan.

10.2 PERMITTED USES

10.2.1 BY RIGHT

The following uses shall be permitted subject to requirements and limitations of this ordinance:

- a. Detached single-family dwellings.
- b. Side-by-side duplexes provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
- c. Semi-detached and attached single-family dwellings such as triplexes, quadraplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
- d. Rental of permitted residential uses and guest cottages, provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
- e. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with health and sanitation regulations and all other applicable law.
- f. Accessory uses and buildings including home occupation (reference 5.2, *Regulations Governing Home Occupations*) and storage buildings.
- g. Temporary construction uses (reference 5.1.10, *Temporary Construction Headquarters, Yards*).
- h. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or

operated by the Rivanna Water and Sewer Authority (reference 5.1.6, *Public Utility Structures, Uses*).
[NOTE: These uses are common to the *Public District – P* (section 14), but also are permitted in other districts.]

i. Homes for developmentally disabled persons (reference 5.1.2, *Home for Developmentally Disabled Persons*).

10.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*:

- a. Community center.
- b. Clubs, lodges, civic, fraternal, patriotic.
- c. Fire and rescue squad stations (reference 5.1.3, *Fire, Ambulance, Rescue Squad Station (Volunteer)*).
- d. Swim, golf, tennis, or similar athletic facilities (reference 5.1.8, *Swimming, Golf, Tennis Clubs*).
- e. Private schools.
- f. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances (reference 5.1.6, *Public Utility Structures, Uses*).
- g. Day care, child care or nursery facility (reference 5.1.1, *Day Care, Nursery Facility*).
- h. Rest home, nursing home, convalescent home, orphanage or similar institution (reference 5.1.7, *Rest Home, Nursing Home, Convalescent Home, Orphanage*).
- i. Hospitals.
- j. Home occupation, Class B (reference 5.2, *Regulations Governing Home Occupations*).
- k. Churches.
- l. Cemeteries.
- m. Tourist lodgings (reference 5.1.9, *Tourist Lodging*).

10.3 AREA AND BULK REGULATIONS

REQUIREMENTS	CONVENTIONAL DEVELOPMENT	CLUSTER DEVELOPMENT
Gross density	3 du/acre	3 du/acre
Minimum lot size	14,500 sq ft	9,700 sq ft
Yards, minimum:		
Front	25 feet	25 feet
Side	10 feet	10 feet
Rear	20 feet	20 feet
Maximum structure height	35 feet	35 feet

10.4 CLUSTER DEVELOPMENT OPTION REGULATIONS

At the option of the owner, cluster development may be used for development of the land to be subdivided and developed. Use of cluster provisions shall be subject to requirements of this ordinance, applicable health requirements and the provisions of the Town subdivision ordinance.

10.5 BUILDING SEPARATION

In any case in which there is more than one main structure on any parcel, there shall be a minimum of thirty (30) feet between such structures. This provision shall not apply to structures built to a common wall.

11.0 COMMERCIAL DISTRICT – C

11.1 INTENT, WHERE PERMITTED

It is intended that the commercial district hereby and hereafter created shall be for the purposes of providing places to conduct commerce and business as well as to provide places of employment and strengthen the local economic base. To these ends, activities involving retail, wholesale and service business shall be permitted at appropriate locations within areas designated as the uptown and downtown commercial centers in the comprehensive plan. A review of transportation impacts shall be a major consideration in the establishment and development of all commercial districts.

11.2 PERMITTED ACCESSORY USES AND STRUCTURES

Uses and structures which are customarily accessory and clearly incidental shall be permitted, provided establishment of the same shall not be permitted until construction has commenced on the principal building or the principal use has been established; and provided further that in no case shall a parking structure other than a parking lot or garage located entirely at and/or below grade, be deemed to be accessory to any use in any commercial district. In no case shall a drive-in window be deemed to be accessory to any use in any commercial district.

11.3 OFF-STREET PARKING AND LOADING REQUIREMENTS

Off-street parking and loading space requirements shall be in accordance with section 4.11, *Off-Street Parking and Loading Requirements*.

11.4 HEIGHT REGULATIONS

Except as otherwise provided in section 4.9, *Height of Building and Other Structures*, structures may be erected to a height not to exceed thirty-five (35) feet.

11.5 SIGN REGULATIONS (Amended 5-21-2001)

Sign regulations shall be as prescribed in section 4.14, *Signs*.

11.6 MINIMUM LANDSCAPED AREA

See site development plan requirements section 24.11.9, *Landscaping and Screening Requirements*.

11.7 MINIMUM YARD REQUIREMENTS

11.7.1 ADJACENT TO PUBLIC STREETS IN THE UPTOWN COMMERCIAL CENTER

No portion of any structure, except signs, shall be erected closer than thirty (30) feet to any public street right-of-way. No off-street parking or loading space shall be located closer than ten (10) feet to any public street right-of-way.

11.7.2 ADJACENT TO RESIDENTIAL AND RURAL AREAS DISTRICTS

No portion of any structure, excluding signs, shall be located closer than fifty (50) feet to any residential or rural areas district. No off-street parking or loading space shall be located closer than twenty (20) feet to any residential or rural areas district.

11.7.3 BUFFER ZONE ADJACENT TO RESIDENTIAL AND RURAL AREAS DISTRICTS

No construction activity including grading or clearing of vegetation shall occur closer than twenty (20) feet to any residential or rural areas district. Screening shall be provided as required in section 24.11.9, *Landscaping and Screening Requirements*.

Except, the Planning Commission may waive this requirement in a particular case where it has been demonstrated that grading or clearing is necessary or would result in an improved site design, provided that:

- a. Minimum screening requirements are met; and
- b. Existing landscaping in excess of minimum requirements is substantially restored.

11.8 UTILITY REQUIREMENTS

All utility lines are to be placed underground where practical.

11.9 BUILDING SEPARATION

Whether or not located on the same parcel, main structures shall be constructed and separated in accordance with Table 401 Fire Resistance Ratings of Structure Elements of the BOCA Basic Building Code, 1994 Edition or its equivalent in the current edition of the BOCA Basic Building Code.

11.10 PERMITTED USES

11.10.1 BY RIGHT

The following uses shall be permitted in any C district subject to the requirements and limitations of these regulations. The Zoning Administrator, after consultation with the Planning Commission and approval of the Town Council, may permit as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character and more specifically, similar in terms of locational requirements, operational characteristics, visual impact and traffic generation. Appeals from the Zoning Administrator's decision shall be as generally provided in section 22.3, *Appeals to the Board of Zoning Appeals*.

- a. The following retail sales and service establishments:
 1. Antique, gift, jewelry, notion and craft shops.
 2. Clothing, apparel and shoe shops.
 3. Department store.
 4. Drug store, pharmacy.
 5. Florist.
 6. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
 7. Furniture and home appliances (sales and service).

8. Hardware store.
 9. Musical instruments.
 10. Newsstands, magazines, pipe and tobacco shops.
 11. Optical goods.
 12. Photographic goods.
 13. Visual and audio appliances.
 14. Sporting goods.
 15. Retail nurseries and greenhouses.
- b. The following services and public establishments:
1. Administrative and business offices.
 2. Professional offices, including medical, dental and optical.
 3. Barber, beauty shops.
 4. Churches, cemeteries.
 5. Clubs, lodges, civic, fraternal, patriotic.
 6. Eating establishments. (Amended 7-18-2011)
 7. Financial institutions.
 8. Fire and rescue squad stations (reference 5.1.3, *Fire, Ambulance, Rescue Squad Station (Volunteer)*).
 9. Funeral homes.
 10. Health spas.
 11. Indoor theaters.
 12. Laundries, dry cleaners.
 13. Libraries, museums.
 14. Nurseries, day care centers (reference 5.1.1, *Day Care, Nursery Facility*).
 15. Tailor, seamstress.
 16. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and

operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority.

17. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 5.1.6, *Public Utility Structures, Uses*). [NOTE: These uses are common to the *Public District – P* (section 14), but also are permitted in other districts.]

18. Temporary construction uses (reference 5.1.10, *Temporary Construction Headquarters, Yards*).

19. Medical center.

20. Indoor athletic facilities.

21. Accessory uses and structures incidental to the principal uses provided herein. Such uses in combination shall not occupy more than twenty (20) percent of the floor area of buildings on the site. The following accessory uses shall be permitted:

(a) Eating establishments.

(b) Newsstands.

(c) Establishments for the sale of office supplies and service of office equipment.

(d) Data processing services.

(e) Central reproduction and mailing services and the like.

(f) Ethical pharmacies, laboratories and establishments for the production, fitting and/or sale of optical or prosthetic appliances on sites containing medical, dental or optical offices.

(g) Sale/service of goods associated with the principal use such as, but not limited to: musical instruments, musical scores, text books, artist's supplies and dancing shoes and apparel.

22. Certain services that are not located in a historic overlay district. The following accessory uses shall be permitted by right, excepting in a historic district:

(a) Laundromat (provided that an attendant shall be on duty at all hours during operation).

(b) Automobile service stations (reference 5.1.12, *Sale and/or Storage of Petroleum Products including Kerosene, Gasoline, and Heating Oil*, 5.1.17, *Towing and Temporary Storage of Motor Vehicles*, 5.1.18, *Exterior Storage, Display of Motor Vehicles and Vehicle Components*).

23. Certain mixed use buildings, apartments and other multiple family dwellings as provided for in section 18.3.5, *Permitted Uses*, of the *Historic Overlay District*.

c. The following low impact arts and crafts, and services: (Added 3-20-2000)

Uses may include the fabrication, treatment, packaging and incidental storage of such products as are listed herein for exhibition and retail sale on premises. Such uses shall not have discernible impacts of noise, odor, light glare, vibration or emissions at the property line. For the purposes of this section, the word *discernible* shall be defined as able to clearly distinguish from the ambient background as determined by the Zoning Administrator, and may impose a more restrictive performance standard than permitted in section 4.13, *Performance Standards*. Otherwise permitted uses that entail an on-site kiln, forge, or other hazardous appliance or equipment, volatile fluids or materials, or other hazardous conditions shall not be a use permitted by right.

Arts and crafts, and services producing the following handmade products and complying with the above:

1. Paintings, drawings, engravings;
2. Fabric art;
3. Pottery, ceramic art, enameling;
4. Jewelry, silverware;
5. Glassware, crystal engravings;
6. Basketry;
7. Collage, papermaking, paper art;
8. Prints, silk screens;
9. Toys, dolls, miniatures;
10. Bookbinding;
11. Leather items;
12. Stained glass items;
13. Watches, clocks;
14. Furniture upholstery, repair.

11.10.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*:

- a. Commercial recreation establishments including but not limited to amusement centers, bowling alleys, pool halls and dance halls.
- b. Hotels, motels and inns.
- c. Parking structures located wholly or partly above grade.

- d. Automobile service stations (reference 5.1.12, *Sale and/or Storage of Petroleum Products including Kerosene, Gasoline, and Heating Oil*, 5.1.17, *Towing and Temporary Storage of Motor Vehicles*, 5.1.18, *Exterior Storage, Display of Motor Vehicles and Vehicle Components*) located in a historic overlay district.
- e. Laundromat located in a historic overlay district (provided that an attendant shall be on duty at all hours during operation).
- f. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
- g. Laboratories, medical or pharmaceutical.
- h. Community center.
- i. Clubs, lodges, civic, fraternal, patriotic.
- j. Fire and rescue squad stations (reference 5.1.3, *Fire, Ambulance, Rescue Squad Station (Volunteer)*).
- k. Private schools.
- l. Rest home, nursing home, convalescent home, orphanage or similar institution (reference 5.1.7, *Rest Home, Nursing Home, Convalescent Home, Orphanage*).
- m. Certain residential uses as follows:
 - 1. Detached single-family dwellings.
 - 2. Semi-detached and attached single-family dwellings such as duplexes, triplexes, quadraplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
 - 3. Multiple-family dwellings such as garden apartments.
 - 4. Cluster development of permitted residential uses.
 - 5. Rental of permitted residential uses and guest cottages; provided that yard, area and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lot.
 - 6. Homes for developmentally disabled persons (reference 5.1.2, *Home for Developmentally Disabled Persons*).
 - 7. Boarding houses.
 - 8. Tourist lodgings (reference 5.1.9, *Tourist Lodging*).
 - 9. Accessory uses and buildings, including home occupation Classes A and B (reference 5.2, *Home Occupations*) and storage buildings.

n. Certain arts and crafts, services, and light assembly. (Added 3-20-2000)

Uses may include the fabrication, treatment, packaging, and incidental storage of such products as are listed herein. Such uses shall not have discernible impacts of noise, odor, light, glare, vibration or emissions at the property line. For the purposes of this section, the word *discernible* shall be defined by the performance standards of section 4.13, *Performance Standards*; however, the conditions imposed by the Town Council may set more restrictive performance standards than permitted in section 4.13.

Arts and crafts, services, and light assembly producing the following products and services and complying with the above:

1. Sculpture in the media of wood, stone, and metal;
2. Iron goods;
3. Handcrafted furniture, cabinets;
4. Small decorative foods, fixtures;
5. Sports equipment and gear (not to include firearms);
6. Musical instruments;
7. Any other uses that are otherwise permitted by right but are excluded for the reason that they involve a kiln, forge, or other hazardous appliance, material, or condition on site or do not include retail sales on premises.

The Zoning Administrator, after consultation with the Planning Commission and approval of Town Council, may include a use not identified, but similar to and with no greater impact than, those listed above (reference guidance in section 11.10.1).

When considering a special use permit for arts and crafts, services, and light assembly that are to be located within a historic overlay district (H), conditions shall be imposed as necessary to maintain the higher standards and objective of the H district.

o. Microbrewery. (Added 5-16-2011)

11.10.3 BY SPECIAL USE PERMIT, EXCEPT IN A HISTORIC OVERLAY DISTRICT

The following uses shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*, except in a historic overlay district:

- a. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances (reference 5.1.6, *Public Utility Structures, Uses*).
- b. Hospitals.
- c. (Removed 7-18-2011)
- d. Veterinary office and hospital (reference 5.1.5, *Commercial Kennel, Veterinary, Animal Hospital*).

- e. Motor vehicle sales and rental.
- f. Drive-in windows serving or associated with permitted uses.
- g. Automobile, truck repair and/or body shop, permitted in the uptown commercial center only.
- h. Research and development activities including experimental testing.
- i. Automobile and/or truck wash.
- j. Swim, golf, tennis or similar athletic facilities (reference 5.1.8, *Swimming, Golf, Tennis Clubs*).

12.0 INDUSTRIAL DISTRICTS, GENERALLY

12.1 INTENT, WHERE PERMITTED

It is intended that industrial districts hereby and hereafter created shall be for the purpose of providing places of employment and strengthening the local economic base. To this end, activities involving industrial and limited commercial land uses shall be encouraged in amounts and locations designated for such purposes in the comprehensive plan. It is further intended that the enlargement and expansion of existing uses shall be encouraged as well as development of new uses appropriate to the character of industrial districts.

12.2 APPLICATION

Where industrial districts have been established prior to the enactment of this ordinance, and such districts are recognized on the zoning map, the same shall be considered to have been established under this ordinance in compliance with minimum area required for establishment of districts (reference sections 13.3 and 14.3, *Minimum Area Required for Establishment of District*).

12.3 PERMITTED ACCESSORY USES AND STRUCTURES

Uses and structures which are customarily accessory and clearly incidental shall be permitted, provided establishment of the same shall not be permitted until construction has commenced on the principal building or the principal use has been established; and provided further that in no case shall a parking structure, other than a parking lot or garage located entirely at or below grade, be deemed to be accessory to any use in any industrial district. In no case shall a drive-in window be deemed to be accessory to any use in any commercial district.

12.4 STANDARD RATIOS

12.4.1 FLOOR AREA RATIO

Maximum total floor area permissible for individual lots shall not exceed 0.70 times the land area of the lot.

12.4.2 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings of an individual lot shall not exceed 0.50 times the land area of the lot.

12.5 OFF-STREET PARKING AND LOADING REQUIREMENTS

All off-street parking and all off-street loading space requirements shall be in accordance with section 4.11, *Off-Street Parking and Loading Requirements*.

12.6 HEIGHT REGULATIONS

Except as otherwise provided in section 4.9, *Height of Building and Other Structures*, structures may be erected to a height not to exceed sixty-five (65) feet; provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or single-family residential or agricultural district; in addition to minimum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet.

12.7 PERFORMANCE STANDARDS

Each future occupant of an industrial character shall submit to the Planning Commission as a part of final site development plan approval, a certified engineer’s report describing the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels or emission or discharge to land, air and/or water or liquid, solid or gaseous effluent and electrical impulses and noise under normal operations, and the specifications of treatment methods and mechanisms to be used to control such emission or discharge.

At the request of the Town, a qualified engineer shall review the applicant’s submittal and make comment and recommendation prior to final Planning Commission action on the site development plan.

Subsequent occupants shall comply with the stated requirements whether or not additional site development plan review is required.

12.8 SIGN REGULATIONS

Sign regulations shall be as prescribed in section 4.14, *Signs*.

12.9 MINIMUM LANDSCAPED AREA

See section 24.11.9, *Landscaping and Screening Requirements*.

12.10 MINIMUM YARD REQUIREMENTS

12.10.1 ADJACENT TO PUBLIC STREETS

No portion of any structure, excluding signs, shall be erected closer than fifty (50) feet to any public street right-of-way. No off-street parking or loading space shall be located closer than ten (10) feet to any public street right-of-way.

12.10.2 ADJACENT TO RESIDENTIAL DISTRICTS

No portion of any structure, excluding signs, shall be located closer than fifty (50) feet to any rural areas or residential district and no off-street parking space shall be closer than thirty (30) feet to any rural areas or residential district. For the heavy industry (HI) district, no portion of any structure, excluding signs, shall be located closer than one hundred (100) feet to any rural areas or residential district and no off-street parking shall be closer than thirty (30) feet to any rural areas or residential district.

12.10.3 BUFFER ZONE ADJACENT TO RESIDENTIAL AND RURAL AREAS DISTRICTS

No construction activity including grading or clearing of vegetation shall occur closer than thirty (30) feet to any residential or rural areas district. Screening shall be provided as required in section 24.11.9.

Except, the Planning Commission may waive this requirement in a particular case where it has been demonstrated that grading or clearing is necessary or would result in an improved site design, provided that:

- a. Minimum screening requirements are met; and
- b. Existing landscaping in excess of minimum requirements is substantially restored.

12.11 UTILITY REQUIREMENTS

All utility lines shall be placed underground where practical.

12.12 SITE PLANNING – EXTERNAL RELATIONSHIPS

Site planning within the district shall provide for protection of individual sites from surrounding adverse influences, and for protection of surrounding areas from adverse influences within the district.

Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Pavement widths and strengths of both internal and external roads shall be adequate to accommodate projected traffic generated from the district.

12.13 BUILDING SEPARATION

Whether or not located on the same parcel, main structures shall be constructed and separated in accordance with Table 401 Fire Resistance Ratings of Structure Elements of the BOCA Basic Building Code, 1984 Edition or its equivalent in the current edition of the BOCA Basic Building Code.

13.0 LIGHT INDUSTRY – LI

13.1 INTENT, WHERE PERMITTED

LI districts are hereby created to permit industries, offices and limited commercial uses which are compatible with and do not detract from surrounding districts. It is intended that LI districts may be established in areas having all of the following characteristics:

- Areas served by water and sewer facilities or if such facilities are reasonably available;
- Areas served by major highway, rail or air service, or secondary road improved to standards approved by the Town and Virginia Department of Transportation; and
- Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.

13.2 PERMITTED USES

13.2.1 BY RIGHT

Except as otherwise limited by section 13.2.2.i, the following uses shall be permitted in any LI district subject to the requirements and limitations of these regulations:

- a. Compounding of drugs, including biological products, medical and chemical as well as pharmaceutical.
- b. Fire and rescue squad stations (reference 5.1.3, *Fire, Ambulance, Rescue Squad Station (Volunteer)*).
- c. Manufacture, processing, fabrication, assembly, distribution of products such as but not limited to:
 1. Artists' supplies and equipment.
 2. Business, office machines and equipment.
 3. Cosmetics, including perfumes, perfumed toiletries and perfumed toilet soap.
 4. Drafting supplies and equipment.
 5. Electrical lighting and wiring equipment.
 6. Electrical and electronic equipment and components including radio, telephone, computer, communication equipment, TV receiving sets, phonographs.
 7. Food products, such as bakery goods, dairy products, candy, beverages, including bottling plants.
 8. Gifts, novelties including pottery, figurines and similar ceramic products.
 9. Glass products made of purchased glass.
 10. Industrial controls.
 11. Jewelry, silverware.

12. Light machinery and machine parts, including electrical household appliances but not including such things as clothes washers, dryers and refrigerators.
 13. Musical instruments.
 14. Paper products such as die-cut paper board and cardboard, sanitary paper products, bags and containers.
 15. Photographic equipment and supplies including processing and developing plant.
 16. Rubber, metal stamps.
 17. Small electrical parts such as coils, condensers, transformers, crystal holders.
 18. Surgical, medical and dental instruments and supplies.
 19. Toys, sporting and athletic equipment, except fire arms, ammunition or fireworks.
 20. Watches, clocks and similar timing devices.
 21. Wood cabinets and furniture, upholstery.
- d. Publishing, printing, lithography and engraving, including but not limited to newspapers, periodicals and books.
 - e. Preparation of printing plates including typesetting, etching and engraving.
 - f. Research and development activities including experimental testing.
 - g. Scientific or technical education facilities.
 - h. Assembly and fabrication of light aircraft from component parts manufactured off-site.
 - i. Contractor's office and equipment storage yard.
 - j. Engineering, engineering design, assembly and fabrication of machinery and components, including such on-site accessory uses as machining, babbiting, welding and sheet metal work employing machinery not exceeding fifteen (15) horsepower per unit and excluding such uses as drop hammering and foundry.
 - k. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with health and sanitation regulations and all other applicable law.
 - l. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 5.1.6, *Public Utility Structures, Uses*).

[NOTE: These uses are common to the *Public District – P* (section 14), but also are permitted in other districts.]

- m. Temporary construction uses (reference 5.1.10, *Temporary Construction Headquarters, Yards*).
- n. Business and professional office buildings.
- o. Dwellings.
- p. Temporary nonresidential mobile homes.
- q. Warehouse facilities and wholesale businesses not involving storage of gasoline, kerosene or other volatile materials; dynamite blasting caps and other explosives; pesticides and poisons; and other such materials which could be hazardous to life in the event of accident.

13.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*:

- a. Laboratories, medical or pharmaceutical.
- b. Assembly of modular building units.
- c. Moving businesses, including storage facilities.
- d. Warehouse facilities not permitted under section 13.2.1.
- e. Wholesale business not permitted under section 13.2.1.
- f. Truck terminal.
- g. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances (reference 5.1.6, *Public Utility Structures, Uses*).
- h. Temporary events sponsored by local nonprofit organizations (reference 5.1.14, *Temporary Events Sponsored by Local Nonprofit Organizations*).
- i. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
- j. Body shops (reference 5.1.16, *Body Shop*).
- k. Towing and storage of motor vehicles (reference 5.1.17, *Towing and Temporary Storage of Motor Vehicles*).
- l. Uses listed under section 13.2.1 with subordinate retail sales exceeding fifteen (15) percent of the floor area of the main use.

m. Supporting commercial uses.

n. Indoor athletic facilities.

13.3 MINIMUM AREA REQUIRED FOR ESTABLISHMENT OF DISTRICT

Minimum area required for establishment of an LI district shall be five (5) acres. Unless otherwise provided in section 12.2, *Application*, there shall be no minimum area requirements for additions to an established LI district, provided such area to be added adjoins and forms a logical addition to the existing LI district.

13.4 ADDITIONAL REQUIREMENT

In addition to the requirements contained herein, the requirements of section 12, *Industrial Districts, Generally*, shall apply within all LI districts.

14.0 HEAVY INDUSTRY – HI

14.1 INTENT, WHERE PERMITTED

HI districts are hereby created to permit industries and commercial uses which have public nuisance potential and will therefore be subject to intensive review for locational impact on surrounding land uses and environment.

It is intended that HI districts may be established in areas having all of the following characteristics:

- Areas served by a major highway, rail or secondary road improved to standards approved by the Town and Virginia Department of Transportation;
- Areas either served by public water and sewer or meeting requirements of the local office of the Virginia Department of Health; and
- Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.

14.2 PERMITTED USES

14.2.1 BY RIGHT

All uses permitted by right in section 13, *Light Industry – LI*, shall be permitted in any HI district subject to the requirements and limitations of these regulations.

14.2.2 BY SPECIAL USE PERMIT

All heavy industry uses not permitted by right shall be permitted only by special use permit approved by the Town Council pursuant to section 20.3.4, *Special Use Permits*.

14.3 MINIMUM AREA REQUIRED FOR ESTABLISHMENT OF DISTRICT

Minimum area required for establishment of an HI District shall be five (5) acres. There shall be no minimum area requirements for additions to established HI districts, provided the area to be added adjoins and forms a logical addition to the existing HI district.

14.4 ADDITIONAL REQUIREMENTS

In addition to requirements contained herein, the requirements of section 12, *Industrial Districts, Generally*, and section 4.13, *Performance Standards*, and other so specified provisions in this ordinance shall apply in all HI districts.

15.0 PUBLIC DISTRICT – P

15.1 INTENT

To establish and preserve areas for certain public purposes.

15.2 PERMITTED USES

Any governmental or proprietary function conducted by any government agency or publicly owned corporation which is authorized to conduct such functions, except uses as constitute a nuisance in the place where conducted. Also railways and public service utilities installations (reference 5.1.6, *Public Utility Structures, Uses*). Provisions of section 20.3.4.5, *Review of Public Uses for Compliance with the Comprehensive Plan*, shall apply.

15.3 YARD, AREA, WIDTH AND HEIGHT REGULATIONS

Except as otherwise specifically provided in this ordinance, the schedule of yard, area, width and height regulations shall conform with the standards of the predominant adjoining district, as specified by the Planning Commission, and any applicable overlay districts. Provisions of section 4.5, *Lot Regulations*, are applicable.

16.0 OVERLAY DISTRICTS, GENERALLY

Overlay districts hereby created and hereafter established shall be for the purpose of imposing special regulations in certain areas which are intended to accomplish the stated purpose of the particular overlay district and furthermore, intended to promote the general health, safety and welfare of the citizenry and to promote the goals and objectives of the comprehensive plan. Regulations, requirements and limitations of overlay districts shall be in addition to, or supersede, as the case may be, those of the underlying district.

17.0 FLOOD HAZARD OVERLAY DISTRICT – FH

17.1 GENERAL PROVISIONS

17.1.1 PURPOSE

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
- Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

17.1.2 APPLICABILITY

These provisions shall apply to all lands within the jurisdiction of the Town and identified as being in the one hundred year floodplain prepared by the Federal Insurance Administration.

17.1.3 COMPLIANCE AND LIABILITY

- a. No land 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 ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- b. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.
- c. This ordinance shall not create liability on the part of the Town or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

17.1.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

17.1.5 SEVERABILITY

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

17.1.6 PENALTIES

- a. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the zoning officer or any other authorized employee of the Town shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.
- b. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this ordinance may be declared by the Town Council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

17.2 DEFINITIONS

The following definitions are used throughout section 17.

Base flood or one hundred year flood. A flood that, on the average, is likely to occur once every 100 years (*i.e.*, that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

Board of Zoning Appeals. The board appointed to review appeals made by individuals with regard to decisions of the Planning Commission in the interpretation of this ordinance.

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, excavation or drilling operations or storage of equipment or materials.

Flood.

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (*i.e.* mudflows) which are proximately caused by flooding by waters, as defined above, 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.
- b. The collapse or subsidence 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 a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood-prone area. Any land area susceptible to being inundated by water from any source.

Floodplain.

- a. A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
- b. An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

Floodway. The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

Historic structure. A structure that is:

- a. 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;
- b. 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;
- c. 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
- d. Individually listed on the inventory of historic landmarks, as provided for in section 18.3.3, *Inventory of Landmarks and Contributing Properties Established*.

Manufactured home. A structure subject to federal regulations, which is transportable in one of more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred and twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

New construction. For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management 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 a community and includes any subsequent improvements to such structures.

Recreational vehicle. A vehicle which is:

- a. Built on a single chassis;

- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred and eighty (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 state 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; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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 fifty (50) percent 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 fifty (50) percent 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:

- a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- b. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

17.3 ESTABLISHMENT OF ZONING DISTRICTS

17.3.1 DESCRIPTION OF DISTRICTS

17.3.1.1 BASIS OF DISTRICTS

The various floodplain districts shall include areas subject to inundation by waters of the one hundred year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for the Town of Scottsville, prepared by Federal Insurance Administration, dated February 4, 2005, and as further revised. (Amended 1-24-2005)

- a. The floodway district is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas

included in this district are specifically defined in Table 2 of the above-referenced flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map.

b. The flood-fringe district shall be that area of the one hundred year floodplain not included in the floodway district. The basis for the outermost boundary of the district shall be the one hundred year flood elevations contained in the flood profiles of the above referenced flood insurance study and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.

17.3.1.2 OVERLAY CONCEPT

a. The floodplain districts described above shall be overlays to the existing underlying districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

b. Any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

c. In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

17.3.2 OFFICIAL ZONING MAP

The boundaries of the floodplain districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and shall be kept on file in the Office of the Town Clerk.

17.3.3 DISTRICT BOUNDARY CHANGES

The delineation of any of the floodplain districts may be revised by the Town Council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

17.3.4 INTERPRETATION OF DISTRICT BOUNDARIES

Initial interpretation of the boundaries of the floodplain districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence if he/she so desires.

17.4 DISTRICT PROVISIONS

17.4.1 GENERAL PROVISIONS

17.4.1.1 PERMIT REQUIREMENT

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the

provisions of the ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the subdivision ordinances of the Town. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

17.4.1.2 ALTERATION OR RELOCATION OF WATERCOURSE

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. Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation), and the Federal Insurance Administration. (Amended 1-24-2005)

17.4.1.3 SITE PLANS AND PERMIT APPLICATIONS

All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- a. For structures to be elevated, the elevation of the lowest floor (including basement).
- b. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
- c. The elevation of the one hundred year flood.
- d. Topographic information showing existing and proposed ground elevations.

17.4.1.4 MANUFACTURED HOMES

Manufactured homes that are placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

17.4.1.5 RECREATIONAL VEHICLES

Recreational vehicles placed on sites shall either:

- a. Be on the site for fewer than one hundred and eighty (180) consecutive days, be fully licensed and ready for highway use, or
- b. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in section 17.4.1.4, above.

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.

17.4.2 FLOODWAY DISTRICT

In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred year flood elevation.

17.4.3 PERMITTED USES IN THE FLOODWAY DISTRICT

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

- a. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
- b. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
- c. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

17.4.4 FLOOD-FRINGE FLOODPLAIN DISTRICTS

In the flood-fringe floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

17.4.5 DESIGN CRITERIA FOR UTILITIES AND FACILITIES

17.4.5.1 SANITARY SEWER FACILITIES

All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

17.4.5.2 WATER FACILITIES

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

17.4.5.3 DRAINAGE FACILITIES

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The Town Council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

17.4.5.4 UTILITIES

All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

17.4.5.5 STREET AND SIDEWALKS

Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

17.5 VARIANCES: FACTORS TO BE CONSIDERED

17.5.1 FLOOD DISTRICT FACTORS

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- a. 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 any floodway district that will cause any increase in the one hundred year flood elevation.
- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed area to the comprehensive plan and floodplain management program for the area.
- j. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. The repair or rehabilitation of historic structures 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.
- m. Such other factors which are relevant to the purposes of this ordinance.

17.5.2 GENERAL PRINCIPLES

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variations shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in

- a. Unacceptable or prohibited increased in flood heights,
- b. Additional threats to public safety,
- c. Extraordinary public expense; and
- d. Will not create nuisances,
- e. Cause fraud or victimization of the public, or
- f. Conflict with local laws or ordinances.

Variations shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

17.5.3 REQUIRED NOTIFICATION

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred year flood elevation

- a. Increases the risks to life and property and
- b. Will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

17.6 EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- a. Existing structures 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 practice that the proposed expansion would not result in any increase in the one hundred year flood elevation.
- b. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

c. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code.

18.0 HISTORIC OVERLAY DISTRICT – H

18.1 PURPOSE OF THE DISTRICT

The purpose of the historic overlay district is to provide for protection against destruction of or encroachment upon historic areas, buildings, monuments or other features, or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic or architectural heritage of the Town of Scottsville and the Commonwealth of Virginia. It is the purpose of the district to preserve designated historic areas and historic landmarks and other historic or architectural features, and their views and surroundings within a reasonable distance, from destruction, damage, defacement and obviously incongruous development or uses of land and to ensure that buildings, structures, streets, bridges, waterways, walkways, or signs shall be erected, reconstructed, altered or restored so as to be architecturally compatible with the character of the general area in which they are located and with the historic landmark buildings or structures within the district.

18.2 DEFINITIONS

The following terms and definitions are used in section 18, *Historic Overlay District – H*.

Alteration. Any change, modification or addition to a part or all of the exterior of any building or structure.

Building permit. An approval statement signed by the Mayor, or his/her designee, authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or a part of any building.

Certificate of appropriateness. A certificate or other statement indicating approval by the Zoning Administrator or the Architectural Review Board as the case may require of plans for construction alteration, reconstruction, repair, restoration, relocation, demolition or razing of a building or structure or part thereof in a historic district.

Contributing property. A property so designated on the inventory map of landmarks and contributing properties which is adopted as a part of this ordinance, being generally those properties which by reason of form, materials, architectural details and relation to surrounding properties contribute favorably to the general character of the part of the historic district in which they are located but which by reason of recent age, lack of historic significance or other factors are not designated as historic landmarks under the criteria of this ordinance.

Demolition. The dismantling or tearing down of all or part of any building and all operations incidental thereto.

Historic district. An area containing buildings 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 as to warrant conservation and preservation.

Historic landmark. Any building or place listed on the National Register of Historic Places or on the Register of the Virginia Historic Landmarks Commission, or any building or place officially designated as a landmark structure or place by the Town of Scottsville on the inventory map which is adopted as a part of this ordinance.

Reconstruction. Any or all work needed to remake or rebuild all or a part of any building to a sound condition, but not necessarily of original materials.

Repairs. Any or all work involving the replacement of existing work with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

Restoration. Any or all work connected with the returning to or restoring of a building, or a part of any building, to its original condition through the use of original or nearly original materials or new materials which result in preserving the integrity, characteristics and appearance of the original.

18.3 CRITERIA FOR ESTABLISHING HISTORIC DISTRICTS

18.3.1 GENERAL CHARACTER

The boundaries of the historic overlay district (hereafter referred to as H) shall in general be drawn to include areas containing buildings 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 as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone. In any case the location of the district shall be based upon careful studies which describe the characteristics of the area and support the purposes of conservation and preservation.

18.3.2 OLD TOWN SCOTTSVILLE HISTORIC DISTRICT

The area bounded by the Town boundary prior to January 1, 1994, comprises a historic district. This historic overlay district is designated the “Old Town Historic District” or, in abbreviated form, “Old Town.”

18.3.3 INVENTORY OF LANDMARKS AND CONTRIBUTING PROPERTIES ESTABLISHED

The Architectural Review Board as herein established below shall prepare and recommend for adoption as a part of this ordinance an inventory map covering the H overlay district and based upon the criteria set forth in this ordinance. This map, hereinafter called the inventory map, when adopted shall be as much a part of this ordinance as if fully described herein and shall be filed as a part of this ordinance by the Clerk of the Town. The inventory map will include specific structures and sites within the Old Town Historic District as well as structures and sites within the part of Town external to Old Town. All structures or sites designated on said map as landmark structures or sites shall be considered as *landmarks* for the purposes of this ordinance. Structures or sites designated as properties which contribute to the historic character of the Town but which do not contain landmark structures or sites shall be known as *contributing properties* for the purpose of this ordinance. Structures or sites not designated as landmark or contributing properties shall be known as *noncontributing properties*. The inventory map may be amended from time to time in the same manner as the zoning district map.

18.3.4 APPLICATION OF THE DISTRICT – RELATION TO OTHER ZONING DISTRICTS

To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the H overlay district is created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the zoning district map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the H overlay district is superimposed except as these other district regulations may be modified by application of the regulations in the H overlay district.

18.3.5 PERMITTED USES

18.3.5.1 A building or land shall be used only for the following purposes, and except as provided herein, in each case subject to approval by the Zoning Administrator or Architectural Review Board, as the case may require, in accordance with the standard set forth in this section and the standards and procedures for administration and enforcement set forth elsewhere in this ordinance:

- a. Any use permitted by right in the zoning district in which the premises are situated and upon which the H overlay district is superimposed. The normal maintenance of an historic area or building or the charging of admission fees for visitors, or the conduct of visitor tours, centers or services within the H overlay district shall not be considered as commercial uses.
- b. Any use permitted in the zoning district requiring a special use permit in which the premises are located, subject to the procedures and standards of this ordinance for approval of conditional uses and subject in all cases to report by the Architectural Review Board in accordance with the purposes and standards of the H overlay district.
- c. Any special exception or variance permitted in the zoning district in which the premises are located, subject to the procedures and standards of this ordinance for approval of special exceptions and variances and subject to report by the Architectural Review Board and specific findings of the Planning Commission regarding the purposes and standards of the H overlay district; provided, however, that if said special exception or variance is of such a minor nature as to be exempted from review by the Architectural Review Board by the terms of the regulations in the H overlay district, then no such review or report shall be required.

18.3.5.2 The following uses and provisions are applicable only to landmark and contributing commercial structures that front on Valley Street or Main Street and any other structure within the Old Town Historic District so recommended by the Architectural Review Board and approved by the Town Council:

- a. Dwelling units and business offices are permitted that are located above the first floor of the building, legally existed as such prior to the enactment of this ordinance, and have adequate access for such use.
- b. Multiple family dwellings and apartment buildings that were approved uses or otherwise legally existed as such prior to enactment of this ordinance are permitted uses.
- c. Reasonable attempts shall be made to comply with all provisions of this ordinance. However, the historic preservation objectives described in section 18.1 are paramount with respect to many provisions of this ordinance and may justify less than full compliance with sections 11.3 (and 4.11), *Off-Street Parking and Loading Requirements*; 11.6, *Minimum Landscaped Area*; 11.7, *Minimum Yard Requirements*; and certain other sections of this ordinance. The Architectural Review Board may recommend to the Town Council variances to this ordinance to achieve preservation objectives. Approval of such variances by the Town Council renders the associated property as conforming with respect to the provision waived.

18.4 ARCHITECTURAL REVIEW BOARD ESTABLISHED

Reference section 23, *Architectural Review Board*.

18.5 ADMINISTRATIVE REVIEW PROCEDURES

18.5.1 SUMMARY

In general it is the purpose of this section to establish review procedures for actions affecting properties in the H overlay district (the EC district shall also be administered by these procedures) which will be relatively simple with minimum delay for those actions which will have little if any permanent effect on the character of the historic district or on a significant structure but to require a more thorough review for actions which may have a substantial effect on the character of the district or on a significant structure. To this end some actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Zoning Administrator or by the Architectural Review Board acting with original jurisdiction, or, in the more serious cases, action by the Town Council following action by the Architectural Review Board. In all cases the decisions of the Zoning Administrator may be appealed to the Architectural Review Board, the decisions of the Architectural Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Board of Zoning Appeals.

18.5.2 CERTAIN MINOR ACTIONS EXEMPTED FROM REVIEW BY THE ARCHITECTURAL REVIEW BOARD

Within the H overlay district certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Architectural Review Board. It is the intention that application of any of the exempted actions not substantively detract from or degrade the appearance or character of the structure or site. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

- a. Repainting resulting in the same or similar color. (Original painting of masonry surfaces is not exempted from review.)
- b. Replacement of missing or broken window panes, roofing slates, tiles or shingles and except on landmark structures outside doors, window frames, or shutters where no substantial change in design or material is proposed.
- c. Addition or deletion of storm doors or storm windows, window gardens, awnings, canopies, or similar appurtenances and portable air conditioners located in existing windows, doors or other existing wall openings.
- d. Addition or deletion of television and radio antennas, or skylights and solar collectors in locations not visible from a public street or road.
- e. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, small foundations, ponds and the like, which will not substantially affect the character of the property and its surroundings.
- f. Minor additions or deletions to a building or accessory building or structure which will not substantially change the architectural character of the structure or which are generally hidden from public view.

- g. Construction of accessory buildings and structures on properties which are not designated as landmark or contributing properties and which are generally in keeping with the character of the existing structure and its surroundings.
- h. Construction of off-street loading areas and off-street parking areas containing five spaces or less in a commercial or industrial district and is not visible from a public street or road.
- i. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or road.
- j. Interior alterations to contributing and non-contributing structures.

Provided however that the Zoning Administrator shall have authority to order that work be stopped and that an appropriate application be filed for review by the Architectural Review Board in any case where in this opinion the action may have an adverse effect on the Historic District or may produce undesirable effects, contrasts of materials or colors, or details clearly inconsistent with the character of the present structures or with the prevailing character of the surroundings and the historic district.

Construction of ramps and modifications for the handicapped, in accordance with section 4.8, *Buildings and Structures: Handicapped Access*, will be permitted. However, their design is subject to review and possible modification.

The Architectural Review Board shall periodically review the list of exemptions contained in this section and make recommendations to the Zoning Administrator as necessary to accomplish the purposes of these regulations or recommend to the Town Council that the list of exemptions be changed by amendment.

18.5.3 APPROVAL OF ARCHITECTURAL REVIEW BOARD REQUIRED

Except as herein provided no building or structure, including signs, shall be erected, reconstructed, restored or substantially altered in exterior appearance and no building or structure shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Architectural Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural and/or architectural aspects of the structure and its surroundings.

Substantial alterations shall be defined as any and all work done on buildings, structures or sites in a historic district other than those specifically exempted herein and other than the following general examples:

General examples of *nonsubstantial* alterations:

- a. Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of or damage to any structure or on any part thereof, or
- b. To restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

Examples of work not constituting substantial alteration include those minor actions exempted from review by section 18.5.2.

General examples of work constituting substantial alterations include:

- a. Construction of a new building at any location or a new accessory building on a landmark or contributing property or on a site within the historic district adjacent to a designated landmark site.

- b. Any addition to or alteration of a structure which increases the square footage of the structure or otherwise alters substantially its size, height, contour or outline.
- c. Any change or alteration of the exterior architectural style of a contributing or landmark structure, including removal or rebuilding of porches, openings, dormers, window sash, chimneys, columns, structural elements, stairways, terraces and the like.
- d. Addition or removal of one or more stories or alteration of a roof line.
- e. Landscaping which involves major changes of grade or walls and fences more than three and one-half feet in height.
- f. All signs visible from a public street or road or from an historic landmark in the H overlay district. (Amended 7-18-2011)
- g. Any other major actions not specifically covered by the terms of this section but which would have a substantial effect on the character of the historic district.

In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action or may constitute substantial alteration, the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.

18.5.4 (Removed 5-21-2001)

18.5.5 CERTIFICATE OF APPROPRIATENESS

Evidence of the approval required under the terms of the H overlay district shall be a certificate of appropriateness issued by the Architectural Review Board stating that the demolition, moving or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration or restoration for which application has been made are approved by the Architectural Review Board. The Architectural Review Board, or the Zoning Administrator in a case within his/her authority, may permit modifications of original proposals if such modifications are formally acknowledged, clearly described and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

18.5.6 STANDARDS FOR REVIEW

In order to achieve the purposes of the H overlay district, the Zoning Administrator and the Architectural Review Board shall be guided in their decisions by the stated purposes of the H overlay district and by the standards and guidelines set forth below and as these may be supplemented from time to time by additional standards and guidelines adopted and published by the Town Council. In application of the standards and guidelines it should be recognized that the Old Town Historic District may contain a considerable diversity in its architecture. Therefore, variety of architectural detail can be tolerated in such an area where such variety would not be acceptable in the case of an area where consistency in architectural detail is the key to preservation of the charm of the historic district.

It shall be the duty of the Architectural Review Board to prepare and adopt, subject to approval of the Town Council, specific guidelines, illustrated as necessary, for those areas of the Old Town Historic District which have special characteristics and architectural features which are peculiar to the area and which should be preserved, and to make these guidelines available to property owners within each area and to the general

public. Specific guidelines shall be adopted for such areas of the Old Town Historic District as may require specific guidelines.

18.5.6.1 GENERAL GUIDELINES FOR ALL DECISIONS

- a. The public necessity of the proposed construction, demolition or use.
- b. The public purpose or interest in land or buildings to be protected.
- c. The historic or architectural value and significance of a particular structure and its relationship to the historic value of the surrounding area.
- d. The age and character of an historic structure, its condition and its probable life expectancy and the appropriateness of the proposed changes to the period or periods during which the structure was built.
- e. The general compatibility of the site plan and the exterior design arrangement, texture and materials proposed to be used.
- f. The view of the structure or area from a public street or road present and future.
- g. The present character of the setting of the structure or area and its surroundings.

18.5.6.2 GUIDELINES FOR NEW CONSTRUCTION

Where new construction is proposed the design should take into account those special visual and special qualities that the H overlay district is established to protect, including building heights; scale of buildings; orientation, spacing and site coverage of buildings; facade proportions and window patterns; size, shape and proportions of entrance and porch projections; materials, textures, color; architectural details; roof forms; horizontal or vertical emphasis; landscaping, walls and fences. Since architectural styles and details vary from one section of the H overlay district to another, application of architectural guidelines for new construction should recognize relationships among buildings in the immediate setting rather than specific styles or details.

18.5.6.3 GUIDELINES FOR REHABILITATION, REPAIR OR ALTERATION OF EXISTING STRUCTURES

- a. Every reasonable effort should be made to provide a compatible use for a property which requires minimal alteration of the building structure or site and its environment, or to use a property for its originally intended purpose.
- b. The distinguishing original qualities or character of a building structure or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- c. All buildings, structures and sites should be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance should be discouraged.
- d. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- e. Distinctive stylistic features or examples of skilled craftsmanship, especially hardware, woodworking and masonry details which characterize a building structure or site should be treated with special care.

f. Deteriorated architectural features should be repaired rather than replaced whenever possible. In the event replacement is necessary the new material should match the material being replaced in size, shape, design, color, texture and other visual quality. Repair or replacement of missing architectural features should be based on accurate duplications of features substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

g. The surface cleaning of structures should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials should not be undertaken.

h. Every reasonable effort should be made to protect and preserve archeological resources affected by, or adjacent to any property.

i. Contemporary design for alterations and additions to existing properties should not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property and its surroundings.

j. Whenever possible, new additions or alterations to structures should be undertaken in such a manner that if such additions or alterations were to be removed in the future the essential form and integrity of the structure would be unimpaired.

18.5.6.4 GUIDELINES FOR MOVING OR RELOCATION OF A LANDMARK BUILDING OR STRUCTURE

The reviewing body shall take into account the following factors in considering proposals to move or relocate a landmark building or structure:

a. Whether or not the proposed relocation would have a detrimental effect on the structural soundness of the landmark building or structure.

b. Whether or not the proposed relocation would have a detrimental effect on the historical aspects of other landmarks in the district.

c. Whether the proposed relocation would provide new surroundings that would be harmonious with or incompatible with the historical and architectural aspects of the landmark, building or contributing structure.

d. Whether or not plans for future use of the site after relocation are appropriate at this location in the district.

e. Whether or not the proposed relocation is the only feasible means of saving the structure from demolition or demolition by neglect.

18.5.6.5 GUIDELINES FOR DEMOLITION

The reviewing body shall take into account the following factors in considering proposals to demolish an existing building or structure:

- a. Whether or not the building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest.
- b. Whether or not the building or structure is of such interest or significance that it would qualify as a National, State or local historic landmark.
- c. Whether or not retention of the building or structure would help to preserve and protect an historic place or area of historic interest in the Town.
- d. Whether or not plans for future use of the site after demolition are appropriate at this location in the district.

18.5.6.6 GUIDELINES FOR SIGNS

Signs should relate to, rather than obscure and disrupt, the design elements of the building with which they are associated or to which they are attached. Signs should also be compatible with other signs and buildings along the street. Considerations for compatibility include dimensions, subject matter, materials, color, letter styles, legibility, lighting, overall effect and placement on the lot or on the building. All signs in or visible from the historic district shall comply with the requirements of section 4.14.8.1. (Amended 7-18-2011)

18.5.6.7 GUIDELINES FOR PARKING AREAS

All parking areas should be suitably landscaped and where appropriate screened from public view by fences, walls or screen planting. Paved parking areas other than driveways should generally be located to the side or rear of buildings and not located between a building and the street.

18.5.6.8 GUIDELINES FOR LANDSCAPING AND ACCESSORY STRUCTURES

Plants, trees, fencing, walls, walkways, gazebos and other outbuildings should be retained or designed to reflect the property's history and development. Underground utilities should be encouraged at all locations. Municipal utility appurtenances should be selected to harmonize with the character of the historic district or placed in inconspicuous locations.

18.5.6.9 GUIDELINES FOR UTILITIES (Added 6-28-2005)

Any future utilities located within the Historic District of the Town of Scottsville, Virginia, located between 265 Valley Street and Warren Street (Utility Stations 104+00 and 113+45) and between 300 Main Street and Page Street (Utility Stations 200+00 and 308+50) as referenced for Federal Project EN00-153, PE-101, RW-201, C-501, also called the Scottsville Drainage Improvement Plan, shall be placed underground within these areas.

18.5.7 ALTERNATE PROCEDURE: OFFER TO SELL

In addition to the right of appeal hereinabove set forth, the owner of a designated historic landmark, building or structure, the razing or demolition of which is subject to the provisions of section 18.6 hereof, 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 and
- b. he/she has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such 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 is willing to preserve and restore the landmark, building or structure and the land pertaining thereto; and

c. that no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the Town Council, but thereafter the owner may renew his/her request to the Town Council to approve the razing or demolition of the designated landmark, building or structure.

18.5.7.1 The time schedule for offers to sell shall be as follows:

- a. Three (3) months when the offering price is less than twenty-five thousand dollars (\$25,000).
- b. Four (4) months when the offering price is twenty-five thousand dollars (\$25,000) or more but less than forty thousand dollars (\$40,000).
- c. Five (5) months when the offering price is forty thousand dollars (\$40,000) or more but less than fifty-five thousand dollars (\$55,000).
- d. Six (6) months when the offering price is fifty-five thousand dollars (\$55,000) or more but less than seventy-five thousand dollars (\$75,000).
- e. Seven (7) months when the offering price is seventy-five thousand dollars (\$75,000) or more but less than ninety thousand dollars (\$90,000).
- f. Twelve (12) months when the offering price is ninety thousand dollars (\$90,000) or more.

18.5.7.2 If such bona fide offer is unaccepted after the designated time period, the owner shall be permitted to demolish such structure as a matter of right.

18.5.8 HAZARDOUS BUILDINGS OR STRUCTURES

Nothing in this Article shall prevent the razing or demolition of any building or structure without consideration of the Architectural Review Board which is in such an unsafe condition that it would endanger life or property, and protection from such conditions is provided for in the building code and/or other applicable Town ordinance. However, such razing or demolition shall not be commenced without approval of the Town Council and written authorization of the Mayor, or his/her designee, verifying the conditions necessitating such action.

18.5.9 MAINTENANCE AND REPAIR REQUIRED

All buildings and structures in the H overlay district shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration or defects may, in the opinion of the Architectural Review Board, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a deterioration effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

- a. The deterioration of exterior walls or other vertical supports;
- b. The deterioration of roofs or other horizontal members;
- c. The deterioration of exterior chimneys;
- d. The deterioration or crumbling of exterior plaster or mortar;
- e. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
- f. The peeling of paint, rotting, holes and other forms of decay;
- g. The lack of maintenance of surrounding environment (*e.g.*, fences, gates, sidewalks, steps, signs, accessory structures and landscaping);
- h. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

After notice by the Architectural Review Board by certified or registered mail of specific instances of failure to maintain or repair and of an opportunity to appear before the Architectural Review Board or the Town Council, the owner or person in charge of said structure shall have ninety (90) days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in this ordinance. In the alternative, if the owner fails to act, the Zoning Administrator, with approval of the Mayor and after due notice to the owner, may enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and the reasonable costs thereof shall be placed as a lien against the property or, in a proper hardship case, paid by the Town.

18.5.10 FILE OF ACTIONS TO BE MAINTAINED

In order to provide guidance for application of standards and guidelines, for the improvement of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Zoning Administrator and the Architectural Review Board shall maintain a complete case file of all instances. The file documents shall remain the property of the Town but shall be held available for public review.

18.6 ADMINISTRATION

The following administrative procedures shall be followed in both the historical and entrance corridor overlay districts.

18.6.1 ZONING ADMINISTRATOR

Except as authorized herein, the Zoning Administrator shall not authorize a permit for any erection, reconstruction, integral exterior facade change, demolition or razing of a building or structure in the historic district until the same has been approved by the Architectural Review Board as set forth in the following procedures.

18.6.2 RECEIPT OF APPLICATION

Upon receipt in the Office of the Town Clerk of an application for permit in the historic overlay district or the entrance corridor overlay district, the Zoning Administrator shall:

- a. Ensure receipt of three (3) copies of material, as required in section 20, *Administration, Enforcement and Interpretation*, and the applicable permit application fee, as specified in section 25, *Fees*.
- b. Within seven (7) calendar days forward to the Architectural Review Board a copy of the application, together with a copy of the site plan and the building plans and specifications filed by the applicant.
- c. Inform the members of Town Council that application has been filed.
- d. Maintain in his/her office a record of all such applications and of the handling and final disposition of the same.

18.6.3 MATERIAL TO BE SUBMITTED FOR REVIEW

By general rule, or by specific request in a particular case, the Architectural Review Board may require submission of any or all of the following in connection with the application: architectural plans, site plans, landscaping plans, construction methods, proposed signs with appropriate details to character, proposed exterior lighting arrangements, elevations of all portions of structure with important relationships to public view (with indications as to visual construction materials, design of doors and windows, colors, and relationships to adjoining structures), and such other exhibits and reports as are necessary for its determinations. Requests for approval of activities proposed in historic districts shall be accepted only from the record owner of the land involved in such proposal, or his/her agent.

For minor actions not required to be reviewed by the Architectural Review Board and which may be approved by the Zoning Administrator, an application shall be submitted on a form provided by the Town to determine if the proposed action is exempt from review by the Architectural Review Board. Should the proposed action not be capable of adequate description on the application form, the Zoning Administrator may require additional information, including photographs, sketches and samples of materials or such other information as may be required for a decision.

18.6.4 OTHER APPROVALS REQUIRED

Final action by the Architectural Review Board shall be taken prior to consideration of proposals requiring site plan approval by the Planning Commission. However, the Planning Commission may table a proposal in order to request additional comments of the Architectural Review Board. Preliminary subdivision plats shall be reviewed and commented upon by the Architectural Review Board prior to final action by the Planning Commission.

18.6.5 ACTION BY THE ARCHITECTURAL REVIEW BOARD; ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

The Architectural Review Board shall render a decision upon any request or application for a Certificate of Appropriateness within sixty (60) days after the filing of an application accepted as complete. Failure of the Architectural Review Board to render such a decision within said sixty (60) day period, unless such period be extended with the concurrence of the applicant, shall entitle the applicant to proceed as if the Architectural Review Board had granted the Certificate of Appropriateness applied for. Prior to denying the Certificate of Appropriateness, the Architectural Review Board, on the basis of the review of information received, shall,

upon request, indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Architectural Review Board, would protect and/or preserve the historical aspects of the landmark, building, structure, or district. If the applicant determines to make the suggested changes and submits this determination in writing, the Architectural Review Board may issue the Certificate of Appropriateness.

18.6.6 REVIEW BY TOWN COUNCIL

The Town Council reserves unto itself the right to review all decisions of the Architectural Review Board made in administration of sections 18 and 19, *Entrance Corridor Overlay District – EC*, which, in its discretion, it shall deem necessary to the proper administration thereof. To this end, before the Architectural Review Board renders its final determination on the issuance of a Certificate of Appropriateness, the Architectural Review Board will inform the Town Council of its findings and intention to issue or deny the certificate.

18.6.7 EXPIRATION OF CERTIFICATES OF APPROPRIATENESS AND PERMITS TO RAZE

Any Certificate of Appropriateness issued pursuant to this article and any permit to raze a building issued pursuant to this article shall expire of its own limitation twelve months from the date of issuance if the work authorized thereby is not commenced by the end of such twelve-month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve months after being commenced. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article shall be excluded from the computation of the twelve months.

18.6.8 INSPECTION BY ZONING ADMINISTRATOR AFTER APPROVAL

When a Certificate of Appropriateness has been issued, the Zoning Administrator shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violating any ordinances of the Town. The Zoning Administrator may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

18.6.9 DELAY OF APPROVAL

In the case of a proposal other than for demolition or moving but involving a designated landmark where the Architectural Review Board, or, on appeal, the Town Council cannot reach a satisfactory agreement with the owner and where the Architectural Review Board or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three months from the date of application or appeal to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Architectural Review Board, or on appeal, by the Town Council.

18.6.10 CONDITIONS IMPOSED BY THE ARCHITECTURAL REVIEW BOARD

In approval of any proposal under this section, the Architectural Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require.

18.6.11 APPEAL TO THE TOWN COUNCIL

An appeal from a decision of the Architectural Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved by said decision, which shall include any owner of

property in the same historic district. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Clerk of the Town Council all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof as required by section 20, *Administration, Enforcement and Interpretation*, hereof and decide the same within sixty (60) days. Upon the hearing any party may appear in person or by agent or by attorney. In exercising its powers, the Town Council may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Architectural Review Board.

18.6.12 APPEAL TO THE CIRCUIT COURT FROM A DECISION OF THE TOWN COUNCIL

An appeal from a final decision of the Town Council may be filed with the Circuit Court of Albemarle County within 30 days after said decision in the manner prescribed by law by the owner of the property in question or by the Architectural Review Board, or by any party aggrieved by said decision, which shall include any owner of property in the same historic district. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building or structure. The court may reverse or modify the decision of the Town Council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council.

18.6.13 VIOLATIONS AND PENALTIES

Any violation of this section and the penalties for all such violations shall be as set forth in section 26, *Violations*, and section 27, *Penalties*, of this ordinance.

19.0 ENTRANCE CORRIDOR OVERLAY DISTRICT – EC

19.1 INTENT

The entrance corridor overlay district is intended to implement the comprehensive plan goal of protecting the Town's natural, scenic and historic, architectural and cultural resources including preservation of natural and scenic resources as the same may serve this purpose; to ensure a quality of development compatible with these resources through architectural control of development; to stabilize and improve property values; to protect and enhance the Town's attractiveness for residents, tourists and other visitors; to sustain and enhance the economic benefits accruing to the Town from tourism; to support and stimulate complimentary development appropriate to the prominence afforded properties deemed to be of historic, architectural or cultural significance, all of the foregoing being deemed to advance and promote the public health, safety and welfare of the citizens of the Town and visitors thereto.

19.2 APPLICATION

The entrance corridor overlay district (hereafter referred to as EC) is created to conserve elements of the Town's scenic beauty and to preserve and protect corridors along arterial streets or highways (as designated pursuant to Title 33.1 of the Virginia Code, including section 33.1-41.1 of that title).

EC overlay districts may be applied over any basic zoning district and/or other overlay district. EC overlay districts are hereby established:

- a. To the full depth of all parcels of land in existence on the adoption date of this ordinance which are contiguous to the rights-of-way of the following EC streets in the Town; or
- b. To a depth of one hundred (100) feet from the rights-of-way, whichever shall be greater, along the following EC streets in the Town of Scottsville:

Virginia Route 20, including Valley Street.
Virginia Route 6, including Valley and Main Streets.

19.3 PERMITTED USES

19.3.1 BY RIGHT

Uses permitted by right in any EC district shall include all uses permitted by right in the underlying districts except as herein otherwise provided.

19.3.2 BY SPECIAL USE PERMIT

Uses requiring special use permit shall include

- a. all uses permitted by special use permit in the underlying districts and
- b. outdoor storage, display and/or sales serving or associated with permitted uses, any portion of which would be visible from an EC street; provided that review shall be limited to the intent of this section. Residential, agricultural and forestal uses shall be exempt from this provision.

19.4 AREA AND BULK REGULATIONS; MINIMUM YARD AND SETBACK REQUIREMENTS; HEIGHT REGULATIONS; LANDSCAPING AND SCREENING; PRESERVATION OF NATURAL FEATURES

Area and bulk regulations, minimum yard and setback requirements, and height regulations shall be as provided by the underlying district, except that the following provisions and limitations shall apply to any development or portion thereof which shall be visible from a designated EC street.

19.5 CERTIFICATE OF APPROPRIATENESS REQUIRED

A certificate of appropriateness is required for the following:

- a. Except as otherwise provided in section 19.9, no building permit shall be issued for any purpose unless and until a certificate of appropriateness has been issued in accord with section 19.10.
- b. Except as otherwise provided in section 19.9 and for any development subject to approval under section 24, *Site Development Plan*, no final site development plan shall be approved by the Planning Commission or be signed unless and until a certificate of appropriateness has been issued in accord with section 19.10.

The certificate of appropriateness shall be binding upon the proposed development as to conditions of issuance. The certificate shall certify that the proposed development as may be modified by the conditions of issuance is consistent with the design guidelines adopted by the Town Council for the specific EC street or highway.

In making such determination as to consistency with design guidelines, the Architectural Review Board may specify any architectural feature as to appearance, such as, but not limited to, motif and style, color, texture and materials together with configuration, orientation and other limitations as to mass, shape, height and location of buildings and structures, location and configuration of parking areas and landscaping and buffering requirements to the extent such practices are authorized under the adopted design guidelines without regard to regulations of the underlying zoning district or regulations of the site development plan requirements of this ordinance.

19.6 LANDSCAPING AND SCREENING REQUIREMENTS

Landscaping and screening requirements, as required by the site development plan, reference section 24.11.9, *Landscaping and Screening Requirements*, shall apply within any EC overlay district except that:

- a. In addition to the provisions of section 19.5, the Architectural Review Board may require specific landscaping measures in issuance of a certificate of appropriateness, as the same may be related to ensuring that the proposed development is consistent with the design guidelines adopted by the Town Council for the specific EC street.

Existing trees, wooded areas and natural features shall be preserved except as necessary for location of improvements, provided that the Architectural Review Board may authorize additional activity upon finding that such activity will equally or better serve the purposes of this ordinance. Such improvements shall be located so as to maximize the use of existing features in screening such improvements from EC streets and highways to the extent such practices are authorized under the adopted design guidelines.

b. The certificate of appropriateness shall indicate the existing features to be preserved pursuant to the preceding paragraph; the limits of grading or other earth disturbance (including trenching or tunnelling); the location and type of protective fencing; and grade changes requiring tree wells or tree walls.

c. No grading or other earth disturbing activity (including trenching or tunnelling), except as necessary for the construction of tree wells or tree walls, shall occur within the drip line of any trees or wooded areas nor intrude upon any other existing features designated in the certificate of appropriateness for preservation.

d. Areas designated on approved plans for preservation of existing features shall be clearly and visibly delineated on the site prior to commencement of any grading or other earth-disturbing activity (including trenching or tunnelling) and no such disturbing activity or grading or movement of heavy equipment shall occur within such area. The visible delineation of all such existing features shall be maintained until the completion of development of the site.

19.7 (Removed 5-21-20)

19.8 NONCONFORMITIES; EXEMPTIONS

19.8.1 Any use, activity, lot or structure subject to the provisions of the EC overlay district which does not conform to the provisions of the EC overlay district shall be subject to section 6, *Nonconformities*, of this ordinance.

19.8.2 No provisions of this section shall be deemed to preclude the Town Council from authorizing repair and maintenance activities as set forth in section 6, *Nonconformities*, upon determination that the same would not be contrary to the intent of the EC district.

19.9 EXEMPTIONS

The provisions of section 19.5 notwithstanding, no certificate of appropriateness shall be required for the following activities:

- a. Interior alterations to a building or structure having no effect on exterior appearance of the building or structure.
- b. Construction of ramps and other modifications to serve the handicapped in accord with section 4.8, *Buildings and Structures: Handicapped Access*.
- c. Repair and maintenance activities and improvements to nonconforming uses as may be authorized by the Town Council, with the recommendation of the Zoning Administrator.
- d. Main and accessory residential, forestal and agricultural buildings where no site development plan is required for the work, subject to the building permit.
- e. General maintenance where no substantial change in design or material is proposed.
- f. Additions or modifications to a building where no substantial change in design or material is proposed.

19.10 ADMINISTRATION

The entrance corridor overlay district, shall be administered by an Architectural Review Board created and appointed by the Town Council, as described in section 23, *Architectural Review Board*. Applicable administrative and appeal procedures are described in section 18.6, *Administration*.

ARTICLE IV. PROCEDURE

20.0 ADMINISTRATION, ENFORCEMENT AND INTERPRETATION

20.1 PLANNING COMMISSION

There shall be a Planning Commission as provided for in Title 15.2, Chapter 22, Article 2 of the Code of Virginia.

20.2 BOARD OF ZONING APPEALS

There shall be a Board of Zoning Appeals (BZA) as provided for in Title 15.2, Article 7, of the Code of Virginia. (Reference section 22, *Board of Zoning Appeals*.)

20.3 PERMITS

20.3.1 BUILDING PERMITS REQUIRED; CONFORMANCE

Buildings or structures shall be started, reconstructed, enlarged or altered only after a building permit has been obtained from the Zoning Administrator. No building permit or certificate of occupancy shall be issued in violation of zoning or other local ordinances.

20.3.2 BUILDING PERMITS

The Zoning Administrator shall review each application for a building permit to ensure that the building or structure proposed is in accordance with the terms of this ordinance. No permit shall be issued for any construction for which a site development plan is required to be approved by the Planning Commission in accordance with section 24, *Site Development Plan*, of this ordinance unless and until such plan shall have been so approved. Thereafter, any item shown on such plan as approved shall be deemed *prima facie* in accordance with the terms of this ordinance.

20.3.2.1 Each applicant shall provide a copy of the most recent plat of record of the land to be built upon unless no such plat exists, in which case the applicant shall provide a copy of the most recent deed description thereof.

20.3.2.2 Any other information which the Zoning Administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance, a permit shall be issued to the applicant by the Zoning Administrator. One (1) copy of the building plan shall be returned to the applicant with the permit.

20.3.3 CERTIFICATES OF OCCUPANCY; ZONING COMPLIANCE CLEARANCE

20.3.3.1 It shall be unlawful to use or permit the use of any building or premises, or part thereof, hereafter created, erected, changed, converted, altered or enlarged, wholly or partly in its use or structure, until a certificate of occupancy shall have been issued therefor by the Zoning Administrator. Such certificate shall show that such building, premises or part thereof, and the proposed use thereof is in conformity with the provisions of this ordinance; provided that where structures are completed and ready for occupancy prior to the completion of all improvements required by the site development plan, and the Zoning Administrator shall determine that the site may be occupied consistently with the public health, safety and welfare, the owner may provide bond with surety adequate to guarantee the completion within a period not to exceed one (1) year of such site development plan improvements as related to the building for which the permit is sought, and upon

the providing of such bond with surety, a permit may be issued for the occupancy of those structures already completed. The Town Council may extend such period of bonding provided hereinabove upon demonstration by the applicant of adverse weather conditions or other extreme circumstance beyond the control of the applicant as opposed to lack of industry or exercise of good faith on behalf of the applicant.

Improvements deemed directly related to health and safety such as fire hydrants and safe and convenient access to public roads shall not be bonded and occupancy shall not be permitted until such improvements have been installed and are operational. The Zoning Administrator is authorized to accept, in place of corporate surety, a letter of credit, joint savings account or other like security.

20.3.3.2 Subsequent to issuance of a certificate of occupancy by the Zoning Administrator as set forth in section 20.3.3.1 hereinabove, it shall be unlawful to use or permit the use of any building or premises in a manner more intensive than described on such issued certificate or to change the use of any building or premises contrary to such issued certificate, until the Zoning Administrator shall issue a zoning compliance clearance for such intensification or change of use. Such clearance shall show that such building, premises or part thereof, and the proposed use thereof is in conformity with the provisions of this ordinance.

20.3.3.3 The provisions of sections 20.3.3.1 and 20.3.3.2 notwithstanding, nothing contained herein shall be deemed to obligate the Zoning Administrator, following review of any building or premises, to issue a certificate of occupancy or zoning compliance clearance in any case in which the Zoning Administrator determines that additional improvements are necessary as precedent to such issuance to protect the public health or safety, whether or not such improvements are shown on the approved site development plan.

20.3.4 SPECIAL USE PERMITS

20.3.4.1 RESERVED TO TOWN COUNCIL

The Town Council hereby reserves unto itself the right to issue all special use permits permitted hereunder. Special use permits for uses as provided in this ordinance may be issued upon a finding by the Town Council that such use will not be of substantial detriment to adjacent property, that the character of the district will not be changed thereby and that such use will be in harmony with the purpose and intent of this ordinance, with the uses permitted by right in the district, with additional regulations provided in section 5, *Supplementary Regulations*, of this ordinance, and with the public health, safety and general welfare.

20.3.4.2 APPLICATION

Application for a special use permit shall be made by the filing thereof by the owner or contract purchaser of the subject property with the Zoning Administrator, together with a fee as set forth in section 25, *Fees*, of this ordinance. No such permit shall be issued unless the Town Council shall have referred the application therefor to the Planning Commission for its recommendations. Failure of the Planning Commission to report within ninety (90) days after the first meeting of the Commission after the application has been referred to the Commission shall be deemed a recommendation of approval. No such permit shall be issued except after notice and hearing as provided by section 15.2-2204 of the Virginia Code. Also, a notification sign shall be posted by the applicant upon the subject property and adjacent to the nearest state highway at the point of access to the subject property for a period of twenty-one (21) days prior to the first public hearing of the Planning Commission.

20.3.4.3 CONDITIONS

The Town Council may impose upon any such permit such conditions relating to the use for which such permit is granted as it may deem necessary in the public interest and may require a bond with surety or other approved security to ensure that the conditions so imposed shall be complied with. Such conditions shall

relate to the purposes of this ordinance, including, but not limited to, the prevention of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substance or condition; the provision of adequate police and fire protection, transportation, water, sewerage, drainage, recreation, landscaping and/or screening or buffering; the establishment of special requirements relating to the building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building height and/or other particular aspects of occupancy or use. Except as the Town Council may otherwise specifically provide in a particular case, any condition imposed under the authority of this section shall be deemed to be essential to and nonseverable from the issuance of the permit itself.

20.3.4.4 REVOCATION (Amended 4-17-2002)

Any permit issued pursuant to this ordinance may be revoked by the Town Council, after notice and hearing pursuant to section 15.2-2204 of the Virginia Code, for willful noncompliance with this ordinance or any conditions imposed under the authority of this section. In the event that the use, structure or activity for which any such permit is issued shall not be commenced within eighteen (18) months, unless subject to a shorter period in the applicable section of this ordinance, after the issuance of such permit, the same shall be deemed abandoned and the authority granted thereunder shall thereupon terminate. For purposes of this section, the term *commenced* shall be construed to include the commencement of construction of any structure necessary to the use of such permit.

20.3.4.5 REVIEW OF PUBLIC USES FOR COMPLIANCE WITH THE COMPREHENSIVE PLAN

No street, park or other public area, or public structure, or public utility, public building or public service corporation other than railroads, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination, the Commission may establish such conditions of approval as deemed necessary to ensure compliance with the comprehensive plan.

Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless involving a change in location or extent of a street or public area.

The foregoing notwithstanding, the provisions of section 15.2-2232 of the Virginia Code shall apply to any such review.

20.4 ENFORCEMENT, ZONING ADMINISTRATOR

This ordinance shall be administered and enforced by an officer to be known as the Zoning Administrator who shall be appointed by the Town Council. The Zoning Administrator shall have all necessary authority on behalf of the Town Council to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of this ordinance and the bringing of legal action to ensure compliance with this ordinance, including injunction, abatement or other appropriate action or proceeding. The Zoning Administrator is empowered by the Town Council who reserves authority to review and approve all actions related to enforcement of this ordinance. The Council authorizes the Mayor to act on behalf of the Council in reviewing and approving such emergency matters as the Zoning Administrator may be required to carry out by this ordinance if such action is required prior to the next scheduled meeting of the Town Council. The Mayor shall inform the Council at the next regular meeting of the Town Council of all such actions requested and approved.

The Zoning Administrator shall be guided in all of his/her actions pursuant to this ordinance by the purposes, intent and spirit of this ordinance and the standards set forth in sections 1.4 through 1.6 of this ordinance. The Zoning Administrator may be assisted in the enforcement of this ordinance by the local office of the Virginia Department of Health, sheriff and all officials of the Town pursuant to their respective fields.

In addition, the Zoning Administrator shall maintain the zoning map, and such map shall be kept current and shall reflect amendments as soon as practicable after adoption by the Town Council.

20.4.1 ENFORCEMENT OF BOARD OF ZONING APPEALS DECISIONS

It shall be the duty of the Zoning Administrator to see that the decisions of the Board of Zoning Appeals are complied with.

20.4.2 ENFORCEMENT OF MINIMUM REQUIREMENTS

In enforcing the minimum requirements in districts, the Zoning Administrator shall notify by registered mail any person responsible for an alleged violation, stating the reason why it is believed that a violation exists in fact.

20.4.3 INTERPRETATION BY ZONING ADMINISTRATOR

In case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not, the Zoning Administrator, in consultation with the Town Attorney, is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in section 1, *Authority, Establishment, Purpose and Official Zoning Map*; provided however, that an appeal may be taken from any such determination as provided in section 22.3, *Appeal to the Board of Zoning Appeals*.

21.0 AMENDMENTS

The Town Council may amend, supplement, or change the regulations in the zoning ordinance, or the zoning boundaries or classifications of property on the zoning map, in conformity with the provisions of Title 15.2, Article 7, Chapter 22 of the Code of Virginia and the provisions and purposes of this section.

21.1 STATEMENT OF PURPOSE AND INTENT

The Town Council finds that a portion of the police power of the Commonwealth has been delegated to each municipality to be exercised reasonably in determining the manner of its development. The Virginia Legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, good zoning practice and the aesthetic values and priorities of the local citizenry provide guiding factors for the Town Council in its quest to exercise its legislative mandate in formulating a reasonable policy of county planning for the general good and welfare.

21.2 INITIATION OF AMENDMENTS

The Town Council may amend this ordinance by amending the text thereof, or by changing any district boundary shown on the adopted zoning map, provided that proceedings for any amendment shall be initiated only in the following manner.

21.2.1 PROPERTY OWNER PETITION

By the filing with the Town Council of a petition of any owner or owners of land proposed to be rezoned, which petition shall be addressed to the Town Council and submitted to the Town Clerk's Office and shall be on a standard form and accompanied by a fee as set forth in section 25, *Fees*, of this ordinance.

21.2.2 TOWN COUNCIL RESOLUTION

By the adoption by the Town Council of a resolution of intention to amend, which resolution, upon adoption, shall be referred to the Planning Commission for consideration pursuant to section 15.2-2285 of the Code of Virginia.

21.2.3 PLANNING COMMISSION RESOLUTION

By the adoption by the Planning Commission of a resolution of intention to propose an amendment.

21.3 USE PLAN REQUIRED

If the initiation of an amendment to this ordinance is by property owner petition, then such property owner shall submit to the Planning Commission, at least forty-five (45) working days prior to the public hearing of the Planning Commission, a plan, including narrative statements and map, of proposed development and use for the property and adjacent properties (if appropriate). The use plan shall be at such scale, and in such form, and contain such information, as determined by the Planning Commission to be necessary to serve as sufficient information for an evaluation as specified in section 24, *Site Development Plan*.

21.4 PROFFER OF CONDITIONS

Prior to any public hearing before the Town Council any applicant for rezoning may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions shall comply

with the provisions of section 15.2-1298 of the Code of Virginia; provided that the proffering thereof by the applicant shall be deemed *prima facie* evidence of such compliance.

21.4.1 CONDITIONS

In the processing of requests for amendments to this zoning ordinance, the Planning Commission may recommend, and the Town Council may impose, such special conditions as it may deem desirable when it finds the following conditions to prevail:

- a. The special conditions recommended by the Planning Commission do not restrict the use of the property any more than do conditions imposed by this ordinance for the zoning classification sought in the petition.
- b. The special conditions imposed are for the protection of other properties in the area.
- c. The inclusion of special conditions in the rezoning action is not arbitrary, but is with due regard to public health, safety, welfare, and is in accordance with the comprehensive plan for the Town.

21.4.2 EFFECT OF CONDITIONS

Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. All such conditions shall be in addition to the regulations provided for the district by the ordinance.

21.4.3 ZONING MAP NOTATION

Each such rezoning shall be designated on the zoning map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index which shall provide ready access to the ordinance creating such conditions.

21.4.4 AUTHORITY OF ZONING ADMINISTRATOR

The Zoning Administrator shall be vested with necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning including the ordering in writing of the remedy of any noncompliance with such conditions and the bringing of legal action for injunction, abatement or other appropriate action or proceeding. However, the Zoning Administrator is required to consult with the Mayor and obtain his/her approval before initiating any action affecting anyone within the Town's jurisdiction.

21.5 PUBLIC HEARING – NOTICE

The Planning Commission shall hold a public hearing on any such petition or resolution as provided by section 15.2-2285 of the Virginia Code, after notice as required by section 15.2-2204 of said Code.

21.6 REPORT BY PLANNING COMMISSION TO TOWN COUNCIL AFTER HEARING

After the conclusion of the hearing provided for in this section, unless the proceedings are terminated as provided herein, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment. Failure of the Planning Commission to report to the Town Council within ninety (90) days after the first meeting of the Commission following the date the proposed amendment has been referred to the Commission shall be deemed approval by the Commission. In acting favorably with respect to

a proposed amendment initiated by the petition of a property owner or owners, the Planning Commission need not confine its recommendation to the proposed amendment as set forth in the petition, but may reduce or enlarge the extent of land that it recommends be rezoned or may recommend that land be rezoned to a different zoning classification than that petitioned for, if, the Commission is of the opinion that such revision is in accord with public necessity, convenience, general welfare and good zoning practice and is in furtherance of the purposes of this ordinance and section; provided that before recommending an enlargement of the extent of land or a rezoning to a less restricted classification than was set forth in the petition, the Commission shall hold a further hearing on the matter, pursuant to the requirements of section 15.2-2204 of the Virginia Code. No amendment to the zoning map shall be approved for a change in zoning classification different from that applied for and contained in the public notice of hearing nor for any land not included therein without referring said change to the Planning Commission for its review and recommendations and proceedings pursuant to this section and section 21.3; provided, however, that an amendment may be approved for only a portion of the area proposed for rezoning if the portion rezoned is accurately and sufficiently delimited in the approval action, or if a portion is reclassified pursuant to section 21.3.

21.7 LIMITATION ON FILING NEW PETITION AFTER ORIGINAL DENIAL

Upon the denial by the Town Council of any petition filed pursuant to section 21.2.1 above, substantially the same petition shall not be reconsidered within twelve (12) months of the date of denial.

21.8 WITHDRAWAL OF PETITIONS

Any petition filed pursuant to section 21.2.1 above, may be withdrawn upon written request by the applicant any time prior to the submission of any public hearing notice for advertisement; provided, that if the request for withdrawal is made after the publication of the notice of hearing, such withdrawal shall be only with the consent of either the Planning Commission or the Town Council, whichever body has advertised the hearing, and substantially the same petition shall not be reconsidered within twelve (12) months of the date of action, unless the respective body approving withdrawal specifies that the time limitation shall not apply.

21.9 POSTING OF PROPERTY

Additional notice of public hearings involving zoning map amendments initiated pursuant to section 21.2.1 above shall be provided by means of signs posted on the property proposed for rezoning, in the manner prescribed in this section and by means of written notice to the owner or owners or their agent, the occupants of all abutting properties and property or properties immediately across a street or road from the property affected, and all property owners within two hundred (200) feet of the subject property. Said written notice shall be given at least five (5) days before the hearing. The applicant shall certify in writing that notice was given pursuant to this section before a public hearing may be held on the application, and such certification shall set forth the persons receiving said notice.

21.9.1 POSTING OF PROPERTY – PLANNING COMMISSION HEARING

At least fifteen (15) days preceding the Planning Commission's public hearing on a zoning map amendment, the applicant shall erect on the property proposed to be rezoned, a sign or signs furnished by the Town Clerk indicating the change proposed and the date, time and place of the public hearing. The sign shall be erected by the applicant within ten (10) feet of whatever boundary line of such land abuts a public road and shall be so placed as to be clearly visible from the road with the bottom of the sign not less than two and one-half (2½) feet above the ground. If more than one (1) such road abuts the property, then a sign shall be erected in the same manner as above for each such abutting roads. If no public road abuts thereon, then signs shall be erected in the same manner as above on at least two (2) boundaries of the property abutting land not owned by the applicant.

21.9.1.1 POSTING OF PROPERTY – TOWN COUNCIL HEARING

Upon receipt of written notice that a public hearing has been scheduled before the Town Council for his or her zoning map amendment, the applicant shall erect, at least fifteen (15) days preceding such hearing a sign or signs furnished by the Town Clerk indicating the change proposed and the date, time, and place of the public hearing. Such sign or signs shall be erected in the same manner as prescribed in section 21.9.1 above.

21.9.1.2 MAINTENANCE AND REMOVAL OF SIGNS

Any sign erected in compliance with this article shall be maintained at all times by the applicant up to the time of the hearing and it shall be the duty of the applicant at the hearing to prove by affidavit that he has fully complied with the requirements of this section and has continuously maintained the sign or signs up to the time of hearing. It shall be unlawful for any person, except the applicant or the Town Clerk or an authorized agent of either, to remove or tamper with any sign furnished during the period it is required to be maintained under this section. All signs erected under this article shall be removed by the applicant within fifteen (15) days following the public hearing for which it was erected.

21.9.2 ADDITIONAL PROCEDURES

The Town Clerk may authorize the preparation of required legal notices of the Town Council public hearing after he has received the Planning Commission report required in section 20.3.2, *Building Permits*, and containing the signature of the secretary to the Planning Commission. At least seven (7) working days prior to the Town Council public hearing, the applicant shall submit to the Town Attorney the proposed Final Order which shall require the signature of the Town Attorney verifying the accuracy of form and substance.

21.9.3 MATTERS TO BE CONSIDERED IN REVIEWING PROPOSED AMENDMENTS

Proposed amendments shall be reviewed in regard to sections 1.4, *Purpose and Intent*; 1.5, *Relationship to the Town of Scottsville Comprehensive Plan and Compatibility with the Zoning Ordinance of Albemarle County, Virginia*; and 1.6, *Relationship to Comprehensive Plan* of this ordinance. In addition, proposed amendments shall be reviewed with reasonable consideration for the existing use and character of the property, the suitability of the property for various uses, the trends of growth or change, the current and future requirements of the Town 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 schools, parks, playgrounds, recreation areas, and other public services; for the conservation of properties and their value and the encouragement of the most appropriate use of land throughout the Town. These considerations shall include, but shall not be limited to, timing of development, relation of development to major roads, relation of development to utilities and public facilities, and the net public costs of the development.

21.9.4 COORDINATION WITH COUNTIES

In matters affecting land use or impacting the comprehensive plans or zoning ordinances of Albemarle or Fluvanna Counties, consideration should be given to coordinating Town zoning issues with the affected County's officials. Harmonious, cooperative, and constructive relations should be promoted and practiced for the mutual benefit of the residents of Scottsville and citizens within to greater Scottsville community.

21.9.5 TIMING OF DEVELOPMENT

The Town Council, in promoting the general welfare and good zoning practice and the purposes of this article and ordinance, as part of an amending action, may specify a certain date for future consideration of possible changes to the zoning classification of the particular parcel of land which is a subject of an amending action. Said future consideration shall be for the purpose of determining whether subdivision or site development

plans have been submitted, whether development has in fact begun on the affected parcel, and whether there have been changes in the matters considered by the Town Council under this section or any other section, which may necessitate changes in the zoning classification. In no case shall the date set be less than two (2) years from the date of the original amending action.

21.9.6 CHANGE IN COMPREHENSIVE PLAN – ADOPTED

At such time as the comprehensive plan may be amended and officially adopted, either as part of the five (5) year review period or during interim periods, the Planning Commission shall prepare recommendations for corresponding amendments to the zoning ordinance, if such amendments are made necessary by the character of amendments or changes in the comprehensive plan.

21.10 SCHEDULE OF REVIEW

For the purposes of providing for orderly growth and reasoned consideration of the potential impact of proposed rezonings, zoning text amendments and special use permits upon the comprehensive plan, the Town Council may establish timing procedures for consideration of rezoning applications.

22.0 BOARD OF ZONING APPEALS

22.1 BOARD OF ZONING APPEALS: APPOINTMENT AND ORGANIZATION

A Board of Zoning Appeals (BZA), consisting of five (5) members, shall be appointed in accordance with the provisions of section 15.2-2308 of the Virginia Code, and shall have such powers and duties as set forth in section 15.2-2309 of the Code.

Within the limits of funds appropriated by the Town Council, the Board of Zoning Appeals may employ or contract for such secretaries, clerks, legal counsel, consultants and other technical and clerical services as the Board of Zoning Appeals may deem necessary for transaction of its business.

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after hearing held after at least fifteen (15) days notice.

The Board of Zoning Appeals shall have the authority to request the opinion, advice or other aid of any officer, employee, board, bureau or commission of the Town within the scope of his/her or its respective competence.

The Board of Zoning Appeals may, from time to time, adopt such rules and regulations consistent with the ordinances of the Town and laws of the Commonwealth as it may deem necessary to carry out the duties imposed by this ordinance. The meetings of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine. The Board shall choose annually its own chairman and vice-chairman, who shall act in the absence of the chairman. The chairman, or, in his/her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All records of official actions shall become part of the permanent records of the Board. A quorum shall be a majority of all the members of the Board.

22.2 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall have the following powers and duties in accordance with section 15.2-2309 of the Virginia Code.

- a. 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 or of any regulation adopted pursuant hereto.
- b. To authorize upon appeal or original application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, when owing to special conditions a literal enforcement of the provision will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:
 1. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by

the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

2. No such variance shall be authorized by the board of zoning appeals unless it finds:
 - (a) that the strict application of this ordinance would produce undue hardship;
 - (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 3. No such variance shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia.
 4. No variance shall be authorized unless the Board of Zoning Appeals finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
 5. In authorizing a variance, the Board of Zoning Appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.
- c. To hear and decide appeals from the decision of the Zoning Administrator.
 - d. To hear and decide applications for interpretation of the zoning 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 section 15.2-2204 of the Code of Virginia, the Board of Zoning Appeals may interpret the map in such way as to carry out the intent and the purpose of this ordinance for the particular section or district in question. The Board of Zoning Appeals shall not have the power, however, to rezone property or substantially to change the locations of district boundaries as established by this ordinance and the zoning map.

22.3 APPEAL TO THE BOARD OF ZONING APPEALS

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 Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals that by reason of facts stated in the certificate a stay would in his/her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board of Zoning Appeals or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

22.4 APPLICATION FOR VARIANCES

Application for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the Zoning Administrator in accordance with the provisions of this section and with rules adopted by the Board of Zoning Appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board of Zoning Appeals who shall place the matter on the docket to be acted on by the Board of Zoning Appeals. No such variance shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission which may send a recommendation to the Board of Zoning Appeals or appear as a party at the hearing.

22.5 PROCEDURE

Appeals and applications for variances shall be filed with the Zoning Administrator, together with a fee as set forth in section 25, *Fees*.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof pursuant to section 15.2-2204 of the Code of Virginia, as well as due notice to the parties in interest and decide the same within sixty (60) days. In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from this ordinance.

22.6 DECISION OF BOARD OF ZONING APPEALS

Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer, or any officer, department, board or bureau of the Town, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals, which petition shall proceed in accordance with section 15.2-2314 of the Code of Virginia.

23.0 ARCHITECTURAL REVIEW BOARD

23.1 CREATION

For the general purposes of this article as herein stated and specifically to preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas, there is hereby created a board to be known as the "Architectural Review Board" (ARB). The members of said Architectural Review Board shall be appointed by the Town Council.

23.2 MEMBERSHIP

The membership shall consist of five (5) members.

23.3 QUALIFICATIONS

A majority of the membership shall be residents of the Town and all shall have a demonstrated interest, competence, or knowledge in historic preservation. At least one (1) member shall be a long-term resident of the Town within its current boundaries. One (1) member may be a member of the Town Council and one (1) member may be a member of the Town Planning Commission. At least one (1) member shall have professional training, equivalent experience, or demonstrated knowledge in architecture, history, architectural history, or archaeology. Effort should be made to appoint at least one (1) additional member certified as a registered architect with a demonstrated interest in historic preservation. The latter two members should be appointed on the basis of their qualifications; consideration need not be given as to whether they are residents of the Town.

23.4 TERMS

Members shall be appointed for a term of four (4) years. Initial appointments shall be three (3) members for four (4) years, and remaining members for two (2) years. The term of a Town Council member shall be concurrent with his/her elected term of office. The term of a Planning Commission member shall be concurrent with his/her appointment to the Planning Commission. Vacancies shall be filled within sixty (60) days.

23.5 ORGANIZATION

The Architectural Review Board shall elect from its own membership a chairperson, vice-chairperson and a secretary who shall serve annual terms and may succeed themselves.

23.6 RULES

- a. The Architectural Review Board shall meet in regular session at least once a month whenever an application has been filed for their consideration or in any case at least once per quarter. Special Meetings of the Architectural Review Board may be called by the Chairman or a majority of the members after twenty-four (24) hours written notice to each member served personally or left at his/her usual place of business or residence. Such notice shall state the time and place of a meeting and the purpose thereof.
- b. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Architectural Review Board. The Architectural Review Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the State of Virginia.

- c. The Architectural Review Board shall establish procedures for all matters coming before it for review and all meetings shall be open to the public. Adequate notice shall be given to applicants, but meetings need not be advertised in advance except in the case of a proposal to demolish or move a designated landmark or contributing structure. Notice when required shall be the publication of the agenda in a newspaper of general circulation serving the Town seven (7) days prior to the meeting.
- d. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All records of official actions shall become part of the permanent records of the Board. A quorum shall be a majority of all the members of the Board.
- e. The Architectural Review Board shall have the authority to request the opinion, advice or other aid of any officer, employee, board, bureau or commission of the Town within the scope of his/her or its respective competence.

23.7 POWERS AND DUTIES

The Architectural Review Board shall have the power and authority for issuing or denying certificates of appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district. In addition, the Architectural Review Board shall have the following duties:

- a. To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies and property owners in matters involving historically significant sites and buildings, or other properties in historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.
- b. To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
- c. To conduct studies deemed necessary by the Town Council or Planning Commission concerning location of historic and entrance corridor districts, and means of preservation, utilization, improvement and maintenance of historic assets in the Town.
- d. To propose additional historic landmarks or deletions thereto or changes to historic districts.
- e. To adopt standards for review to supplement the standards set forth in this ordinance.
- f. To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- g. To cooperate with and enlist assistance from the Virginia Historic Landmarks Commission, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites or areas within the Town.
- h. To continuously evaluate conditions and advise owners of property within entrance corridor districts regarding standards.
- i. At the request of the Zoning Administrator, to review and render judgment on the appropriateness of the appearance of proposed and existing signs and structures to be or currently located at any site within the Town.

j. Provide advice to the public on standards and acceptable ways to meet standards within the historic and entrance corridor districts.

24.0 SITE DEVELOPMENT PLAN

24.1 INTENT

There is a mutual responsibility between the Town and the developer to develop land in an orderly manner.

The purpose of this section is to encourage innovative and creative design and facilitate use of the most advantageous techniques and highest standards in the development of land in the Town; and to ensure that land is used in a manner which is efficient, harmonious with neighboring property and in accordance with the adopted comprehensive plan for the Town and with the provisions of this ordinance.

Nothing herein shall require the approval of any development, use or plan, or any feature thereof, which shall be found by the Planning Commission, the Town Council, or the Zoning Administrator, an agent of the Town Council, to constitute a danger to the public health, safety or general welfare, or which shall be determined by such Planning Commission, Town Council or Zoning Administrator, to be departure from or violation of sound engineering design or standards.

Compliance with the provisions of this section shall in no event be construed to relieve the applicant of the duty of compliance with all other provisions of the law applicable to the development in question.

24.2 WHEN REQUIRED

24.2.1 A site development plan shall be required for any construction, use, change in use or other development in all zoning districts; provided that no such plan shall be required for the following:

- a. The construction or change in occupancy of any single-family detached dwelling unit which is located upon a tract or parcel whereon are located or proposed to be located an aggregate of two (2) or fewer such units.
- b. The location of a two-family dwelling on any lot or parcel not occupied by any other dwellings.
- c. Any accessory structure to a single-family or two-family dwelling.
- d. Any agricultural activity.

24.2.2 The foregoing notwithstanding, after notice in accordance with section 24.7.3, the Planning Commission may waive the drawing of a site development plan in a particular case upon a finding that the requirement of such plan would not forward the purposes of this ordinance or otherwise serve the public interest; provided that no such waiver shall be made until the Planning Commission has considered the recommendation of the Zoning Administrator. The Zoning Administrator may recommend approval, approval with conditions, or denial of such waiver. In the case of conditional approval, the Zoning Administrator in his or her recommendation shall state the relationship of the recommended condition to the provisions of this section. No condition shall be imposed which could not be imposed through the application of the regulations of section 24.

24.3 IMPROVEMENTS – CONSTRUCTION AND BONDING

All improvements required by this section shall be installed at the cost of the developer, except where cost sharing or reimbursement agreements between the Town and the developer are appropriate, the same to be recognized by formal written agreement prior to site development plan approval.

24.3.1 The approval of a site development plan or the installation of the improvements as required by this section shall not obligate the Town to accept improvements for maintenance, repair or operation. Acceptance shall be subject to Town and/or state regulations, where applicable, concerning the acceptance of each type of improvement.

24.3.2 Prior to the final approval of any site development plan, there shall be executed by the owner or developer an agreement to construct all physical improvements required by or pursuant to this section which are to be dedicated to public use. The Zoning Administrator may require, prior to final approval, issuance of a building permit, or issuance of a certificate of occupancy, a bond with surety approved by the Zoning Administrator in an amount sufficient to cover the estimated costs of such improvements. In determining the estimated costs of the improvements to be bonded, the owner or developer shall submit an estimate of such costs which shall be reviewed by the Zoning Administrator and approved by the Town Council. The agreement and bond shall provide for and be conditioned upon completion of all work within a time specified by the Zoning Administrator. The completion of all other improvements required by or pursuant to this section shall be certified and/or bonded.

24.4 REVISIONS

No change, revision or erasure shall be made on any preliminary or final site development plan nor on any accompanying data sheet where approval has been endorsed on the plan or sheet unless authorization for such change is granted in writing by the Zoning Administrator, except where such change has been required by the Planning Commission. Any site development plan may be revised, provided that request for such revision shall be filed and processed in the same manner as the original site development plan.

24.5 APPEALS (Amended 4-16-2004)

The Town Council reserves unto itself the right to review all decisions of the Planning Commission made in the administration of section 24 which, in its discretion, it shall deem necessary to the proper administration hereof.

Any person aggrieved by any decision of the Planning Commission in the administration of this section may demand a review of the application by the Town Council. Such demand shall be made by filing a request therefor in writing to the Zoning Administrator in the Office of the Town Clerk within thirty (30) calendar days of the date of such decision. The Town Council may affirm, reverse or modify, in whole or in part, the decision of the Planning Commission. In so doing, the Council shall give due consideration to the recommendations of the Planning Commission. In addition, it may consider such other evidence as it deems necessary for a proper review of the application.

Any person aggrieved by a decision of the Planning Commission, may demand a review by the Commission of the specific decision concerned. Such request shall be made in writing and filed with the Zoning Administrator within thirty (30) calendar days of the date of such decision.

For the purposes of this section, the term *person aggrieved* shall be limited to the applicant, persons required to be notified pursuant to section 24.7.3, the Planning Commission or any member thereof, the Zoning Administrator, the Town Council or any member thereof.

24.6 WAIVER, VARIATION AND SUBSTITUTION

24.6.1 The Planning Commission may waive, vary or accept substitution for any requirement of section 24.11 in a particular case upon a finding that requirement of such improvement would not forward the purposes of this ordinance or otherwise serve the public interest; or in the case of substitution, that such alternative will satisfy the purpose of this ordinance to at least an equivalent degree as the required improvement.

24.6.2 Whenever, because of unusual size, topography, shape of the property, location of the property or other unusual conditions, excluding the proprietary interests of the developer, strict application of the requirements of section 24.11 would result in significant degradation of the site or adjacent properties, the requirement may be varied or waived by the Planning Commission; provided that such variance or waiver shall not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to sound engineering practices, or to adjacent properties.

24.6.3 Upon finding in any case that by substitution of technique, design or materials of comparable quality, but differing from those required by section 24.4, a developer will achieve results which substantially satisfy the overall purposes of this ordinance in a manner equal to or exceeding the desired effects of the requirement in section 24.11, the Planning Commission may approve such substitution of technique, design or materials.

24.6.4 A developer requesting waiver, variation or substitution pursuant to this section shall file with the Zoning Administrator in the Office of the Town Clerk a written request which shall state reasons and justifications for such request together with such alternatives as may be proposed by the developer. Such request shall be submitted prior to Planning Commission consideration of the preliminary or final plan, but not later than the site plan review committee revision deadline. No such request shall be considered by the Planning Commission until the Commission has considered the recommendation of the Zoning Administrator. The Zoning Administrator may recommend approval, approval with conditions or denial. A recommendation of approval or conditional approval shall be accompanied by a statement from the Zoning Administrator as to public purpose served by such recommendation, particularly in regard to the purpose and intent of this ordinance, the subdivision ordinance, and the comprehensive plan.

24.7 PRELIMINARY PLAN SUBMITTAL

24.7.1 Applications for preliminary plan approval shall be submitted to the Planning Commission. Plans which lack information required by section 24.9 shall be deemed to be incomplete and shall be rejected by the Zoning Administrator within ten (10) days of submittal.

24.7.2 The developer shall revise the plan to include all requirements of the Planning Commission and shall submit such revisions by a date prescribed by the Zoning Administrator. Where the revised plan does not include required revisions, the Zoning Administrator shall suspend review and notify the applicant in writing that the plan shall not proceed until required revisions are complete as determined by the Zoning Administrator.

Nothing contained herein shall obligate the developer to revise the plan to include recommendations of the Planning Commission. However, in such case in which the developer does not revise the plan to include recommendations of the Planning Commission, the developer shall submit in writing to the Zoning Administrator by the revision date a statement as to the reasons and justification for not incorporating such recommendations in the revised plan.

24.7.3 Notice of preliminary plan submission shall be sent by first class mail to the last known address of all owners of property adjacent to the development. In any case in which the property so adjacent is owned by the applicant, notice shall be given to the owners of the next adjoining property not owned by the applicant. Mailing to the address shown on the current real estate tax assessment books of Albemarle County or Fluvanna County shall be deemed adequate compliance with this requirement. No preliminary plan shall be approved within ten (10) calendar days of the date of the mailing of such notice. The notice shall state the type of use proposed, specific location of development, where the preliminary plan may be viewed and date of Planning Commission meeting.

24.7.4 The Planning Commission shall approve or disapprove the application within sixty (60) calendar days from the date of the application, except in those cases where the Zoning Administrator has suspended review of the preliminary plan under section 24.7.2 of this ordinance. It may consider such evidence as it deems necessary for a proper review of the application.

In approving a preliminary plan, the Planning Commission may determine to review in whole or in part the final site development plan.

24.7.5 Any person aggrieved by a decision of the Zoning Administrator, or the Planning Commission, may appeal the specific decision concerned pursuant to section 24.5 of this ordinance.

24.8 FINAL SITE DEVELOPMENT PLAN SUBMITTAL

24.8.1 A final site development plan shall be submitted within six (6) months of the date of Planning Commission approval of the preliminary plan. In any case, the final site development plan shall be submitted within one (1) year of the Planning Commission approval of the preliminary plan or the preliminary plan approval shall expire.

The site development plan shall be reviewed by the Planning Commission if there is substantial change from the approved preliminary plan or if the Commission requested review of the plan during preliminary plan approval.

During the above time period, the applicant shall work to satisfy the conditions of the preliminary plan approval and to obtain tentative approvals for the final site development plan.

The final site development plan shall be reviewed in accordance with the regulations of section 24 in effect at time of preliminary site development plan approval.

24.8.2 Application for final site development plan approval shall be submitted to the Zoning Administrator in the office of the Town Clerk.

Plans which lack items required in section 24.10 shall be deemed to be incomplete and shall be rejected by the Zoning Administrator.

24.8.3 The Zoning Administrator shall transmit application for final site development plan approval to the Planning Commission for its review. The Commission shall review such application for technical compliance with the provisions hereof and any conditions of approval of the preliminary plan.

24.8.4 Approval of the final site development plan pursuant to this section shall expire twelve (12) months after the date of approval unless actual building construction shall have commenced and is thereafter prosecuted in good faith.

24.8.5 Any person aggrieved by a decision of the Planning Commission, may appeal the specific decision concerned pursuant to section 24.5 of this ordinance.

24.9 PRELIMINARY PLAN CONTENT

24.9.1 Ten (10) clearly legible blue or black line copies of a preliminary plan shall be filed with the Town Clerk.

24.9.2 If revisions are necessary, seven (7) full-sized revised copies and one (1) reduced revised copy no larger than eleven (11) inches by seventeen (17) inches shall be submitted by the revisions deadline.

24.9.3 All waiver requests shall be submitted with the preliminary plan and clearly state the specific items being requested for waiver.

24.9.4 The preliminary plan shall be dimensioned to the accuracy standards required in section 24.9.6.r.

24.9.5 The preliminary plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or to such scale as may be approved by the Zoning Administrator in a particular case; no sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The preliminary plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.

24.9.6 The preliminary plan shall contain the following information:

a. The name of the development; name of the owner, developer and individual who prepared the plan; tax map and parcel number; zoning; together with description of any variances, zoning proffers and bonus factors applicable to the site; town, county and state; north point; scale; one datum reference for elevation (where section 17, *Flood Hazard Overlay District – FH*, is involved, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography); the source of the topography; the source of the survey; sheet number and total number of sheets; date of drawing; date and description of latest revision; owner, zoning, tax map and parcel number and present use of adjacent parcels; departing lot lines; minimum setback lines, yard and building separation requirements; vicinity map at a scale of one (1) inch equals two thousand (2,000) feet; and boundary dimensions.

b. Written schedules or data as necessary to demonstrate that the site can accommodate the proposed use, including: proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type; gross residential density; square footage of recreation area, percent and acreage of open space; maximum square footage for commercial and industrial uses; maximum number of employees; maximum floor area ratio and lot coverage if industrial; maximum height of all structures; schedule of parking including maximum amount required and amount provided; and maximum amount of impervious cover on the site; if a landscape plan is required, maximum amount of paved parking and vehicular circulation areas.

c. If phasing is planned, phase lines and proposed timing of development.

d. Existing topography indicating, for up to twenty (20) percent slope, maximum five (5) foot contours and, for over twenty (20) percent slope, maximum ten (10) foot contours. Proposed grading displaying maximum five (5) foot contours supplemented where necessary by spot elevations; areas of the site where existing slopes are twenty-five (25) percent or greater. Existing topography for the entire site and a minimum of two hundred (200) feet outside of the site unless otherwise approved by the Zoning Administrator.

e. Existing landscape features as described in section 24.11.9.4.c.

f. The name and location of all watercourses and other bodies of water adjacent to or on the site. Indicate if the site is located within a reservoir watershed.

g. Location of septic setback lines from watercourses including intermittent streams and other bodies of water.

h. One hundred year flood plain limits as shown on the official flood insurance maps for the Town of Scottsville, Albemarle County or Fluvanna County.

- i. Existing and proposed streets, access easements and travelways, together with street names, state route numbers, right-of-way lines and widths, centerline radii, and pavement widths.
- j. Location and size of existing water and sanitary sewer facilities and easements, storm sewer facilities, drainage channels; and drainage easements.
- k. Proposed conceptual lay-out for water and sanitary sewer facilities and storm drainage facilities including storm detention ponds or structures, indicating direction of flow in all pipes and watercourses with arrows.
- l. Location of other existing and proposed utilities and utility easements.
- m. Location of existing and proposed ingress to and egress from the site, showing the distance to the centerline of the nearest existing street intersection.
- n. Location and dimensions of all existing and proposed improvements including: buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; loading and service areas together with the proposed paving material types for all walks, parking lots and driveways; and signs.
- o. All areas intended to be dedicated or reserved for public use.
- p. Landscape plan in conformance with section 24.11.9.
- q. Where deemed appropriate by the Zoning Administrator due to intensity of development, estimated traffic generation figures for the site based upon current Virginia Department of Highways and Transportation rates for residential land uses, and the Federal Highway Administration Publication *Development and Application of Trip Generation Rates* for all other land uses. Indicate the estimated vehicles per day and direction of travel for all connections to a public road.
- r. The preliminary plan shall be dimensioned to at least the following standards for accuracy:
 - 1. Boundary, setback and zoning lines – one foot in one thousand (1:1,000) feet;
 - 2. Existing contours – one-half (½) of the contour interval required in section 24.9.6.d, above;
 - 3. Proposed contours – within five (5) feet horizontally and vertically;
 - 4. Existing structures, utilities and other topographic features – within five (5) feet;
 - 5. Proposed structures, roads, parking lots and other improvements – within five (5) feet.
- s. The Zoning Administrator or the Planning Commission may require additional information to be shown on the preliminary plan as deemed necessary in order to provide sufficient information for the staff and/or Planning Commission to adequately review a preliminary plan.

24.10 FINAL SITE DEVELOPMENT PLAN CONTENT

24.10.1 Final site development plans together with amendments thereto shall be prepared and sealed by an architect, professional engineer, land surveyor with a 3(b) license, or landscape architect, all of whom shall be licensed to practice in the Commonwealth of Virginia.

24.10.2 Final site development plans shall be prepared on mylar, sepia or other such transparency material which shall be termed as the master drawing. Ten (10) clearly legible blue or black line copies of the master drawing shall be filed with the Office of the Town Clerk for forwarding to the Planning Commission.

24.10.3 Six (6) copies of a landscape plan shall be filed with the site development plan if not previously submitted.

24.10.4 If revisions are necessary, seven (7) full-sized revised copies shall be submitted by the revision deadline. When the plan is ready for final approval, the full-sized revised master drawing shall be submitted for signatures. Once signatures have been obtained, the applicant shall submit four (4) copies of the signed master drawing to the Office of the Town Clerk for forwarding to the Zoning Administrator.

24.10.5 The final site development plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or larger; no sheet shall exceed thirty-six (36) inches by forty-two (42) inches in size. The site development plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the sheets join.

24.10.6 The final site development plan shall reflect conditions of approval of the preliminary plan. The final site development plan shall contain the following information in addition to all the information required on the preliminary plan:

- a. Specific written schedules or notes as necessary to demonstrate that requirements of this ordinance are being satisfied. In addition to preliminary plan information, indicate if sale or rental units; number of bedrooms per unit, and number of units per building if multi-family; specifications for recreational facilities.
- b. Proposed grading plan displaying, for up to twenty (20) percent slope, maximum two (2) foot contours and, for over twenty (20) percent slope, maximum five (5) foot contours.
- c. Detailed plans for proposed water and sanitary sewer facilities, including: all pipe sizes, types and grades; proposed connections to existing or proposed central systems; location and dimensions of proposed easements and whether the same are to be publicly or privately maintained; profiles and cross sections of all water and sewer lines including clearance where lines cross; all water main locations and sizes; valves and fire hydrant locations; all sanitary sewer appurtenances by type and number; the station on the plan to conform to the station shown on the profile and indicate the top and invert elevation of each structure.
- d. Detailed construction drainage and grading plans:
 1. Profiles of all ditches and channels whether proposed or existing. Show: existing and proposed grades, and invert of ditches, cross pipes or utilities; typical channel cross sections for new construction; and actual cross sections for existing channels intended to remain;
 2. Profiles of all storm sewer systems showing existing and proposed grades;
 3. Plan view of all drainage systems with all structures, pipes and channels numbered or lettered on the plan and profile views. Show sufficient dimensions and bench marks to allow field stake out of all proposed work from the boundary lines;
 4. A drainage summary table for culverts, storm sewer and channels as described in the following example:

Structure Number	Description	Length	Invert In	Invert Out	Slope	Remarks
1	42" RCP Class III	50'	424.50	424.00	100.00%	Provide 2, EW
2	DI-3B	L=8	426.00	432.00	-	IS-1 Top
3	PG-2A	400'	420.00	400.00	5.00%	D=12"
4	Grade Swale	200'	420.00	415.00	2.50%	D=18"

5. A legend showing all symbols and abbreviations used on the plan;
 6. General notes, typical sections, and details of all items not covered by Virginia Department of Highways and Transportation standard drawings;
 7. Flood plain limits for the one hundred year storm for all watercourses with an upstream drainage area of fifty (50) acres or more provided that the Town building inspector may waive this requirement for drainage areas of less than one hundred (100) acres upon determination that such information is unnecessary for review of the proposed development.
- e. Typical street sections together with specific street sections where street cut or fill is five (5) feet or greater; centerline curve data; radius of curb returns or edge of pavement; location, type and size of proposed ingress to and egress from the site; together with culvert size; symmetrical transition of pavement at intersection with existing street; the edge of street surface or face of curb for full length of proposed street; when proposed streets intersect with or adjoin existing streets or travelways, both edges of existing pavement or travelway together with curb and gutter indicated for a minimum of one hundred (100) feet or the length of connection, whichever is the greater distance.
- f. Signature panels for fire official, Albemarle County Service Authority, Virginia Department of Health, Virginia Department of Highways and Transportation, and Thomas Jefferson Soil and Conservation District.
- g. For all parking and loading areas, indicate: size; angle of stalls; width of aisles and specific number of spaces required and provided, and method of computation. Indicate type of surfacing for all paved or gravel areas.
- h. The final site development plan shall be dimensioned to at least the following standards for accuracy:
1. Boundary, setback and zoning lines – one foot in ten thousand (1:10,000) feet;
 2. Existing contours – one-half (½) of the contour interval required in section 24.10.6.b, above;
 3. Proposed contours – within one (1) foot horizontally and vertically;
 4. Spot elevations – within one-tenth (0.10) of a foot;
 5. Existing structures, utilities and other topographic features – within two (2) feet. For critical structures, accuracy should be within one-tenth (0.10) of a foot;

6. Proposed structures, roads, parking lots and other improvements – within one one-hundredth (0.01) of a foot.

i. Landscape plan in conformance with section 24.11.9.

24.11 MINIMUM STANDARDS FOR IMPROVEMENTS

24.11.1 COMPREHENSIVE PLAN

The comprehensive plan for Scottsville provides a framework within which public and private decisions can promote the most beneficial arrangement of land use and related public services. The comprehensive plan provides for a balanced development policy which accommodates future growth while preserving existing amenities.

There is a mutual responsibility between the Town and the developer to develop land in an orderly manner in accordance with the intent of the comprehensive plan. The comprehensive plan shall serve as a guide to the developer in preparation of a site development plan. All agencies of the Town shall employ, and all other public agencies are encouraged to employ, the standards and recommendations of the comprehensive plan in review of site development plans.

24.11.1.1 In the case of any construction, use, change of use or other development required to be reviewed by the Planning Commission under section 15.2-2232 of the Virginia Code, the provisions of this ordinance shall be deemed supplementary to the said section and shall be construed in accordance therewith. Any public area, facility or use as set forth in paragraph (A) of section 15.2-2232 of the Code which is within, but not the entire subject of, an application under this section, shall be reviewed by the Planning Commission as to whether or not the same is substantially in accord with the comprehensive plan as well as for compliance with the design standards hereof. Approval of such application shall be deemed approval of such area, facility or use pursuant to section 15.2-2232 (A), (B) and (D) of the Code, subject to review by the Town Council pursuant to section 24.5 hereof, which review shall, as to such area, facility or use, be deemed to constitute review pursuant to section 15.2-2232 (B) of the Code. Upon approval or disapproval of any plan showing such facility, the Planning Commission shall promptly communicate its findings to the governing body by forwarding the same in writing to the Clerk of the Town Council.

24.11.1.2 Site development plans may include provision for the reservation and/or dedication of suitable areas for parks, schools, open space and other public facilities, utilities and uses as recommended in the adopted comprehensive plan for the Town. The developer shall confer with the Town Council or its agent, the Zoning Administrator, and/or other appropriate public officials of the Town to ascertain if, and when, and in what manner such areas should be reserved for acquisition by the Town. Nothing in this provision shall be construed to preclude the dedication of any property for public use which is not included in the comprehensive plan, provided such property is acceptable to the Town for dedication and maintenance. The Town Council may require, as a condition precedent to approval of the development, that the developer allocate space necessary for public purposes, to the extent that the same shall be reasonably necessitated by the particular development. Where the particular development contributes in part, along with other development or developments in the area, to the need for such facilities, the developer may be required to contribute lands, on a *pro rata* basis, for such facilities as are reasonably attributable to the particular development.

24.11.1.3 Where the comprehensive plan indicates a proposed right-of-way greater than that existing on the boundaries of a site development plan, such additional right-of-way shall be reserved for public use when the plan is approved by the measurement of setback from such proposed right-of-way line.

24.11.2 SAFE AND CONVENIENT ACCESS, CIRCULATION, PEDESTRIAN WAYS, PARKING AND LOADING

Each development shall be provided with safe and convenient ingress from and egress to one (1) or more public roads designed to: reduce or prevent congestion in the public streets; minimize conflict and friction with vehicular traffic on the public street and on-site; minimize conflict with pedestrian traffic; and provide continuous and unobstructed access for emergency purposes such as police, fire and rescue vehicles. To these ends, the Planning Commission in review of a site development plan may specify the number, type, location and design of access points to a public street together with such measures as may be deemed appropriate to ensure adequate functioning of such access points.

24.11.2.1 Each entrance onto any public road for vehicular traffic to and from each development shall be subject to the approval of the Planning Commission upon the advice of the resident engineer of the Virginia Department of Highways and Transportation and other staff and shall be constructed in accordance with the design standards of the Virginia Department of Highways and Transportation.

24.11.2.2 Where discharge waters of the one hundred year storm could reasonably be anticipated to inundate, block, destroy or otherwise obstruct the principal means of access to a residential development or part thereof:

- a. The principal means of access shall be designed and constructed so as to provide unobstructed access at time of flooding subject to the requirements of section 17, *Flood Hazard Overlay District – FH*; and/or
- b. Alternative vehicular access available to all dwellings and not subject to flooding shall be provided.

24.11.2.3 For a development of fifty (50) or more residential units, reasonably direct vehicular access shall be provided from all residential units to two (2) public street connections. The foregoing notwithstanding, the Planning Commission for any scale of residential development may require two (2) points of access to a public street where such access is deemed warranted due to the character of the residents of such development including but not limited to the elderly, handicapped and developmentally disabled.

24.11.2.4 The Planning Commission may require provision for and/or construction of travel lanes or driveways to serve adjoining properties. The pavement of vehicular travel lanes or driveways designed to permit vehicular travel on the site and from adjacent property and parking areas shall be not less than twenty (20) feet in width.

24.11.2.5 On any site bordering a primary, arterial or interstate highway, or adjacent to an existing service road in the state highway system, the developer, in lieu of providing travel lanes or driveways that provide vehicular access to and from adjacent parking areas and adjacent property, may dedicate where necessary, and construct a service road in accordance with existing standards for the Virginia Department of Highways and Transportation for such roads. In no such event shall the setback requirement be greater if the service road is dedicated than the setback required without dedication, except that in no event shall a building be constructed closer than twenty (20) feet from the nearest right-of-way line. Upon satisfactory completion, inspection and application by the developer, the Town shall take the necessary procedural steps to have such service road accepted by the Virginia Department of Highways and Transportation for maintenance.

24.11.2.6 On-site parking and circulation shall be designed and constructed in accordance with section 4.11, *Off-Street Parking and Loading Requirements*, subject to approval in accordance with sound engineering practices, including but not limited to grade, drainage and paving specifications; and Zoning Administrator approval of the safe and convenient vehicular circulation patterns.

24.11.2.7 Provision shall be made for sidewalks and pedestrian walkways which will enable pedestrians to walk safely and conveniently between buildings on the site and from the site to adjacent property. When

feasible, pedestrian underpasses or overpasses are to be encouraged in conjunction with major vehicular routes. Provision shall be made where appropriate for pedestrian walkways in relation to private and public areas of recreation and open space such as schools, parks, gardens and areas of similar nature. Connection shall be made wherever possible of walkways and bicycle ways with similar facilities in adjacent developments. All sidewalks and curbs and gutters proposed to be accepted for maintenance by the Virginia Department of Highways and Transportation shall be built in accordance with the construction standards of the Virginia Department of Highways and Transportation and shall conform to the provisions of section 15.2-2021 of the Virginia Code. All other sidewalks and walkways shall conform to section 15.2-2021 of the Code and shall be of material, specifications and design approved by the Town. Sidewalks and pedestrian walkways may be required on one or both sides of streets to the reasonable satisfaction of the Planning Commission in residential subdivisions of a proposed density of two (2) or more dwelling units per acre and in commercial and industrial developments whenever the Commission shall determine that the same are reasonably necessary to protect the public health, safety and welfare and that the need therefor is substantially generated by the proposed development.

24.11.3 STREETS AND ROADS

In the case of any site development plan involving multiple uses, including multiple dwelling units, the principal means of access thereto shall conform to the standards of the Virginia Department of Highways and Transportation or in the case of a private road to the standards of the Town as set forth in the subdivision ordinance, whether or not the property is proposed to be subdivided. The Planning Commission may waive this requirement for access ways between adjoining properties and emergency access ways required pursuant to section 24.11.2 of this ordinance.

24.11.3.1 The Town Council or the Zoning Administrator, may modify street geometric design standards for local, collector and minor loop streets or private roads, provided that:

- a. Approval for modification is obtained from the Virginia Department of Highways and Transportation where applicable;
- b. Off-street parking spaces are provided to compensate for the loss of on-street parking due to modification of geometric design standards;
- c. The developer shall be responsible for the placing of “no parking” signs on all travel lanes, driveways or streets to prohibit parking on such roads or driveways. Where cul-de-sac turnarounds are utilized under this modification, if the right-of-way radius is fifty (50) feet and the paved radius is forty (40) feet, the developer shall install “no parking” signs for the complete circle where such signs are required by the Planning Commission. If the right-of-way radius is increased to sixty (60) feet and the paved radius is increased to fifty (50) feet, parking on the turnaround may be permitted.

24.11.3.2 All cul-de-sacs shall have a turning radius of at least fifty (50) feet. In the case of any such street which is not part of the state highway system, the Planning Commission may require at least one sign of a type approved by the Planning Commission be posted giving notice that such street is not a through street.

No road segment ending in a cul-de-sac or loop street shall serve more than forty-nine (49) residential units except as provided in section 24.11.2 of this ordinance.

24.11.3.3 In any case where existing public street right-of-way is less than fifty (50) feet, additional right-of-way shall be dedicated to provide for a fifty (50) foot width. Such dedication shall be measured to be twenty-five (25) feet from the existing street centerline except as otherwise required by the Planning Commission. In any case where the Planning Commission determines that a right-of-way in excess of fifty (50) feet will be necessary to serve the traffic which may reasonably be expected to be generated by the proposed development,

such greater width of right-of-way may be required by the Commission. Public street right-of-way of less than fifty (50) feet may be permitted upon recommendation of the Virginia Department of Highways and Transportation.

24.11.4 DRAINAGE, STORMWATER MANAGEMENT AND SOIL EROSION

24.11.4.1 Provisions shall be made for the disposition of surface water run-off from the site including such on-site and off-site drainage facilities and drainage easements as the Planning Commission may deem adequate.

24.11.4.2 Provisions shall be made for the minimization of pollution of downstream watercourses and ground-water where such measures are deemed warranted by the Planning Commission due to the peculiar character of a particular use. This provision shall not apply to residential use.

24.11.4.3 All provisions for soil erosion and sedimentation control shall comply with the provisions of the Scottsville Soil Erosion and Sedimentation Control Ordinance.

24.11.4.4 In review of site development plans, the site plan review committee should refer to the U. S. Natural Resource Conservation Service, *Soil Survey of Albemarle County, Virginia, August, 1985* in commenting as to soil suitability for the intended development including specific reference to Table 10 Building Site Development, Table 12 Construction Materials, and Table 16 Soil and Water Features. In such case where soils are rated as poor or severely limited for an intended use, or where high seasonal water table and/or hydrologic group D soils are encountered, the shall so notify the Planning Commission will recommend special design measures.

24.11.5 WATER, SEWER AND OTHER UTILITIES

Adequate provision shall be made by the developer for all utilities, both on-site and off-site. Where deemed appropriate by the Planning Commission in accordance with section 24.11.1, the developer shall provide easements through the development for extension of such utilities to other properties.

24.11.5.1 Within the service areas of the Albemarle County Service Authority and where the Planning Commission determines public water and/or sewer to be reasonably available, such service shall be extended by the developer. All such facilities shall be constructed to Albemarle County Service Authority specifications and dedicated to the Albemarle County Service Authority. Except as otherwise provided by Albemarle County Service Authority policy, all costs shall be borne by the developer.

24.11.5.2 All public facilities, utility and drainage easements outside the right-of-way of public streets are to be shown on the final site development plan provided that new easements may be generally shown and accurately dedicated by separate plat. Utility installation in public streets and rights-of-way shall be coordinated with street construction plans and profiles approved by the Virginia Department of Highways and Transportation resident engineer for Albemarle County

24.11.5.3 No site development plan shall be approved by the Planning Commission without verification from the Albemarle County Service Authority and Town fire official that adequate capability exists to serve such development including required fire flows together with all other approved developments to be served by such system. Where the development is to be served by a central water or sewer system other than the Albemarle County Service Authority, no approval shall be granted until the requirements of Title 15.2, Chapter 21, Article 2 of the Virginia Code have been satisfied. Where service is proposed by individual well or septic system, no approval shall be granted until written approval from the Virginia Department of Health has been received by the Zoning Administrator.

24.11.6 FIRE PROTECTION

In areas where public water is deemed reasonably available by the Planning Commission, fire hydrants and distribution systems shall be provided by the developer. Hydrant locations and fire flow requirements shall be as prescribed by Insurance Service Offices (ISO) standards and subject to approval of the Town fire official. Access ways for emergency vehicles shall be provided as specified by the fire official. In areas where public water is not reasonably available, the fire official may require such alternative provisions as deemed reasonably necessary to provide adequate fire protection.

24.11.7 RECREATION REQUIREMENTS

Recreational areas shall be provided as required by the Planning Commission.

24.11.8 SIGNS AND LIGHTING

24.11.8.1 Signage shall be approved by the Planning Commission in accordance with section 4.14, *Signs*, of this ordinance, or, if within the historic or entrance corridor overlay districts, in accordance with sections 18, *Historic Overlay District – H*, and 19, *Entrance Corridor Overlay District – EC*. Approval of a site development plan shall in no fashion be deemed as approval of any signage except such signs as may be specifically required by the Planning Commission to regulate traffic, prohibit parking or to serve some other purpose of this ordinance.

24.11.8.2 Outdoor lighting shall be directed away from roadways and adjacent properties and shielded where necessary.

24.11.9 LANDSCAPING AND SCREENING REQUIREMENTS

The purpose of these requirements is to provide for the installation, preservation and maintenance of plant materials intended to:

- a. Ensure development which is consistent with the goals of the comprehensive plan related to natural resources and with the plan's environmental and land use standards;
- b. Promote the public health, safety and welfare;
- c. Conserve energy by providing shade and wind breaks;
- d. Provide pervious area which helps to reduce run-off and to recharge groundwater;
- e. Improve air quality;
- f. Minimize noise, dust and glare;
- g. Promote traffic safety by controlling views and defining circulation patterns;
- h. Protect and preserve the appearance, character and value of the neighboring properties.

24.11.9.1 WHEN REQUIRED

Whenever a site development plan is required by this ordinance, a landscape plan shall be required as precedent to final site development plan approval. The foregoing notwithstanding, a landscape plan shall be

required at time of preliminary plan review: when the impervious coverage of the site exceeds eighty (80) percent of the gross site area; when the Zoning Administrator determines that due to unusual circumstances, conditions of the site or by character of the proposed use, review at the preliminary plan stage is warranted; or in any case where required by the Planning Commission.

24.11.9.2 ADMINISTRATION AND APPEAL

- a. The Zoning Administrator in review of the landscape plan shall consider comments from other agencies before approving the plan, including the Virginia Department of Highways and Transportation and the Albemarle County Service Authority. Once the landscape plan is approved, no changes may be made unless the revision has been approved by the Zoning Administrator.
- b. Required landscaping may be bonded in accordance with section 24.3 to ensure completion prior to the issuance of a certificate of occupancy. All required landscaping shall be completed by the first planting season following the issuance of a certificate of occupancy. A maintenance bond for the required landscaping shall be posted by the developer in favor of the Town. If the landscaping is completed prior to the issuance of a certificate of occupancy, then the maintenance bond shall be posted prior to the issuance of a certificate of occupancy. If the landscaping is bonded for completion, rather than completed prior to the issuance of a certificate of occupancy, then the maintenance bond shall be posted when the materials are planted and before the completion bond is released.

The maintenance bond shall be in the amount of one-third ($\frac{1}{3}$) of the value of required trees and/or shrubs, and shall be held for a period of twelve (12) months following the planting date.

At the end of the twelve (12) month time period, the bond shall be released if all required plantings are in healthy condition as determined by the Planning Commission. Thereafter, required landscaping shall be maintained in healthy condition by the current owner or property owner's association, and replaced when necessary. Replacement material shall conform to the original intent of the landscape plan. When existing plantings are preserved in lieu of required new plantings, the bond shall be calculated according to the replacement value of plantings which meet minimum requirements of this ordinance.

- c. Any person aggrieved by a decision of the Zoning Administrator may demand a review of the plan by the Planning Commission pursuant to section 24.5 of this ordinance.

24.11.9.3 VARIATION AND WAIVER

- a. The Zoning Administrator may vary or waive the requirement of a landscape plan in whole or in part together with improvements required herein upon a finding that requirement of such plan and/or improvement would not forward purposes of this ordinance or otherwise serve the public interest; provided that such variation or waiver shall result in a plan substantially in compliance with the approved site development plan together with all conditions imposed by the Planning Commission or Zoning Administrator thereof; and, provided further that such variation or waiver shall have no additional adverse visual impact on adjacent properties or public areas nor otherwise be inconsistent with section 24.11.9 of this ordinance. No variance or waiver of landscape plan shall be approved except after notice required by section 24.7.3.
- b. Whenever, because of unusual size, topography, shape of the property, location of the property, or other unusual conditions, excluding the proprietary interests of the developer, strict application of the requirements of section 24.11.9 would result in significant degradation of the site or adjacent properties, the requirement may be varied or waived by the Zoning Administrator; provided that such variance or waiver shall not be detrimental to the public health, safety or welfare, or to the orderly development of the area, or to sound engineering practices or to adjacent properties.

c. A developer requesting variation or waiver pursuant to this section shall file with the Zoning Administrator a written request which shall state reasons and justifications for such request together with such alternatives as may be proposed by the developer. The Zoning Administrator may approve, approve with conditions, or deny such request. In the case of conditional approval or denial, the Zoning Administrator shall notify the developer in writing as to reasons for such action within five (5) days of such decision.

24.11.9.4 CONTENTS

The landscape plan shall show the following:

a. The location, size and type of all proposed plant materials, and verification that minimum landscaping and screening requirements have been satisfied. Plant materials may be indicated in the following generic terms on the landscape plan: large or medium shade tree; screening tree; screening shrub; or street shrub. The required plant materials shall be chosen from a recommended species list approved by the Zoning Administrator. Plant material not listed may be substituted for required plant material only if such substitution is expressly approved by the Zoning Administrator.

b. Existing trees or wooded areas may be preserved in lieu of planting new materials in order to satisfy landscaping and screening requirements, subject to the Zoning Administrator's approval. In such case, the landscape plan shall indicate the trees to be saved; limits of clearing; location and type of protective fencing; grade changes requiring tree wells or walls; and trenching or tunnelling proposed beyond the limits of clearing. In addition, the applicant shall sign a conservation checklist approved by the Zoning Administrator to ensure that the specified trees will be protected during construction. Except as otherwise expressly approved by the Zoning Administrator in a particular case, such checklist shall conform to specifications contained in the *Virginia Erosion and Sediment Control Handbook*, pp. III-284 through III-297.

c. In addition, the landscape plan shall indicate existing landscape features on the site. Such features shall include, but shall not be limited to:

1. Wooded area indicated by general type (evergreen or deciduous) and location of tree line;
2. Small groups of trees and individual trees of six (6) inch caliper or greater, or ornamental trees of any size, indicated by common name, approximate caliper and location;
3. Natural features which distinguish the site, such as prominent ridge lines, rock outcroppings or water features;
4. Man-made features of local, historic or scenic importance;
5. Scenic vistas across the site from a public road.

The Zoning Administrator may require that any or all such features be preserved upon determination following a site inspection, that the features contribute significantly to the character of the Scottsville landscape and that the preservation of such features is necessary to satisfy the purpose and intent of this ordinance.

The purpose of this section is to protect unique amenities which could otherwise be irretrievably lost due to careless site design. It is not intended that this section be applied indiscriminately, nor to prohibit development.

24.11.9.5 MINIMUM STANDARDS

The following minimum standards shall apply:

- a. Large street trees shall be one and one-half (1½) inches to one and three-quarters (1¾) inches minimum caliper (measured six (6) inches above ground level) when planted. Medium street trees shall be one (1) inch to one and one-quarter (1¼) inches minimum caliper when planted. Evergreen trees for screening shall be a minimum four (4) feet to five (5) feet in height when planted. Shrubs for screening shall be a minimum eighteen (18) inches to thirty (30) inches in height when planted. Shrubs for street planting shall be minimum twelve (12) inches to eighteen (18) inches in height when planted.
- b. All trees to be planted shall meet the specifications of the American Association of Nurserymen. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. Planting islands shall contain a minimum of fifty (50) square feet per tree, with a minimum dimension of five (5) feet in order to protect the landscaping and allow for proper growth. Wheel stops, curbing or other barriers shall be provided to prevent damage to landscaping by vehicles. Where necessary, trees shall be welled or otherwise protected against change of grade. All pervious areas of the site shall be permanently protected from soil erosion with grass or other ground cover or mulch material.

24.11.9.6 STREET TREES

The following requirements shall apply to street trees:

- a. Street trees shall be required along existing or proposed public streets in any development which is subject to site development plan approval in all commercial and industrial districts and residential development of a density of four (4) dwelling units per acre or greater. The Zoning Administrator may waive this requirement in certain cases where site conditions warrant an alternate solution.
- b. Street trees shall be selected from a current list of recommended large shade trees approved by the Zoning Administrator. Medium shade trees may be substituted, subject to the approval of the Zoning Administrator when site conditions warrant smaller trees. The Zoning Administrator may approve substitutions of species of large or medium shade trees.
- c. Street trees shall be planted with even spacing in a row adjacent to the public street right-of-way. One (1) large street tree shall be required for every fifty (50) feet of road frontage, or portion thereof, if twenty-five (25) feet or more. Where permitted, one (1) medium shade tree shall be required for every forty (40) feet of road frontage, or portion thereof, if twenty (20) feet or more. The Zoning Administrator may approve minor variations in spacing.
- d. In the case of development with units for sale, the trees shall be protected through an open space or easement arrangement and shall be maintained by a property owner's association.

24.11.9.7 PARKING LOT LANDSCAPING

All development subject to site development plan review shall include the following required landscaping for parking lots consisting of five (5) spaces or more:

- a. Street trees: Street trees shall be planted in accordance with section 24.11.9.6 along the public street frontage which abuts a parking lot. The trees shall be planted between the street right-of-way and the parking area, within the parking setback. If required street trees cannot be planted within the parking setback or within ten (10) feet of the street right-of-way due to sight distance, utility easement or other conflicting requirements, then the planting strip shall be enlarged to accommodate the trees. If this requirement creates a hardship by causing the relocation of required parking spaces, then the additional planting area may be counted toward the interior landscaping requirement;
- b. Interior landscaping: Exclusive of the requirements of section 24.11.9.7.a and c, an area equal to five (5) percent of the paved parking and vehicular circulation area shall be landscaped with trees or shrubs. This shall include one (1) large or medium shade tree per ten (10) parking spaces or portion thereof, if five (5) spaces or more. Interior landscaping shall be located in reasonably dispersed planting islands or perimeter areas. Shrub plantings adjacent to a building shall not be counted as interior landscaping;
- c. Additional plantings along public streets: When a parking lot is located such that the parked cars will be visible from a public street, then additional landscaping of low street shrubs shall be required between the street and the parking lot. Shrubs shall be in a single row planted five (5) feet on center. Alternate methods of landscaping designed to minimize the visual impact of the parking lot may be approved by the Zoning Administrator.

24.11.9.8 SCREENING

The following requirements shall apply to screening:

- a. When required, screening shall consist of a planting strip, existing vegetation, a slightly opaque wall or fence, or combination thereof, to the reasonable satisfaction of the Zoning Administrator. Where only vegetative screening is provided, such screening strip shall not be less than twenty (20) feet in depth. Vegetative screening shall consist of a double staggered row of evergreen trees planted fifteen (15) feet on center, or a double staggered row of evergreen shrubs planted ten (10) feet on center. Alternate methods of vegetative screening may be approved by the Zoning Administrator. Where a fence or wall is provided, it shall be a minimum of six (6) feet in height and plantings may be required at intervals along such fence or wall.
- b. Screening of parking lots shall not be counted toward the interior landscaping requirement. When screening is required along the frontage of public streets, the Zoning Administrator shall determine if the street tree requirement has been met.
- c. Screening shall be required in the following instances:
 - 1. Commercial and industrial uses shall be screened from adjacent residential and rural areas districts.
 - 2. Parking lots consisting of four (4) spaces or more shall be screened from adjacent residential and rural areas districts.
 - 3. Objectionable features including, but not limited to, the following uses shall be screened from adjacent residential and rural areas districts and public streets:
 - (a) Loading areas,
 - (b) Refuse areas,

- (c) Storage yards,
 - (d) Detention ponds,
 - (e) Recreational facilities determined to be of objectionable character by the Zoning Administrator other than children's play areas where visibility is necessary or passive recreation areas where visibility is desirable.
4. Double frontage residential lots shall be screened between the rear of the residences and the public right-of-way when deemed appropriate by the Zoning Administrator.
 5. The Planning Commission may require screening of any use, or portion thereof, upon determination that the use would otherwise have a negative visual impact on a property listed on the Virginia Historic Landmarks Register.

24.11.9.9 TREE CANOPY

- a. The foregoing notwithstanding, a minimum tree canopy shall be provided in accordance with this section. *Tree canopy* or *tree cover* shall include all areas of coverage by plant material exceeding five (5) feet in height at a maturity of ten (10) years after planting. Selection of species for planting shall be in accord with section 24.11.9.4.a. Specifications for plantings shall be in accord with section 24.11.9.5.b. Existing trees to be preserved in accordance with section 24.11.9.4.b together with trees required under sections 24.11.9.6, 24.11.9.7 and 24.11.9.8 shall count toward satisfaction of minimum tree canopy.
- b. The following minimum requirements shall apply:
 1. Ten (10) percent tree canopy for a site to be developed with commercial, office or industrial uses;
 2. Ten (10) percent tree canopy for a residential site to be developed at a gross density of twenty (20) dwelling units per acre or more;
 3. Fifteen (15) percent tree canopy for a residential site to be developed at a gross density of more than ten (10) but less than twenty (20) dwelling units per acre;
 4. Twenty (20) percent tree canopy for a residential site to be developed at a gross density of ten (10) or fewer dwelling units per acre.
- c. In calculation of land area subject to this section, the following areas may be deducted at the option of the developer:
 1. Farm land or other areas devoid of woody materials at time of adoption of this section;
 2. Recreation areas;
 3. Open space areas;
 4. Land dedicated to public use;
 5. Playing fields and recreation areas attendant to schools, day care and the like;
 6. Ponds or lakes deemed by the Planning Commission to constitute a desirable open space amenity;

7. Areas required for preservation of wetlands, floodplain or other areas required to be maintained in natural state by this ordinance or other applicable law;
8. Areas approved by the Zoning Administrator in accord with section 24.11.9.3.

Deductions provided above shall be cumulative but shall not be duplicative.

- d. Where existing trees are maintained, a canopy bonus shall be granted as follows:
 1. Area of canopy shall be calculated at ten (10) years of additional maturity;
 2. The resultant area shall be multiplied by a factor of 1.25.

24.11.9.10 GENERAL

- a. Condominium and common wall projects of all types shall indicate on the site development plan those areas reserved for rental purposes and those areas reserved for sale purposes.
- b. One (1) set of approved plans, profiles and specifications shall be at the site at all times when work is being performed.
- c. Upon the completion of all required water, sewer and gas lines shown on the approved site development plan, the developer shall submit to the Zoning Administrator three (3) copies of the completed record or as-built site development plan or location plat for all water, sewer, gas lines and easements certified by an engineer or surveyor. The record or as-built utility plan shall be submitted at least one (1) week prior to the anticipated occupancy of any building or block of buildings for the review and approval by the Zoning Administrator for conformity with the approved site development plan, this ordinance and regulations of the Town and state agencies.

25.0 FEES

25.1 FEE SCHEDULE

Except as herein otherwise provided, to defray the cost of processing, every application made in the Office of the Town Clerk shall be accompanied by a fee as set forth in an ordinance titled *Fee Schedule and Fees*. In addition to the foregoing fee, the actual costs of any notice required under Chapter 22, Title 15.2 of the Virginia Code shall be charged to the applicant, to the extent that the same shall exceed the applicable fee. Failure to pay all applicable fees shall constitute grounds for the denial of any application. For any application withdrawn after public notice has been given, no part of the fee will be refunded.

25.2 FEE REDUCTION

The provisions of section 25.1 notwithstanding, fees shall be reduced under the following circumstances

- a. In such case in which a preliminary site development plan and/or preliminary subdivision plat is filed as supportive of and to be reviewed simultaneously with an application for zoning map amendment and/or special use permit, no fee shall be applied for review of such preliminary site development plan and/or preliminary subdivision plat.
- b. In such case in which multiple special use permits are required by operation of this ordinance to establish an individual use, the largest single fee shall be applied to the review of all such special use permit applications.
- c. In such case in which subsequent to filing any application under the provisions of this section determination is made that such application is not required to allow establishment of the use, such application fee shall be refunded in full.
- d. In such case in which the fee is based in part on expenses the Town expects to incur for necessary services and assistance and the Town subsequently determines that actual expenses are significantly less, a portion of the fee may be returned to the applicant. The authority to do so and to fix the amount to be returned resides with the Town Council.

ARTICLE V. VIOLATION AND PENALTY

26.0 VIOLATIONS

26.1 VIOLATIONS, GENERALLY

Any building erected contrary to any of the provisions of this ordinance or contrary to any condition imposed upon any conditional rezoning, issuance of a special use permit or approval of a site plan, and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this ordinance or any condition imposed upon any conditional rezoning, issuance of a special use permit or approval of a site plan, shall be a violation of this ordinance and the same is hereby declared to be unlawful. The Zoning Administrator, in consultation with and approval of the Mayor, may initiate injunction, mandamus, abatement, criminal warrant or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this ordinance.

26.2 NOTICE OF VIOLATION

Upon becoming aware of any violation of any provisions of this ordinance, the Zoning Administrator, in consultation with and approval of the Mayor, shall serve notice of such violation on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the Zoning Administrator has specified in such notice, he/she shall institute such action as may be necessary to terminate the violation.

26.3 REMEDIES NOT EXCLUSIVE

The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

26.4 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate and take action thereon as provided by this ordinance.

27.0 PENALTIES AND REMEDIES (Amended 7-21-2008, 2-17-2009)

27.1 CRIMINAL PENALTY

Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any provision of this ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building, structure or land in violation of this ordinance or any site plan or other detailed statement or plan submitted by one of the above-described persons and approved under the provisions of this ordinance, shall be subject to the following:

- a. The person shall have committed a misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00).
- b. If the violation is uncorrected at the time of conviction, the court shall order the person convicted to abate or remedy the violation in compliance with this ordinance, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten (10) day period shall constitute a separate misdemeanor offense for each ten (10) day period, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

27.2 CIVIL PENALTY

Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any provision of this ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building, structures or land in violation of this ordinance or any site plan or other detailed statement or plan submitted by him and approved under the provisions of this ordinance, shall be subject to the following:

- a. Any violation of this ordinance shall be subject to a civil penalty of two hundred dollars (\$00.00) for the first violation, and a civil penalty of five hundred dollars (\$500.00) for each subsequent violation arising from the same set of operative facts.
- b. Each day during which a violation is found to exist shall be a separate offense. However, the same scheduled violation arising from the same operative set of facts may be charged not more than once in a ten (10) day period, and the total civil penalties from a series of such violations arising from the same set of operative facts shall not exceed five thousand dollars (\$5,000.00).
- c. Any person summoned for a scheduled violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Town prior to the date fixed for trial in court. A person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. A signature to an admission of liability shall have the same force and effect as a judgment of court. However, such an admission shall not be deemed a criminal conviction for any purpose. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.
- d. A violation enforced under section 27.2 shall be in lieu of any criminal penalty and, except for any violation resulting in injury to persons, such a designation shall preclude the prosecution of the particular violation as a criminal misdemeanor, but shall not preclude any other remedy available under this

ordinance.

e. Section 27.2 shall not be construed to allow the imposition of civil penalties: (i) for activities related to land development within the meaning of Va. Code §10.1-603.2; or (ii) for violation of any provision of the zoning ordinance relating to the posting of signs on public property or public rights-of-way.

27.3 INJUNCTIVE RELIEF AND OTHER REMEDIES

Any violation of this ordinance may be restrained, corrected, or abated as the case may be by injunction or other appropriate relief.